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Volume II of IV

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

Robert E. Hood, Circuit Court Judge

RECEIVED

IAN 15 2016

RESPONDENT,

SC Court of Appeals

THE STATE,

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)**

1 Q You don't want than to happen, right?

2 A Yeah.

3 MR. SCHNEE: No further questions.

4 THE COURT: Redirect?

5 MS. CAMPBELL: Yes.

6 REDIRECT EXAMINATION:

7 BY MS. CAMPBELL:

8 Q He asked you about you taking care of your
9 children. You said your grandmother helps you out
10 some?

11 A Yeah.

12 Q Does Lorenzo's mother help you out, too?

13 A Yeah.

14 Q So you're still in contact with her and with
15 Lorenzo; is that correct?

16 A With her, not Lorenzo.

17 Q Okay. And that week when all this happened,
18 where was your little girl that week? Who was she
19 staying with?

20 A My grandmother.

21 Q So she was gone that entire week?

22 A Yeah.

23 Q And finally she asked you specifically about when
24 he told you about when the gun --- it was a 45. You
25 told the police back on July 9th that you had seen him

1 with it?

2 A Yeah.

3 Q And you saw him with just one gun?

4 A Yep.

5 Q And he told you it was a 45?

6 A Uh-huh.

7 Q And then you said --- and when did you have that
8 conversation with him. You said that was the day
9 after the incident happened. So that would have been
10 that Monday?

11 A Yep.

12 Q Do you want to see your testimony?

13 A No, I've seen it.

14 Q Okay. And when they asked you about what
15 incident you're talking about, you said this murder.
16 Do you remember that?

17 A Uh-huh.

18 THE COURT: Is that a yes?

19 THE WITNESS: Yep.

20 MS. CAMPBELL: Nothing further.

21 THE COURT: Ms. Pinnock.

22 MS. PINNOCK: I have no follow up, Judge.

23 THE COURT: Mr. Schnee?

24 MR. SCHNEE: No, Your Honor.

25 THE COURT: Have a nice day, ma'am. Thank you

1 very much.

2 All right. Ladies and gentlemen, we're going to
3 stop now for lunch. We're going to take a little bit
4 of an extended lunch break. I have some matters of
5 law that I need to take up before we start back this
6 afternoon. You are not allowed to discuss the case
7 with anyone and not allowed to talk about the case.
8 This may be the last nice day you have before the cold
9 weather comes. Thank you very much for your service.
10 Do not discuss the case. Keep an open mind and we'll
11 see you back at two o'clock. Thank you.

12 THE BAILIFF: Remain seated.

13 (WHEREUPON, the jury left the courtroom at 12:09
14 P.M.)

15 THE COURT: All right. So tell me what all we
16 need to deal with before we come back in.

17 MS. CAMPBELL: Your Honor, the things I would
18 deal with, there are several witnesses coming up.
19 Ms. Latoya Barnes, I think we settled her record. She
20 doesn't have anything.

21 However, in her recorded statement she gave to
22 police --- actually it was a recorded phone call. She
23 does mention and references things that happened
24 around the time that Trenton was on probation or being
25 arrested or things of that nature and we just need to

1 advise her not to mention any of Trenton's prior
2 juvenile adjudications or being on probation or
3 anything of that nature.

4 THE COURT: Mr. Schnee, I assume you're okay with
5 that?

6 MR. SCHNEE: Yes, Your Honor, but again just for
7 the record, Ms. Barnes is intending to assert her
8 Fifth Amendment. Her attorney is in the courtroom and
9 I think that needs to be addressed before ---

10 THE COURT: Whose phone is that? No, no. Stop,
11 stop. Stop.

12 (phone ringing.)

13 Give the phone to the bailiff and leave the
14 courtroom.

15 If you have a phone and I see it, at this point
16 it's going to cost you \$250 to get it back.

17 UNIDENTIFIED MAN: Holy shit.

18 THE COURT: If your don't like it, you don't have
19 to come back. You can pay \$250 or spend night in
20 jail. Take your pick.

21 Now, where is Ms. Barnes' attorney? That's me,
22 Arthur Aiken.

23 THE COURT: All right. Come on up, Mr. Aiken.

24 MR. AIKEN: I'll be happy to, Judge.

25 THE COURT: How are you, sir?

1 MR. AIKEN: I'm doing fine. How about yourself?

2 THE COURT: I'm fine. What do you represent
3 Ms. Barnes on?

4 MR. AIKEN: I represent Ms. Barnes as a witness
5 in this particular case.

6 THE COURT: Okay. On what basis is she asserting
7 her Fifth Amendment rights to remain silent?

8 MR. AIKEN: There's criminal exposure for
9 misprision of a felony, there's criminal exposure for
10 accessory after the fact of a murder, there's criminal
11 exposure for accessory after the fact of attempted
12 highjack, robbery under the federal criminal code.
13 Those are the concerns I have about her testimony.

14 THE COURT: All right. So what is her testimony
15 going to be that could potentially inculcate her?

16 MR. AIKEN: Well, the problem, Your Honor, is
17 that on each of those charges, the misprison charge
18 and the two accessory after the fact charges, one of
19 the elements of the offense is that the underlying
20 crime was actually committed. So to the extent she
21 testifies in a way that incriminates Mr. Barnes or his
22 codefendant, she incriminates herself.

23 THE COURT: All right. So what's her testimony?

24 MS. CAMPBELL: Her testimony is fully cooperative
25 with the State. She basically indicates to what her

1 --- she witnessed part of the events that night. She
2 in no way participated. She wasn't an accessory
3 after. She didn't witness the crime itself and then
4 help them out. She just told the police basically
5 what she observed her son, Lorenzo Young, and her
6 other son Troy Stevenson doing that night coming and
7 going from house. There were two phone calls from
8 Lorenzo Young to her house in which he Basically asked
9 her to talk to Troy. Troy then goes supposedly for
10 the purpose of getting Trenton. Then they come back.

11 She has no other information or anything. I
12 could hand you a transcript of her entire testimony
13 which, Your Honor, at no point does she incriminate
14 herself in anything and she is fully cooperative with
15 police.

16 THE COURT: All right. What about that,
17 Mr. Aiken?

18 MR. AIKEN: Well, Your Honor, without revealing
19 anything protected by the attorney/client privilege, I
20 represent to the court that her testimony in full
21 concerning all of these matters would tend to
22 incriminate her under those three types of crimes.

23 Obviously, I can't say, Judge, this is what she
24 is going to say because I --- if I did that, I would
25 be defeating the privilege itself.

1 THE COURT: Well, it only applies if they ask her
2 a question that's incriminating.

3 MR. AIKEN: That's correct. That's correct. And
4 that's a whole other issue, Judge. I really don't
5 know exactly what she is going to be asked and I don't
6 control what the government asks her, and I certainly
7 don't control what the defense lawyers ask her, but
8 I've advised her on the matters I think that she need
9 to assert the privilege on.

10 I have not told her to come in and just as a
11 blanket matter say I'm not testifying because I think
12 I could be in trouble. I mean, we've been very
13 careful about going over everything and making sure
14 that the assertion of the privilege is legally valid.
15 I mean, I'm not saying she can't testify at all, but I
16 am saying there are matters on which there are
17 significant concern by me as her lawyer about being
18 incriminated.

19 THE COURT: All right. Where is the transcript
20 of her?

21 MS. CAMPBELL: I'm getting you a copy, Your
22 Honor. I've marked up mine. I'll get you a copy of
23 the transcript if you want to review it over lunch.

24 THE COURT: Okay.

25 MS. CAMPBELL: I'll also hand up a copy of the

1 email from Mr. Aiken to me morning basically saying
2 that she would assert her Fifth Amendment privilege in
3 response to some of our questions. At that point he
4 said he would be happy to review the areas where she
5 is trying assert it.

6 MR. SCHNEE: Judge, I have never seen what the
7 State is alleging to be a transcript. I know there is
8 an audio recording, but I don't have a transcript.
9 There is no certified court reporter that has done a
10 transcript.

11 MS. CAMPBELL: I'll be glad to get the audio
12 recording to your to make sure it's accurate.

13 MR. SCHNEE: I have no problems with Your Honor
14 reviewing the audio, but I would object to an alleged
15 transcript.

16 MS. CAMPBELL: I'll hand up both. That will be
17 just be easier.

18 THE COURT: Okay. What are your standing up for.

19 MS. PINNOCK: Your Honor, I would ask the same
20 thing. If they're going to use a transcript, I'd be
21 happy to see it. I think this is going to be a
22 situation where we have to proffer testimony prior to
23 the jury hearing it and that would be my request.

24 THE COURT: So we have to deal with Ms. Barnes.
25 What else do we need to deal with?

1 MS. CAMPBELL: Mr. Moore.

2 THE COURT: Okay. Are those the only two?

3 MS. CAMPBELL: Those are the only two at this
4 point asserting the Fifth Amendment today.

5 THE COURT: Okay. Are those the only two issues
6 we actually need to deal with prior to starting back?

7 MS. CAMPBELL: Your Honor, in addition to that we
8 have served two other witnesses in the case that are
9 refusing to come to court, and we would ask for bench
10 warrants for them at this point.

11 THE COURT: Do they have lawyers?

12 MS. CAMPBELL: No.

13 THE COURT: Okay.

14 MS. CAMPBELL: They aren't anything but fact
15 witnesses so they have no ---

16 THE COURT: Are they material to the case?

17 MS. CAMPBELL: They are very material to the
18 case.

19 THE COURT: All right. Prepare material warrants
20 for their arrest.

21 MR. SCHNEE: Judge, can I inquire as to who those
22 two witnesses are?

23 MS. CAMPBELL: Mary Brown and I think, Marcus ---

24 MS. SIMPSON: Marcus Brown.

25 MR. SCHNEE: All right. Thank you.

1 THE COURT: Okay. So let's start back at 1:15.
2 Have Ms. Barnes here and have Mr. Moore here. Have
3 them waiting outside. I'll take them one at a time.

4 MR. AIKEN: Yes, sir.

5 THE COURT: All right. 1:15.

6 MR. KRZYSTON: Thank you, Judge.

7 (WHEREUPON, a lunch break was taken.)

8 (WHEREUPON, State's Exhibit Number 401 was marked
9 for identification only.)

10 (WHEREUPON, State's Exhibit's 203, 206, 207, 213,
11 214 were withdrawn.)

12 (WHEREUPON, State's Exhibits Numbers 403, 404
13 were marked for identification only.)

14 THE COURT: All right. Let's start with Mr.
15 Moore. Where is he?

16 DONALD MOORE,

17 (Proffered)

18 after being duly sworn, testified as follows:

19 THE CLERK: Please have a seat. State your full
20 name for the record.

21 THE BAILIFF: Watch your step.

22 THE COURT: All right. Who is handling him?

23 MS. CAMPBELL: I'll do it, Your Honor.

24 DIRECT EXAMINATION:

25 (Proffered)

1 BY MS. CAMPBELL:

2 Q Mr. Moore, how old are you?

3 A Twenty-one.

4 Q Do you live here in the Columbia area?

5 A Yes, ma'am.

6 Q How long have you been living here?

7 A Four years.

8 Q About four years. Prior to that where are you
9 from?

10 A New Orleans.

11 Q I want to turn your attention --- do you know
12 Lorenzo Young?

13 A Yes, ma'am.

14 Q And how do you know Lorenzo Young?

15 A I just know him on the street.

16 Q On the street?

17 A Yeah.

18 Q And did you know Troy Stevenson?

19 A Yes, ma'am.

20 Q And Trenton Barnes?

21 A Yes, ma'am.

22 Q Same way?

23 A Yes, ma'am.

24 Q I want to turn your attention back to the first
25 of July of last year. Do you remember seeing Lorenzo

1 Young the night before this incident occurred?

2 A I plead the Fifth.

3 Q Let me ask it to you this way ---

4 MS. CAMPBELL: Your Honor, permission to lead?

5 THE COURT: Yes.

6 BY MS. CAMPBELL:

7 Q Do you remember meeting with police on July 2,
8 2013?

9 A I plead the Fifth.

10 Q Do you remember telling them certain things about
11 seeing Lorenzo Young with a gun the evening that this
12 occurred?

13 A I plead the Fifth.

14 Q Do you remember --- do you remember telling the
15 police when you met with them on July 2nd that on
16 Thursday prior to the incident that Troy Stevenson,
17 Lorenzo and another person told you about an
18 operational lick they were going to go do at the Ale
19 House?

20 A I plead the Fifth.

21 Q That they intended to rob the owner of his drop
22 money?

23 A I plead Fifth.

24 Q That you had seen Lorenzo with a Glock that
25 Sunday night that this occurred?

1 A I plead the Fifth.

2 Q And that according to you, you were within arm's
3 length of Lorenzo when he was playing with the
4 handgun?

5 A I plead the Fifth.

6 Q Do you remember telling the police that at that
7 point you told Lorenzo to go inside the house because
8 there were young children around?

9 A I plead the Fifth.

10 Q And that he actually pointed the gun at you that
11 night?

12 A I plead the Fifth.

13 Q And once your went into the house, which was Troy
14 and Trenton's house, that you followed him in and saw
15 him put the gun away?

16 A I plead the Fifth.

17 Q And the house they went into, which was Troy and
18 Trenton's house, was a burgundy and white house?

19 A I plead the Fifth.

20 Q Did you also tell the police in that same
21 interview that you had seen Lorenzo wearing the
22 clothing that you saw in that video?

23 A I plead the Fifth.

24 Q And that you specifically told the police you
25 recognized the cap that was underneath the hoodie, as

1 well as the hoodie itself, and that it was Lorenzo's?

2 A I plead the Fifth.

3 Q That when you viewed the video, you told the
4 police that you thought you recognized the people and
5 you thought Lorenzo was the one wearing the red
6 sweatshirt?

7 A I plead the Fifth.

8 Q And that you told them that you didn't know who
9 the third person involved was?

10 A I plead the Fifth.

11 THE COURT: Okay. For the record his attorney
12 Ms. Good is present in the courtroom. Ms. Good, is he
13 pleading the Fifth for any reason other than not
14 wanting to admit to lying to police?

15 MS. GOOD: As to these questions, yes, sir.
16 That's the basis of pleading the Fifth.

17 THE COURT: Okay.

18 MS. CAMPBELL: Beg the Court's indulgence.

19 (Pause.)

20 BY MS. CAMPBELL:

21 Q You also told the police that on that night that
22 Sunday evening he showed you the gun, it was somewhere
23 between 7:30 and eight o'clock that night?

24 A I plead the Fifth.

25 Q And you also told the police when you met with

1 them that the reason you were telling them was because
2 what he did just wasn't right.

3 A I plead the Fifth.

4 Q Do you recall on July 3rd being shown a photo
5 lineup?

6 A I plead the Fifth.

7 Q And when you were shown the six photographs in
8 the photo lineup that you circled one that you
9 recognized?

10 A (There was no response.)

11 Q Do you remember doing that?

12 A No, ma'am.

13 Q And there was one actually marked number four
14 when you met with him on July 3rd?

15 A I don't remember that.

16 Q And that you circled that and said you recognized
17 him as Lorenzo or a/k/a Shyne?

18 A I don't remember that.

19 Q Do you do you recognize your handwriting?

20 A Yeah.

21 Q That's your handwriting?

22 A Looks like it.

23 Q And then do you remember meeting with
24 investigators from our office on October 20th as you
25 testified before, and at the end of that after

1 reviewing or hearing your statement that was played
2 for you, you said you agreed with all of it, but there
3 was one lie is a what you said?

4 A I can't remember.

5 Q And then we had another hearing on November 3rd
6 where you came into this courtroom, and you testified
7 about these matters?

8 A Yeah, I remember.

9 Q At that point, you said that there were two lies
10 involved?

11 A I plead the Fifth.

12 Q Subsequent to that, that the next day or two that
13 you were interviewed by the people in my office, at
14 that point you said that the entire statement was a
15 lie except for the part where you were a member of a
16 gang and you were with a woman?

17 A I plead the Fifth.

18 MS. CAMPBELL: That would be the extent of our
19 questions, Your Honor.

20 THE COURT: Okay. Do you want to ask him any
21 questions?

22 CROSS-EXAMINATION:

23 (Proffered)

24 BY MS. PINNOCK:

25 Q Mr. Moore, you came in here November 3rd and

1 testified, right?

2 A Yes, ma'am.

3 Q And Mr. Schnee asked you some questions?

4 A Yes, ma'am.

5 Q Ms. Garfield asked you some questions?

6 A Yes, ma'am.

7 Q And they asked you about a statement you had
8 given back in February of 2013?

9 A Yes, ma'am.

10 Q February 2013?

11 MS. PINNOCK: I'm sorry?

12 THE COURT: February 2013?

13 MS. PINNOCK: Yes, sir. July, I'm sorry.

14 THE COURT: Okay.

15 MS. PINNOCK: That's what I meant. I apologize,
16 July 2013.

17 THE WITNESS: Yes, ma'am.

18 BY MS. PINNOCK:

19 Q And that statement was to Investigator McCoy?

20 A I plead the Fifth.

21 Q That statement was to Investigator Reeves?

22 A I plead the Fifth.

23 Q You said on November 3rd when you were on the
24 witness stand that everything you told them on that
25 day was a lie?

1 A I plead the Fifth.

2 Q They also had phone calls with you after that
3 day, right.

4 A Who did? The police?

5 Q Yes, the investigators called you on the phone.

6 A I don't remember.

7 Q But that was back in July of 2013, correct?

8 A I can't remember.

9 Q Okay. But that wasn't true either? The
10 information that happened, that wasn't true either?

11 A I plead the Fifth.

12 MS. PINNOCK: Your Honor, that's all I have.

13 THE COURT: Okay. Mr. Schnee?

14 MR. SCHNEE: Judge, I have no questions. I don't
15 believe I can meaningfully cross-examination this
16 witness anyway.

17 THE COURT: Well, I want you to attempt to if you
18 think you can. Now, is your opportunity to attempt
19 to.

20 MR. SCHNEE: Beg the Court's indulgence.

21 (Pause.)

22 CROSS-EXAMINATION:

23 (Proffered)

24 BY MR. SCHNEE:

25 Q Back in your original interview in July of 2013,

1 do you remember telling the police that you were sure
2 it was Lorenzo and Troy that were the shooters?

3 A I plead the Fifth.

4 MR. SCHNEE: Judge, I don't have any other
5 questions for this witness about that.

6 THE COURT: Okay.

7 MS. CAMPBELL: I'll clarify just one thing.

8 REDIRECT EXAMINATION:

9 (Proffered)

10 BY MS. CAMPBELL:

11 Q I'm asking this question, I think I used the
12 words, "Do you remember?" If I said the words, "Did
13 you tell the police?" would you still plead the Fifth
14 on all of those?

15 A Yes, ma'am.

16 THE COURT: All right. So what's your position,
17 Mr. Schnee?

18 MR. SCHNEE: My position on this issue, Judge, is
19 the witness is clearly going to plead the Fifth to any
20 relevant question about the case itself. Even if the
21 State goes in and asks him, knowing that he is going
22 to plead the Fifth on every single question about it,
23 I have no way of cross-examining this witness, and it
24 destroys my right to have a meaningful confrontation.

25 I believe it violates my client's Sixth Amendment

1 right to avoid confronting. In order to confront
2 witnesses and have effective assistance of counsel, I
3 think it will do nothing but disaffect the jury,
4 particularly the statement the solicitor is attempting
5 to use, Donald Moore has since said is completely a
6 lie. For them to proffer that in any way in front of
7 a jury, I think, would be inappropriate since they
8 don't know the truth or nontruth of it, and there is j
9 to do that effectively, so I'd ask he be excluded as a
10 witness.

11 THE COURT: What's your position?

12 MS. PINNOCK: Your Honor, we would also be asking
13 for Mr. Moore to be excluded. He is not available for
14 a meaningful cross-examination. Pleading the Fifth in
15 front of the jury is a danger --- there is a danger
16 that is going to create an inference that, you know,
17 he's --- I'll take that back, Judge. Let me start
18 again. We cannot cross-examine him.

19 Every statement that was made to law enforcement
20 has subsequently been admitted to being not true.
21 Now, we don't have the opportunity to get that
22 information from Mr. Moore. What this cross would be
23 is just a back doorway of getting his statement into
24 evidence being offered to the jury as something that
25 is true. They would have the inference that this

1 information is true.

2 THE COURT: You mean what his direct would be?

3 MS. PINNOCK: I'm sorry?

4 THE COURT: You said what his cross would be.

5 You mean what his direct would be.

6 MS. PINNOCK: I'm sorry. When the statement is
7 read into evidence by solicitor's office, they're
8 going to be offering it as true, and the jury will
9 infer that that statement is true. We don't have an
10 opportunity to cross him to attack that veracity of
11 his statement, Judge.

12 We are not able to effectively cross-examine Mr.
13 Moore. It is a violation of our right of
14 confrontation under the Sixth Amendment. We would ask
15 that he be excluded as a witness also.

16 THE COURT: And what's the State's position?

17 MS. CAMPBELL: Your Honor, our position would be
18 first of all he has already testified to this matter
19 and been cross-examined on these issues. We feel like
20 pursuant to that he has waived any right to do it
21 because they did have an opportunity to cross him at a
22 prior hearing on these issues.

23 In addition to that, Your Honor, if the
24 questioning is done in such a way that basically my
25 questions are phrased, "Did you tell the police this

1 on such and such a date," that would not in any way
2 --- I don't see how he can plead the Fifth on that,
3 because basically that would be whether he told the
4 police that, that would be whether he gave them false
5 information or anything of that sort and then, of
6 course, they would have the opportunity to
7 cross-examine. I don't believe he can get up there
8 and just blanketly say I plead the Fifth to every
9 single question, when clearly none of these are
10 incriminating. If they're asked in such a manner,
11 they would not be incriminating. In addition to that,
12 he's already, under his theory, he is saying he has
13 given false information to the police and he has
14 already testified to that and admitted to that. We
15 think he waived it as to that.

16 THE COURT: Okay. So after he testified in front
17 of me on November 3rd, did he meet with anybody from
18 the solicitor's office? If so, who was that?

19 MS. CAMPBELL: Yes, sir. He met the next day. I
20 believe present were --- who was present, Dolly
21 Garfield, Meghan Walker.

22 THE COURT: Was Anna Good there?

23 (WHEREUPON, there was an off-the-record
24 discussion.)

25 THE COURT: Okay. Ms. Garfield, so here is where

1 we are. We had a meeting with Mr. Moore on
2 November 3rd. Then did you speak with him and his
3 attorney the next day?

4 MS. GARFIELD: Yes, I believe it was the next
5 day.

6 THE COURT: And what did he say at that meeting?

7 MS. GARFIELD: He told me at that time ---

8 MS. CAMPBELL: I can hand that up.

9 THE COURT: Okay.

10 MS. GARFIELD: I summarized it afterwards, that
11 all of it was a lie except two things, one being in a
12 gang, one being with a woman the evening before.

13 THE COURT: And you were present for this?

14 MS. GARFIELD: Yes, sir.

15 THE COURT: And Investigator Streeter was present
16 for this?

17 MS. GARFIELD: Yes, sir.

18 THE COURT: And Mr. Good was present?

19 MS. GARFIELD: Yes, sir.

20 THE COURT: And who is Ashley Kent?

21 MS. GARFIELD: My law clerk.

22 THE COURT: Okay. Isn't Meghan Walker an
23 assistant solicitor?

24 MS. GARFIELD: Yes, sir.

25 THE COURT: They were all present?

1 MS. GARFIELD: Yes, sir.

2 THE COURT: Ms. Good, is there anything else you
3 want to add?

4 MS. GOOD: Your Honor, I just want to add that I
5 do believe he has the right to plead the Fifth in this
6 case. You know, while he may have taken the stand
7 previously, at this point there's subsequent
8 statements that they have not been able to
9 cross-examine him about that would potentially
10 implicate him further regarding false information to
11 law enforcement. Like I said, I don't know --- during
12 the proffered cross-examination there were no
13 questions regarding anything subsequent or prior to
14 regarding his involvement potentially in this case, so
15 that's definitely something I'm concerned about when
16 it comes to representing him in any implications
17 regarding this particular case.

18 THE COURT: Do you have any other questions you
19 want to ask him?

20 MS. PINNOCK: Yes, sir.

21 RECROSS-EXAMINATION:

22 (Proffered)

23 BY MS. PINNOCK:

24 Q Mr. Moore, on July 1st of 2013, you made multiple
25 phone calls to Trenton Barnes, right?

1 A I plead the Fifth.

2 Q And you made multiple phone calls to him on
3 June 30th?

4 A I plead the Fifth.

5 Q You made multiple calls to him on the days
6 leading up the July 5th, right?

7 A I plead the Fifth.

8 Q The first three numbers of your phone at that
9 point were 201?

10 A I don't remember.

11 Q You were present at Azo's studio on June 30th?

12 A I plead the Fifth.

13 Q You told investigators that you knew it was
14 Lorenzo on that video?

15 A I plead the Fifth.

16 Q You told the investigators that you knew he was
17 wearing that hat because that's what he always wore?

18 A I plead the Fifth.

19 Q You swore under oath November 3rd and you
20 admitted that you lied?

21 A I plead the Fifth.

22 Q Everything you told the investigators was a lie?

23 A I plead the Fifth.

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

25 (Pause.)

1 Your Honor, that's it. That's all I have right
2 now.

3 THE COURT: Anything else you want to ask him?

4 MR. SCHNEE: Yes, just very briefly, Judge.

5 RECROSS-EXAMINATION:

6 (Proffered)

7 BY MR. SCHNEE:

8 Q Did you dispose of any of the guns after this
9 crime happened?

10 A I plead the Fifth.

11 Q Were you participating in the plan along with
12 Marcus Johnson or anyone else in this crime?

13 A I plead the Fifth.

14 Q Were you present with Marcus Johnson the Ale
15 House robbery was discussed?

16 A I plead the Fifth.

17 MR. SCHNEE: Judge, I have no further questions.
18 I do have a brief argument to make.

19 THE COURT: Anybody else want to ask this witness
20 in anything?

21 MS. CAMPBELL: No.

22 THE COURT: Okay. Ms. Good, will you take this
23 witness outside?

24 MS. GOOD: Yes.

25 THE COURT: I need to know the good faith basis

1 for the questions you just asked.

2 MR. SCHNEE: Me, Your Honor?

3 THE COURT: Yes.

4 MR. SCHNEE: That would be based on allegations
5 made by Troy Stevenson, along with a few other
6 witnesses and interviews. I don't know if any of that
7 will come up or come out in trial.

8 THE COURT: I'm not asking what's coming up or
9 out. I want to know what your good faith basis is for
10 asking him if he got rid of any of the guns.

11 MR. SCHNEE: That would be indicated by Troy
12 Stevenson in his last interview in the police.

13 THE COURT: That this witness got rid of the
14 guns?

15 MR. SCHNEE: Or may have. That's what Troy
16 Stevenson was saying, was that he may have.

17 THE COURT: May. That's what I'm wanting to know
18 more than anything.

19 MR. SCHNEE: Yes, sir.

20 THE COURT: All right. What's the State's
21 position on that, since the new line of questioning
22 deals with potential crimes unrelated to those that he
23 has already waived his Fifth Amendment right to?

24 MS. CAMPBELL: Your Honor, I think the only
25 reason that Troy Stevenson thought Donald Moore may

1 have wanted to get rid of the guns was because when
2 Donald Moore first came forward, they met with a
3 police. At that point they were trying to set up a
4 situation Donald Moore would have a conversation with
5 Troy Stevenson and offered to get rid of the guns
6 afterwards. I know that procedure was never
7 culminated because of problems in scheduling or
8 getting a motel room or something like that, and it
9 never came to fruition.

10 In addition, Your Honor, just because he is asked
11 that question, we have no indication that he was doing
12 that at any request other than what law enforcement
13 asked him to try to set up, so if that inference was
14 given to Troy Stevenson, that would be the reason he
15 would have thought that. There was absolutely no
16 evidence in the case that at any point did Donald
17 Moore have any involvement in getting rid of any guns
18 other than what I believe Troy Stevenson may have said
19 happened or may have been a possibility.

20 In addition, Your Honor, I don't know that the
21 questioning on that line would be relevant as far as
22 the guilt of these two defendants that we are going
23 forward on as far as any involvement, and I don't know
24 if this is just a fishing expedition on third party
25 guilt or if that would even be admissible at this

1 point. I guess if he is trying to give him a part on
2 the accessory after the fact theory that he helped get
3 rid of the guns afterwards --- I just don't think
4 there is a good faith basis to go into that line of
5 questioning even if there was an explanation that's
6 reasonable as far as what the police were trying to
7 get Mr. Moore to do.

8 THE COURT: So why doesn't the State just
9 immunize him? That's my question.

10 MS. CAMPBELL: As far as any perjury or false
11 information?

12 THE COURT: No. I mean, giving false information
13 to the police or being an accessory after the fact of
14 getting rid of guns.

15 MS. CAMPBELL: Your Honor, our position would be
16 that we don't think he has a right to assert a Fifth
17 Amendment right, therefore it wouldn't be necessary,
18 but if it's something the court wants to do as far as
19 to protect him from the perjury, false information, we
20 could consider that.

21 THE COURT: Okay. Let's get Ms. Barnes in here.

22 MS. CAMPBELL: Okay.

23 MR. SCHNEE: Judge, can I just put something on
24 the record before she comes in?

25 THE COURT: Sure.

1 MR. SCHNEE: In terms of the prior hearing we
2 had, I don't believe that would qualify as a
3 meaningful opportunity to cross-examine.

4 THE COURT: I don't think it does. I'm just
5 going under the theory --- I wouldn't --- I'm not
6 saying that's my ruling, but my ruling wouldn't be ---
7 you had a chance to cross him before so that makes up
8 for it.

9 MR. SCHNEE: All right. Thank you, Your Honor.

10 THE COURT: I'm not trying to cut you off.
11 That's not where my mind is thinking.

12 MR. SCHNEE: Yes, sir; yes, sir.

13 MR. AIKEN: This is Ms. Barnes, Your Honor.

14 THE COURT: Okay. Come on down, Ms. Barnes.

15 LATOYA BARNES;
16 after being duly sworn, testified as follows:

17 THE CLERK: Please have a seat, state your full
18 name for the record.

19 THE BAILIFF: Watch your step.

20 THE WITNESS: Latoya Barnes.

21 DIRECT EXAMINATION:

22 (Proffered)

23 BY MS. CAMPBELL:

24 Q Ms. Barnes, how old are you?

25 A Thirty-eight.

1 Q Do you work?

2 A No, ma'am.

3 Q Do you have any children?

4 A Yes, ma'am.

5 Q And who is Troy Stevenson?

6 A My son, Troy Stevenson.

7 Q And, Trenton Barnes, who is he?

8 A My son.

9 Q Do you know Lorenzo Young?

10 A Yes, ma'am.

11 Q Can you tell the court how you know him?

12 A Acquaint (sic) of Troy's.

13 Q Let me turn your attention back to when this

14 occurred. Do you recall that Sunday evening into the

15 early morning hours of Monday? Do you know who all

16 was at your house?

17 A I plead the Fifth.

18 THE COURT: Ma'am, that's not an incriminating

19 question. You need to answer the question.

20 BY MS. CAMPBELL:

21 Q The end of June, first of July. The night in

22 question. The night that everybody has been talking

23 about, do you remember who was at your house that

24 night?

25 A Who was at my house that night?

1 Q Uh-huh.

2 A Meaning what time? That's what I'm ---

3 Q Around midnight.

4 A Midnight because, I mean, the timing, what I told
5 them was like 11 or 12.

6 Q Okay. Around 11 or 12 there was somebody at your
7 house and then they left?

8 A Lorenzo Young, Trenton Barnes and Troy Stevenson.

9 Q They were all at your house then?

10 A Yeah.

11 Q At some point did two of those people leave your
12 house?

13 A I plead the Fifth.

14 THE COURT: Ma'am, that's not an incriminating
15 question. You need to answer the question.

16 MR. AIKEN: Judge, may I make a point about that
17 because under the circumstances of this case, that is
18 an incriminating question in this sense. She has
19 exposure for misprison of a felony and accessory after
20 the fact. One of the elements the government has to
21 prove is that the underlying offense was actually
22 committed, so to the extent that she provides
23 testimony showing that the underlying offense was
24 committed, she is incriminating herself.

25 THE COURT: That's an interesting argument,

1 Mr. Aiken, but I don't think it's right. You need to
2 answer the question. When she asks you an
3 incriminating question, you plead the Fifth when you
4 think you need to, but you answer when I tell you you
5 need to.

6 THE WITNESS: Okay.

7 BY MS. CAMPBELL:

8 Q Who left your house that night around midnight?

9 A Lorenzo and Trenton.

10 Q And Trenton?

11 A Uh-huh.

12 Q A couple hours later --- and was Troy still at
13 your house at that point?

14 A Yes, Troy had already left with some other
15 friends.

16 Q Okay. At some point did Troy come back to your
17 house that evening?

18 A He had went to the club. He didn't even leave
19 with Trenton and Lorenzo.

20 Q He did leave with them?

21 A He did not.

22 Q That's right. And he was at your house later
23 that evening?

24 A Later that night.

25 THE COURT: Who is he? I'm confused.

1 MS. CAMPBELL: Troy.

2 THE COURT: Okay.

3 BY MS. CAMPBELL:

4 Q Later that evening somewhere around three o'clock
5 between three and four, did you get two phone calls
6 from Lorenzo?

7 A Yes, ma'am.

8 Q Did you answer the phone on those phone calls?

9 A Yes, ma'am.

10 Q Did you recognize Lorenzo's voice?

11 A Yes, ma'am.

12 Q And who did Lorenzo want to speak to?

13 A Marquis Johnson.

14 Q Did you give the phone to Marquis?

15 A Yes, ma'am.

16 Q Did he also call back, Lorenzo call back a second
17 time?

18 A Yes, ma'am.

19 Q At that point, did you ask him to tell Trenton
20 something for you?

21 A To come home.

22 Q To come home?

23 A Yes, ma'am.

24 Q At that point did you also hand the phone off to
25 somebody else?

1 A Could you repeat that?

2 Q Did you hand the phone off to somebody else to
3 talk to Lorenzo?

4 A No, to Marquis Johnson, he called for him twice.

5 Q At some point did Troy get on the phone with
6 Lorenzo?

7 A Not that I know of.

8 Q After those two phone calls that evening, did
9 Troy leave your house?

10 A The next day of that day?

11 Q That night.

12 A No.

13 Q Okay. Do you remember talking to the police on
14 the telephone back in August of 2013? August 18th?

15 A Not the date. I remember speaking with her.

16 Q And do you remember --- let me be specific,
17 telling them that Troy was asleep and that Lorenzo
18 called and spoke to Marquis?

19 A Right, correct.

20 Q And then you told them that Troy told you he was
21 leaving?

22 A Troy told me he was leaving. I told him to go
23 look for his brother.

24 Q And he said he was going to go get Trent?

25 A Right.

1 Q And then he left the house at that point?

2 A Correct.

3 Q And after he left the house, did you go to sleep?

4 A I'm pretty sure I did. More than likely. I
5 can't remember.

6 Q Did Lorenzo come back to your house that night?

7 A Yes, ma'am.

8 Q Did Trenton come back to your house that night?

9 A Yes, ma'am.

10 Q Did Troy come back to your house that night?

11 A Yes, ma'am. They didn't come back together. It
12 was like different times.

13 Q The next morning did Lorenzo leave your house?

14 A Yes, ma'am.

15 Q Do you remember how he left?

16 A With a red truck, whatever.

17 Q Somebody came and got him?

18 A Like a Jeep, red truck or something. I thought
19 it was his baby mama.

20 Q Back when you spoke to police, do you remember
21 telling them that you had seen the video at the
22 bakery?

23 A Uh-huh.

24 Q That you had seen the video that was on TV of the
25 bakery?

1 A Right.

2 Q And do you remember telling them that it was
3 Trenton with the gray on?

4 A I don't recall that.

5 Q Did you tell them that you said, "I know my kid's
6 build. I know them from their fingers to their toes.
7 I know my kids"?

8 A Yes. But I never did identify them, say who was
9 who.

10 Q And did Investigator McCoy tell you --- ask you
11 about seeing the gray sweat shirt before and did you
12 tell him, "It was Troy's and when Trenton got
13 arrested, he was on probation. He got snagged on the
14 gate. Troy didn't want it anymore because it got a
15 hole in it. He let his brother have it and told
16 Trenton he could have it"?

17 A I plead the Fifth.

18 Q On the sweatshirt?

19 A On the sweatshirt, whatever, the whole statement,
20 I guess.

21 Q Did you tell police back on that same date that
22 when Lorenzo left the house, he had on a hoodie?

23 A I plead the Fifth.

24 Q Did you tell the police that when Troy left the
25 house, he had on a navy blue hoodie?

1 A I plead the Fifth.

2 Q Do you remember telling the police that Trenton
3 was wearing a jacket when he left with Lorenzo?

4 A I plead the Fifth.

5 Q And he was referring to the gray jacket?

6 A I plead the Fifth.

7 Q And you told them you had already told them that?

8 A I plead the Fifth.

9 Q And then they asked you was he the only one
10 wearing that jacket and then did you tell them, "Yeah,
11 because that's the only person that wears that jacket
12 ---"

13 A I plead the Fifth.

14 Q --- was Trenton"?

15 Finally, they asked you again about Trenton
16 wearing the gray sweatshirt you saw in the news
17 clipping, and you told them, "Yeah, the gray hoodie is
18 what Trenton was wearing"?

19 A I plead the Fifth.

20 Q Did you tell them when he left earlier, he had
21 the hoodie on?

22 A I plead the Fifth.

23 Q And then you told them that it has just a little
24 snag. Not a big rip, just a small hole?

25 A I plead the Fifth.

1 Q Do you recall getting a letter from your son
2 Trenton Barnes?

3 A I plead the Fifth.

4 THE COURT: Getting a letter is not
5 incriminating. You need to answer that question.

6 THE WITNESS: Yes, I received a letter from my
7 son.

8 BY MS. CAMPBELL:

9 Q Do you recall turning that letter over to Troy's
10 lawyer?

11 A Yes, ma'am.

12 Q And I'm going to show you State's Exhibit 404 and
13 403. Do you recognize that?

14 A Yes, ma'am.

15 Q And 403, I believe, is the envelope that goes
16 with it or a copy of it there?

17 A Yes, ma'am.

18 Q And did you recognize the handwriting in this?

19 A Yes, ma'am.

20 Q And whose handwriting is it?

21 A I plead the Fifth.

22 THE COURT: Ma'am, whose handwriting is it?

23 THE WITNESS: It's Trenton Malik Barnes'
24 handwriting.

25 THE COURT: Thank you.

1 BY MS. CAMPBELL:

2 Q And then you turned that over to the lawyer; is
3 that correct?

4 A Yes, ma'am.

5 Q And you don't want to be here, but you're under
6 subpoena?

7 A Yes. And I'm here.

8 THE COURT: All right. Who is cross-examining
9 her?

10 MS. PINNOCK: May it please the Court.

11 CROSS-EXAMINATION:

12 (Proffered)

13 BY MS. PINNOCK:

14 Q Who did you turn the letter over to, Ms. Barnes?

15 A Amy.

16 THE COURT: Is that Ms. Zmroczek?

17 THE WITNESS: Yes, ma'am --- yes, sir. I'm
18 sorry. Amy Zmroczek.

19 THE COURT: Okay. It's okay. I understand
20 you're nervous today. You're talking about --- that
21 would be Troy's lawyer, correct?

22 THE WITNESS: Correct.

23 THE COURT: Sorry, Ms. Pinnock.

24 MS. PINNOCK: No problem, Your Honor.

25 BY MS. PINNOCK:

1 Q You said you remembered --- you spoke to
2 Investigator McCoy after Trenton was arrested, right?

3 A Do I remember speaking with him?

4 Q Uh-huh.

5 A I plead the Fifth.

6 Q You were at headquarters while he was being
7 questioned?

8 A I didn't go with him.

9 Q Okay.

10 A No, I didn't.

11 Q You spoke to Investigator McCoy?

12 A Correct.

13 Q And McCoy told you that one of your sons was
14 going to get a deal out of this, right?

15 A Yes.

16 Q That was on July 1st when you were there at
17 headquarters?

18 A Yes.

19 Q You also had another phone call with him in
20 August. I'm not sure of the date, but your remember
21 speaking to him on the phone again?

22 A I remember speaking to him a lot.

23 THE COURT: And who is him, Investigator McCoy?

24 THE WITNESS: Yes.

25 MS. PINNOCK: Yes, Investigator McCoy.

1 BY MS. PINNOCK:

2 Q Investigator McCoy called you at your house?

3 A Yes, ma'am.

4 Q At that point, you provided him information about
5 a Marcus Johnson, right?

6 A Correct.

7 Q Nickname Shorty?

8 A Uh-huh.

9 THE COURT: Is that a yes?

10 THE WITNESS: Yes. I'm sorry.

11 THE COURT: It's okay.

12 THE WITNESS: Yes, ma'am.

13 BY MS. PINNOCK:

14 Q You told him that he needed to speak to Marcus
15 Johnson?

16 A Correct.

17 Q You told him that Marcus Johnson was in jail at
18 that point?

19 A Yes, ma'am.

20 Q That Marcus Johnson was at the jail and talking
21 about some major details involved in this case?

22 A Yes, ma'am.

23 Q And you felt the need give that to Investigator
24 McCoy ---

25 A Yes, ma'am.

Cross of L. Barnes by Pinnock
(Proffered)

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1 Q --- so he could do further investigations?

2 A Yes, ma'am.

3 Q And he assured you at that point that that was
4 the next person on his list that he was going to talk
5 to?

6 A Yes, ma'am.

7 Q He said he was probably going to get that done
8 next week or very soon?

9 A Uh-huh.

10 Q You also gave him a number of people who were at
11 your house on that night?

12 A Uh-huh.

13 Q And he assured you that he was going to speak to
14 those people, as well?

15 A Yes, ma'am.

16 Q And he was going to make sure that he talked to
17 everyone in this case to make sure that his
18 investigation was complete?

19 A Yes, ma'am.

20 Q To make sure that the information he had was
21 right?

22 A Yes, ma'am.

23 Q And you provided him that information. It was
24 within weeks of when ---

25 A Yes, ma'am.

1 Q Within a couple of weeks of Trenton being
2 arrested?

3 A Yes, ma'am.

4 Q After Troy being arrested?

5 A Yes, ma'am.

6 Q And you gave him people's first and last names?

7 A Yes, ma'am.

8 Q And when you --- when he was speaking to you
9 originally about what you had seen on the news, you
10 said that you didn't recall --- you first said that
11 Lorenzo was at your house that evening at some point
12 earlier?

13 A Yes, ma'am.

14 Q You said he had left?

15 A Yes, ma'am.

16 Q But you didn't remember exactly what he was
17 wearing, right?

18 A I plead the Fifth.

19 Q Huh?

20 A I plead the Fifth.

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

22 BY MS. PINNOCK:

23 Q And Ms. Barnes, the letter that you said you
24 received from the jail, you identified that as
25 Trenton's handwriting?

1 A Yes, ma'am.

2 Q That letter has at the top of it, do you recall
3 it says, "Your son, Trenton Barnes?"

4 A Yes, ma'am will is.

5 Q Does he always head his letters like that?

6 A Most of them, not all.

7 Q Most of them, not all?

8 A Uh-huh.

9 MS. PINNOCK: Thank you, Your Honor. Nothing
10 further.

11 MR. SCHNEE: Briefly, Your Honor.

12 THE COURT: Yes, sir.

13 CROSS-EXAMINATION:

14 (Proffered)

15 BY MR. SCHNEE:

16 Q Good afternoon, Ms. Barnes.

17 A Good afternoon.

18 Q Is it your intention to plead the Fifth to any
19 question involving the actual incident in this case?

20 A Yes, sir.

21 Q So asking who was wearing what color sweatshirt
22 that night when they left, you're going to plead the
23 Fifth?

24 A Yes, sir.

25 Q Did you alter that letter that you got?

1 A Did I alter it?

2 Q Did you cut and paste it or change the letters or
3 words or anything like that?

4 A No, oh no.

5 Q Who has the original letter?

6 A Who has the original letter?

7 Q Yes, ma'am?

8 A Amy.

9 Q So you don't have it?

10 A No, I don't.

11 Q You haven't seen it since you turned it over to
12 Amy?

13 A I have seen it.

14 Q You've seen the original?

15 A The original, yes, sir.

16 Q Amy still has it?

17 A Yes, sir.

18 MR. SCHNEE: I have no other questions, Judge.

19 THE COURT: Okay. All right. Now, I want you
20 to --- anything else you want to ask her,
21 Ms. Campbell?

22 MS. CAMPBELL: No, Your Honor.

23 REDIRECT EXAMINATION:

24 (Proffered)

25 BY MS. CAMPBELL:

1 Q The only thing I want to clear up, you were
2 actually present when Trenton Barnes was being
3 interviewed by the police on the 5th of July, right?

4 A Was I present? Well, we didn't leave at the same
5 time.

6 Q I understand that, but you were actually there
7 when they were questioning him?

8 A Uh-huh.

9 Q In the room?

10 A Yes, ma'am.

11 Q Because he wanted you there?

12 A Yes, ma'am.

13 THE COURT: Okay. Would you wait outside for us?

14 THE WITNESS: Yes.

15 THE COURT: Thank you, ma'am.

16 All right. The first question is are you willing
17 to skip the clothing questions?

18 MS. CAMPBELL: The clothing questions?

19 THE COURT: Right.

20 MS. CAMPBELL: As far as what they were wearing
21 when they left that night? Yeah. If you tell me to,
22 I will be happy to, but she actually comes forward and
23 talks to them because she recognizes Trenton from what
24 she sees on TV.

25 THE COURT: I know.

1 Okay. Mr. Aiken, approach.

2 (WHEREUPON, there was a bench conference.)

3 THE COURT: Hold on. Yes, ma'am?

4 MS. CAMPBELL: Your Honor, may I approach?

5 THE COURT: Yes, ma'am.

6 (WHEREUPON, there was a bench conference.)

7 THE COURT: All right. Let's get Mr. Moore back
8 in here first.

9 MS. PINNOCK: Your Honor, if I could real quickly
10 --- with Ms. Barnes. You asked the State to maybe
11 skip over the shirt question. Identifying clothing is
12 going to be part of our cross.

13 THE COURT: Yeah. I should have asked you too,
14 but it's fine.

15 MS. PINNOCK: Okay.

16 THE COURT: I'm not going to hamstring you like
17 that.

18 MS. PINNOCK: Okay.

19 THE COURT: I'm glad you brought that to my
20 attention, and you should have. That was proper. I
21 should have asked you, too. Okay.

22 MS. PINNOCK: Thank you.

23 THE COURT: I'm not going to keep you --- yeah, I
24 wouldn't hamstring you like that. Where is Mr. Moore?
25 Did somebody go get him?

1 MS. Good: You want her him back on the stand,
2 Your Honor?

3 THE COURT: That's fine. Come on up, Mr. Moore.
4 Okay. Tell me how old you are?

5 THE WITNESS: Twenty-one.

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

7 THE WITNESS: I didn't go to high school.

8 THE COURT: Didn't go to high school?

9 THE WITNESS: No, sir.

10 THE COURT: Okay. When did you come to South
11 Carolina approximately.

12 THE WITNESS: 2010. That's when I came back.

13 THE COURT: Okay. And you've had some prior
14 convictions; is that correct?

15 THE WITNESS: Yes, sir.

16 THE COURT: You've been --- this isn't your first
17 time in court, right?

18 THE WITNESS: No, sir.

19 THE COURT: And you have a lawyer right,
20 Ms. Good?

21 THE WITNESS: Yes, sir.

22 THE COURT: And she represents you on your now
23 pending charges; is that correct?

24 THE WITNESS: Yes, sir.

25 THE COURT: Okay. You have a pending strong

1 armed robbery; is that right?

2 THE WITNESS: Yes, sir.

3 THE COURT: And she represents you on that,
4 right?

5 THE WITNESS: Yes, sir.

6 THE COURT: And have you met with her about this
7 case? The case that you're here potentially
8 testifying on?

9 THE WITNESS: Yes, sir.

10 THE COURT: I'm not going to ask you the
11 substance of your conversations with her, but have you
12 met with her?

13 THE WITNESS: Yes, sir.

14 THE COURT: Have you talked with her?

15 THE WITNESS: Yes, sir.

16 THE COURT: Have you explained your side of the
17 story or whatever you need explain to her about your
18 situation involving this case that we're here on?

19 THE WITNESS: Yes, sir.

20 THE COURT: And have you understood your
21 conversations with her?

22 THE WITNESS: Yes, sir.

23 THE COURT: During any of those conversations
24 were you under the influence of alcohol or drugs?

25 THE WITNESS: No, sir.

1 THE COURT: Are you under the influence of any
2 alcohol or drugs today?

3 THE WITNESS: No, sir.

4 THE COURT: Were you under the influence of any
5 alcohol or drugs the last time you testified in front
6 of me?

7 THE WITNESS: You're talking about just now?

8 THE COURT: No, I'm talking about back a week
9 ago.

10 THE WITNESS: No, sir.

11 THE COURT: Approximately --- I don't know, maybe
12 November 3rd, about a week or so ago. I don't remember
13 the exact date. Same courtroom, you were in the same
14 seat. Were you under the influence of any alcohol or
15 drugs then?

16 THE WITNESS: No, sir.

17 THE COURT: In your meeting where --- with
18 Investigator Streeter, I guess, the first meeting when
19 you met with him that time, were you under the
20 influence of any alcohol or drugs?

21 THE WITNESS: No, sir.

22 THE COURT: And when you met with Ms. Garfield
23 and Ms. Good and Investigator Streeter after you
24 testified in front of me, were you under the influence
25 of any alcohol or drugs?

1 THE WITNESS: No, sir.

2 THE COURT: All right. Mr. Moore, I'm going to
3 find that you have waived your Fifth Amendment right
4 to remain silent based upon the assertion that you
5 have lied to the police, and I'm going to explain to
6 you why I'm going to do that because I want you to
7 understand what I'm doing and what the requirements of
8 this court are.

9 My issue is this. Number one, you originally
10 gave a statement to law enforcement which, in October
11 of this year, according to you and according to your
12 lawyer, you told a member of the solicitor's office
13 who is an investigator that you lied to the police and
14 you didn't claim any Fifth Amendment right to remain
15 silent in that meeting.

16 You then came before this court on November 3rd,
17 swore to tell the truth, and you admitted to me with
18 your lawyer present and with the court reporter
19 present that your statement --- I don't remember if
20 you said your entire statement or portions of your
21 statement, but that something you had originally told
22 the police back in July of 2013 thereabouts was a lie
23 or portions of it were a lie.

24 In that hearing, you didn't invoke your right to
25 remain silent. You didn't invoke your Fifth Amendment

1 against privilege --- against self-incrimination and
2 your lawyer was present for that.

3 When you then again met with the solicitor's
4 office and two assist solicitors and a criminal
5 investigator, you again told them that your statement
6 was a lie without ever invoking your Fifth Amendment
7 right to remain silent or refusing to answer any
8 questions based upon self-incrimination.

9 So as it goes to the idea that your original
10 statement to police was a lie or was not a lie, you
11 have waived your Fifth Amendment right to remain
12 silent, and you are going to need to answer the
13 questions from the State and from the defense
14 concerning this case and your knowledge about this
15 case. Do you understand that?

16 THE WITNESS: Yes, sir.

17 THE COURT: Do you have any questions about that?

18 THE WITNESS: No, sir.

19 THE COURT: Okay. Do you want to confer with
20 Ms. Good and then determine if you need to ask me any
21 questions?

22 THE WITNESS: Uh-huh.

23 THE COURT: Okay. Why don't you walk up to her
24 and talk to her right now. I'll --- I want to make
25 sure you don't have any questions about what I'm

1 ordering you to do, okay.

2 THE WITNESS: All right.

3 MS. GOOD: Just to clarify, Your Honor, before I
4 speak with him, you're saying that's just as to lying
5 to the police, not other issues regarding the Fifth
6 Amendment right? The cross-examination of the phone
7 calls and ---

8 THE COURT: Well, the phone calls are not
9 incriminating. Meeting with people is not
10 incriminating. Being at someone's place of business
11 is not incriminating. Potentially whether or not he
12 disposed of any weapons in the case, that I'm still
13 thinking about.

14 MS. CAMPBELL: He has already been asked that and
15 denied that before.

16 THE COURT: Who did he deny that to?

17 MS. CAMPBELL: That was in his second interview,
18 Your Honor. That should have been in what I handed up
19 to you.

20 THE COURT: I'm sorry. I have that.

21 MS. CAMPBELL: You have that? Here it is.

22 THE COURT: I think you took it back. I'll hand
23 it back to the court.

24 And that was information that was turned over to
25 defense counsel.

1 THE COURT: Yeah, he needs to come back up here.

2 THE BAILIFF: Quiet, please. Quiet.

3 Okay. You can just stay right there.

4 THE COURT: That's fine. I don't need you to
5 walk all the way back up here. Did you understand
6 your conversation with your lawyer?

7 THE WITNESS: Yes, sir.

8 THE COURT: Now, you are going to be required by
9 this court to answer the questions that are proposed
10 to you today. Do you understand that?

11 THE WITNESS: Yes, sir.

12 THE COURT: And you will be under oath when you
13 are asked those questions. Do you understand that?

14 THE WITNESS: Yes, sir.

15 THE COURT: Do you have any questions about that?

16 THE WITNESS: No, sir.

17 THE COURT: I know that's not what you want to do
18 and I understand that, but do you understand the
19 ruling of this court?

20 THE WITNESS: Yes, sir.

21 THE COURT: Do you understand that I'm going to
22 require you to answer those questions?

23 THE WITNESS: Yes, sir.

24 THE COURT: Okay. Thank you very much. You can
25 go back outside. I don't know who the next witness

1 is, but thank you very much. Do not leave.

2 All right. Now, bring in Ms. Barnes.

3 Oh. I need to --- get him again. I'm sorry. I
4 completely forget something. All right. Mr. Moore,
5 you can just stay right there. That's fine. I'm
6 sorry. I forget something I needed to tell you, okay.
7 Can you hear me okay?

8 THE WITNESS: Yes, sir.

9 THE COURT: Okay. Now, I know that there's been
10 some information in the different statements that you
11 have given about gang activity, okay, and you're not
12 going to be allowed to say anything about any gang
13 activity. Do you understand that?

14 THE WITNESS: Yes, sir.

15 THE COURT: Do you have any questions about that?

16 THE WITNESS: No, sir.

17 THE COURT: Okay. Thank you very much. Didn't
18 somebody request that earlier?

19 MS. CAMPBELL: I did.

20 MS. GOOD: And I had already counseled him about
21 that earlier.

22 THE COURT: Okay. Great. Thank you, Ms. Good.
23 Okay, Ms. Barnes, have you had an opportunity to talk
24 to Mr. Aiken?

25 THE WITNESS: Yes, sir.

1 THE COURT: That's your lawyer?

2 THE WITNESS: Yes.

3 THE COURT: Are you under the influence of any
4 alcohol or drugs today?

5 THE WITNESS: No, sir, no, sir.

6 THE COURT: All right. Ms. Barnes, I'm going to
7 order that you answer the questions that have been
8 proposed to you today, all the questions that have
9 been proposed to you thus far. Okay?

10 THE WITNESS: Okay.

11 THE COURT: None of those questions in my
12 opinion, based upon the information that's been
13 provided to me and the questions that you were asked,
14 while I know that you do not want to answer them, and
15 you do not want to be here, none of those questions
16 incriminate you personally. They do not rise to the
17 level of anything that the State could prosecute you
18 for or that you would be exposing yourself to criminal
19 liability.

20 Okay. I know that you do not want to answer
21 those questions, and I understand that. I know that
22 in this case, you would rather be sitting behind your
23 son instead of having to wait outside to testify, and
24 I understand that. I appreciate that and respect
25 that, okay, but you are going to be required to answer

1 the questions put forth to you by both the State and
2 the defense as proposed when we did the in camera
3 hearing, which means outside the presence of the jury
4 just a little while ago. That same line of
5 questioning, you'll need to answer each one of those
6 questions. Do you understand that?

7 THE WITNESS: Yes, sir.

8 THE COURT: My basis for that is telling who was
9 at your house or what they had on is not --- it
10 doesn't incriminate you. It's not something that
11 looks --- that a prosecutor or a law enforcement
12 officer could look at you and say I'm going to
13 prosecute you based upon the way that you answered
14 those questions. Does that make sense?

15 THE WITNESS: Yes.

16 THE COURT: Thank you very much. You can go
17 back. Do you have any questions about that?

18 THE WITNESS: No.

19 THE COURT: Anything else, Ms. Campbell?

20 MS. CAMPBELL: The part that I want to make sure
21 we don't go there is ---the hoodie that Trenton has on
22 that she identifies, she talks about the snag or the
23 rip in it, she knows that's the hoodie because he
24 knows that's the hoodie because that's the hoodie the
25 hoodie he had on when he got arrested for running from

1 police ---

2 THE COURT: Right. Okay.

3 MS. CAMPBELL: So we just don't need to mention
4 that he was on probation or arrested on a prior
5 occasion.

6 THE COURT: Do you understand what Ms. Campbell
7 is saying?

8 THE WITNESS: Uh-huh.

9 THE COURT: Here is one of the things that I
10 don't want the jury to know, okay. I don't want ---
11 and I don't even know this to be a fact, okay, but I
12 don't want the jury to have any inference that your
13 son --- either one of your sons or Mr. Young was in
14 any type of gang. Now, I have no personal knowledge
15 as to whether they were or not. Does that make sense?

16 THE WITNESS: Yes, sir.

17 THE COURT: Now, if the hoodie, the gray hoodie
18 for lack of a better term, got ripped while somebody
19 was running from the police, I don't want the jury to
20 know that, okay.

21 THE WITNESS: All right.

22 THE COURT: I want them to make a decision based
23 upon the evidence in this case, not anything that may
24 have happened in the past or may not have happened in
25 the past, so don't go --- if you're asked about that,

1 you don't need to go into, well so and so ripped it
2 while they were running from the police because they
3 were about to get arrested. That's information that
4 would not be beneficial to Mr. Barnes in this case.
5 Does that make sense?

6 THE WITNESS: Yes, sir.

7 THE COURT: Okay. Do you understand that?

8 THE WITNESS: Yes, sir.

9 THE COURT: Okay. Thank you very much. You may
10 wait back outside. Okay.

11 Here is what we're going do. All right. It's
12 2:30. We've had our jurors waiting for a little
13 while. Let's take a short break so everybody can kind
14 of regroup. Who is the next witness?

15 MS. CAMPBELL: Mr. Moore.

16 THE COURT: Mr. Moore. Okay, and is Ms. Barnes
17 coming up this afternoon?

18 MS. CAMPBELL: Yes, sir.

19 THE COURT: Okay. So if everybody can kind of
20 regroup, process through what we just went through.

21 All right. Now --- we're just going to make a
22 new rule for this point forward. The new rule for the
23 audience is this. Mr. Dye, are you listening?

24 THE BAILIFF: Yes, sir.

25 THE COURT: Okay. So unless you're a lawyer, and

1 that means an active member of the South Carolina Bar
2 or in the media, I don't want any cell phones in the
3 courtroom at all. We're going to put a form of the
4 Judge Lee rule into effect. If you're with the media,
5 you're allowed to have a cell phone because I have you
6 under court order if I hear your phone go off, and if
7 you're a lawyer, you're an officer of this court and
8 you know your phone is not allowed to go off.

9 Otherwise, no one in the courtroom is going to
10 get to have a phone. You need to leave it in the car,
11 put it in the car, do whatever your need do with it.
12 That way we're just not going to have anymore cell
13 phone issues. It's not fair to this jury to be having
14 all this movement out here, and it's not fair to the
15 parties either. It's not fair to either defendant or
16 the State that a juror could miss something going on
17 because I got bailiffs running all over the place
18 looking for phones. Okay. So unless you're a lawyer
19 or you're a member of the media or you worked with
20 Mr. Schnee's office, the Public Defender's office or
21 the solicitor's office, no phones in the courtroom at
22 all. Okay.

23 Now, some of you may have phones right now, and I
24 understand that. So you will be given an opportunity
25 to go do whatever you need to do with those phones.

1 Whose phone is this (indicating).

2 THE COURT: Okay. All right. Now. You got me?

3 UNIDENTIFIED WOMAN: Okay.

4 THE COURT: You can get this back to her. So
5 when someone comes in here, Mr. Dye, if they're not a
6 lawyer, you tell them they can't come in with a phone.
7 They have to put it somewhere else.

8 THE BAILIFF: Yes, Your Honor.

9 THE COURT: I'm doing that so everybody knows,
10 out of fairness to the defendant and the State so the
11 jurors don't lose focus on what'd going on the witness
12 stand because everybody and their mama is running
13 around trying to get phones out of the courtroom.

14 Let's take about ten minutes. Everybody kind of
15 regroup and then we'll come back and get started.
16 Thank you very much.

17 (WHEREUPON, a short break was taken.)

18 (WHEREUPON, State's Exhibit Numbers 405-419 were
19 marked for identification only.)

20 THE COURT: Are you good?

21 MR. SCHNEE: I have a completely separate issue.

22 THE COURT: Do you have anything?

23 MR. KRZYSTON: No, Your Honor.

24 THE COURT: Okay. Do you have anything before we
25 start back?

1 MS. GARFIELD: No, sir.

2 THE COURT: Okay. Go ahead.

3 MR. SCHNEE: May it please the Court, Your Honor.

4 Over the lunch break, I was given an email by
5 Ms. Garfield. Apparently, it looks like on
6 October 22nd, a couple weeks ago, solicitors met with
7 a witness by the name of Carlos Smith.

8 I had previously been given a written statement
9 that he had given a long time ago or sometime ago, and
10 the entirety of the written statement contains
11 information that he got from Troy Stevenson allegedly
12 at jail.

13 The new version that I got just today says,
14 according to the investigators, that he also talked
15 with Lorenzo and that Carlos Smith also talked to
16 Trenton Barnes. Specifically, when he says he talked
17 to Trenton Barnes in the yard quote unquote on August
18 19th, 2014 --- August 14th, I'm sorry, August 19th at
19 the jail.

20 THE COURT: Of what year?

21 MR. SCHNEE: This year.

22 THE COURT: Okay.

23 MR. SCHNEE: And apparently then Trenton told him
24 that he shot the lady, he tried to pin it on his
25 brother first, and then Lorenzo finally admitted to

1 doing it. I've never been given that information
2 before. This was still during our lunch break. I
3 talked to Dolly about it, and I asked her to pull the
4 housing records from Alvin S. Glenn Detention Center.
5 The housing records show that Trenton Barnes for that
6 entire time that Mr. Smith claims this conversation
7 could have taken place, my client was housed in the
8 Kilo dorm at Alvin S. Glenn.

9 As for --- I'm sorry, not Kilo, India. Carlos
10 Smith, however, for that entire period of time was in
11 Kilo and then moved on August 19th to SHU, which is
12 the secure housing disciplinary unit.

13 The problem I have, Your Honor, in terms of
14 cross-examination is that this is the first time I'm
15 hearing it. I don't have witnesses available to
16 refute this. Clearly, I would want a map of the jail.
17 I would want the jail staff here to authenticate these
18 records in order to prove that Mr. Smith is clearly
19 lying about when this conversation could have taken
20 place. They've never been in the same dorm together.
21 Based on the fact that I've been given this today, I'm
22 moving to exclude Mr. Smith as a witness against my
23 client or in the alternative, I would need a
24 continuance for at least some amount of time before he
25 testified in order subpoena the jail and get a proper

1 map showing all the dorms, showing where the exercise
2 yards are, the recreational yard, and how far apart
3 those dorms are. They are in completely separate
4 wings.

5 THE COURT: I know where they are, yes.

6 MR. SCHNEE: It kind of leaves me in a difficult
7 spot cross-examining a witness with information that I
8 got less than an hour ago.

9 THE COURT: When is he up as a witness?

10 MS. GARFIELD: We're not anticipating calling him
11 today. And, Judge, just for the record, I found this
12 --- it was given to defense counsel in email fashion.
13 I went to my email to provide one to Mr. Smith's
14 attorney, Tivis Sutherland, just to make sure we
15 didn't have any further Riddle issue or anything of
16 that nature. At that time, I realized that my email
17 whatever date he referenced, I had sent it to Mark
18 Schnee, but I sent to the wrong email address. I
19 caught that and sent it to him.

20 THE COURT: Okay. We'll deal with this issue
21 later. Let's get through this afternoon. I'm not
22 making any decision, but I'm just letting him process
23 through it and get through where we are right now and
24 we'll circle back.

25 MR. SCHNEE: Yes, sir, Your Honor. I'm just

1 wanted to bring that to the Court's attention. I'm
2 not blaming the solicitor for trying to withhold this
3 information.

4 THE COURT: I understand.

5 MR. SCHNEE: I'm sure it was an oversight, but it
6 just generates a problem.

7 THE COURT: I didn't take it as you blaming
8 anyone.

9 THE COURT: Okay. Are you Mr. Schleuter?

10 THE WITNESS: Yes, sir.

11 MS. GARFIELD: We are not calling him. He was on
12 the witness list, but we will not be calling him.

13 THE COURT: I'm sorry if I'm saying your last
14 name wrong. I apologize, but I just remember the
15 female witness, and I remember two names on the list,
16 but the State is not calling him; is that right?

17 MS. GARFIELD: That's correct.

18 THE COURT: Do you plan on calling him that you
19 would need him excluded, Mr. Krzyston?

20 MR. KRZYSTON: No, Your Honor.

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

22 MR. SCHNEE: No, sir.

23 THE COURT: I just wanted to double check. I
24 didn't want to get started and then...

25 MS. GARFIELD: I apologize, Judge. I knew he was

1 coming. I did not know he was in here.

2 THE COURT: That's okay. All right.

3 MS. SIMPSON: I went ahead and told her we were
4 withdrawing those photographs.

5 THE COURT: Okay.

6 (WHEREUPON, the jury entered the courtroom at
7 2:53 P.M.)

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

9 THE COURT: Ladies and gentlemen, I apologize for
10 keeping you outside so long. Most of the time, when
11 we are doing things outside of your presence, which
12 are legal matters, I'm trying to accomplish as much as
13 possible so that when I do have you in here, we can
14 move along as smoothly as possible. Now, as you know,
15 some things are out of my control. You understand
16 that, but I wouldn't keep you out for an extended
17 period of time if it wasn't an attempt to keep things
18 moving once you come back in instead of us having to
19 take multiple breaks.

20 I apologize. I accept responsibility. Nothing
21 should be thought or assumed against any of the
22 parties or anything else. It was me merely handling
23 issues that I'm required to handle outside of your
24 presence. Thank you.

25 You may call your next witness.

1 MS. CAMPBELL: May it please the Court. The
2 state calls Donald Moore.

3 DONALD MOORE,
4 after being duly sworn, testified as follows:

5 THE CLERK: Please have a seat. State your full
6 name for the record.

7 THE WITNESS: Donald DeAngelo Moore.

8 DIRECT EXAMINATION:

9 BY MS. CAMPBELL:

10 Q Mr. Moore, how old are you?

11 A Twenty-one.

12 Q Do you work?

13 A No.

14 Q Do you live in the Columbia area?

15 A Yes, ma'am.

16 Q How long have you been living in Columbia?

17 A Four years.

18 Q All right and prior to being in Columbia where
19 did you live?

20 A New Orleans, Louisiana.

21 Q Is that where you grew up?

22 A Yes, ma'am.

23 Q Do you know Lorenzo Young?

24 A Yes, ma'am.

25 Q Can you tell the jury how you know him?

- 1 A From the street.
- 2 Q And when you say from the street, do y'all
- 3 frequent the same area?
- 4 A I only seen him one time before.
- 5 Q On the street?
- 6 A Yeah.
- 7 Q Do you know Trenton Barnes?
- 8 A Yeah, that's my boy.
- 9 Q That's your boy?
- 10 A Yeah.
- 11 Q What you mean when you say that's your boy?
- 12 A We was friends.
- 13 Q You are friends?
- 14 A Yeah.
- 15 Q And did you know his brother, Troy Stevenson?
- 16 A Yes, ma'am.
- 17 Q How did you know Troy?
- 18 A He was my boy, too.
- 19 Q Did you live near them?
- 20 A Yes, ma'am.
- 21 Q What street do you live on?
- 22 A Lily Avenue.
- 23 Q Lily Avenue?
- 24 A Uh-huh.
- 25 Q And what street do Trenton and Troy live on?

1 A I don't know the name of the street, I just know
2 how to get there.

3 Q Do you know what the house looks like?

4 A Burgundy and white.

5 Q It's a white house with burgundy trim?

6 A Yes, ma'am.

7 Q It's near, it's within walking distance from your
8 house, right?

9 A Yes, ma'am.

10 Q I want to talk to you a little bit about what you
11 know about this case. I want to turn your attention
12 back to the Thursday before this murder occurred.

13 A I told them I lied about all that. There wasn't
14 nothing in that confession true.

15 Q Okay. So none of it was true?

16 A None of it.

17 Q Well, let me ask you this. Do you remember
18 talking to the police on Tuesday, July 2, 2013, around
19 6:44?

20 A Yeah.

21 Q Do you remember when you talked to them that they
22 recorded your statement?

23 A Yeah.

24 Q Do you remember when you came forward and talked
25 to them that that was at the Columbia Police

1 Department, I believe?

2 A Yes, ma'am.

3 Q In fact, they came and picked you up that day; is
4 that correct?

5 A Uh-huh.

6 Q How did they know to come pick you up?

7 A I called them.

8 Q Had you called anybody before you actually called
9 the police themselves?

10 A I called the number on the TV.

11 Q The number on the TV?

12 A Yeah.

13 Q And the reason you called the number on the TV is
14 because you had information?

15 A I lied in my story.

16 Q Okay. Let me ask you this. Do you remember in
17 that conversation with them --- who were you speaking
18 with? Do you remember Investigator McCoy?

19 A Yeah, right there.

20 Q Sergeant Reese?

21 A Those two right there.

22 Q Those two on either end of the table?

23 A Yes, ma'am.

24 Q Do you remember telling them that last Thursday
25 that you had seen Lorenzo and Troy?

1 A I probably did. All this is a lie. I don't
2 know.

3 Q Do you remember telling them that you had seen
4 them off Bonner Avenue, there is a cul-de-sac right
5 there?

6 A Yeah.

7 Q And there was Troy, Tyreek, and Lorenzo?

8 A Yeah.

9 Q So that would be Lorenzo Young and Troy Stevenson
10 and they were talking about the Ale House. Do you
11 remember that? Did you tell them that?

12 A Yeah, I told them that.

13 Q And that they told you about an operation they
14 had going on with the Ale House?

15 A That was a lie.

16 MR. SCHNEE: Judge, may we approach?

17 THE COURT: Yes, sir.

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

21 MR. SCHNEE: Judge, I object for the record, and
22 I'll be putting the exact reason on later.

23 THE COURT: Overruled.

24 MR. SCHNEE: Thank you.

25 MR. KRZYSTON: I'll join in that objection,

1 Judge.

2 THE COURT: Very well.

3 MR. KRZYSTON: It's State v. Bottoms, Judge, is
4 the case.

5 BY MS. CAMPBELL:

6 Q And do you remember telling them, the police
7 officers you were talking to, did you tell them that
8 they were talking about doing a robbery at the Ale
9 House?

10 A Yeah, it was a lie though.

11 Q I'll get back to that part. And do you remember
12 telling them that they were trying get you to come in
13 and do the robbery with them?

14 A No, I don't recall that.

15 Q So you deny saying that?

16 A Yeah.

17 Q In that same conversation back on July 2nd, do
18 you remember telling --- did you tell them that
19 Lorenzo, he had bought a 40, a Glock 40 all black
20 because he had it out the door when I was walking down
21 the street?

22 A That's a lie.

23 Q You didn't tell him that or you did tell them
24 that?

25 A Yeah. That's what I said.

1 Q You did tell them that?

2 A Yeah.

3 Q Do you remember telling them it was black with
4 white down sites?

5 A I said everything that you got on that paper
6 right there, everything.

7 Q You just have to answer my questions, okay?

8 THE COURT: Here is how this works, Mr. Moore.
9 You need to answer her question and you'll be allowed
10 to explain yourself. Okay. I won't let her cut you
11 off, okay?

12 THE WITNESS: Okay.

13 THE COURT: But you need to answer the question
14 she asks you. If you need to explain yourself, you'll
15 be given that opportunity, okay?

16 THE WITNESS: Yes, sir.

17 MS. CAMPBELL: Thank you.

18 THE WITNESS: Yes, ma'am.

19 BY MS. CAMPBELL:

20 Q That that gun he showed it to you. Do you
21 remember telling them that?

22 A Yes, ma'am.

23 Q Because you got mad at him. You told him because
24 there was some kids on the street.

25 A Yes, ma'am.

1 Q And you asked him --- and this is your
2 terminology --- do you remember telling them that you
3 asked him what the fuck you're your pointing that gun
4 over here for?

5 A Yes, ma'am.

6 Q That you got real with him?

7 A Yes, ma'am.

8 Q And you called him my bad bro?

9 A Yes, ma'am.

10 Q And then you told them that --- did you tell them
11 that you told him to put the shit up and go in the
12 house?

13 A Yes, ma'am.

14 Q And that he did?

15 A Yes, ma'am.

16 Q Did you tell them that he, being Lorenzo, knew
17 better than to point that at your face?

18 A I don't remember saying that. I probably did
19 though.

20 Q You don't remember?

21 A I probably did.

22 Q Okay. Do you remember telling them that if you
23 wanted to punch him, you could have punched him?

24 A Yeah.

25 Q And that that was on that Sunday. That would

1 have been three days before you're talking about him
2 around 7:45, 8:00 o'clock at night?

3 A Yes, ma'am.

4 Q That's what you told them?

5 A Uh-huh, yes, ma'am.

6 Q Did you tell them that you were right under a
7 street light so you could see the gun?

8 A I probably --- yeah. Yes, ma'am.

9 Q And that when you told him to take the gun in the
10 house, you told the police officers back on July 2nd
11 that Lorenzo took the gun into Troy's house on
12 Lucille?

13 A Yes, ma'am.

14 Q Is that what you told them?

15 A Yes, ma'am.

16 Q And that you told them that the house was
17 burgundy and white?

18 A Yes, ma'am.

19 Q I'm going to move on. In that same conversation
20 you were having with the police back on July 2nd of
21 2013, do you remember talking to them about what you
22 had seen on the news as far as the bakery video?

23 A Yes, ma'am.

24 Q Did you tell them that the hat Lorenzo had on is
25 the one --- that he wears that hat all the time,

1 that's a red grizzly hat, the hoodie and all that. He
2 had that shit on all the time. Is that what you told
3 them?

4 A Probably, yeah.

5 Q And that you told them you had seen him with that
6 on plenty of times?

7 A Yes, ma'am.

8 Q And then they asked you about talking about the
9 hoodie. You said, "Snap back, no. Snap back. He had
10 it on under there. You can see him clutching it. You
11 got the video?"

12 A Yeah.

13 Q That's what you told them? You said the first
14 time basically you saw him, he had that hoodie on?

15 A Yes, ma'am.

16 Q And then they asked you about seeing the video
17 again and about the gray jacket in the video?

18 A Yes, ma'am.

19 Q And you said that Troy wears that all the time?

20 A Yes, ma'am.

21 Q And you told them that based on your view, you
22 thought it was Troy and Lorenzo in that video?

23 A Yes, ma'am.

24 Q Sorry. I just have to flip this.

25 (Pause.)

1 Then they went back and asked you some more
2 questions about what Lorenzo was wearing that night
3 when you saw him around 7:30 or 8:00 the night before
4 this happened, that Sunday night?

5 A Yes, the red clothes.

6 Q Do you remember what you told them?

7 A I said a red jacket, I think, and some black
8 pants.

9 Q Black pants?

10 A Uh-huh.

11 Q Do you remember anything your told them about the
12 shoes?

13 A No.

14 Q Do you remember telling them black and white
15 Barkley's?

16 A No, I don't remember that far.

17 Q Okay. Do you remember why you came forward?

18 A Yes, ma'am.

19 Q What did you tell them about why you came
20 forward?

21 A I said it was tragic..

22 Q It was tragic?

23 A Yeah.

24 Q Shouldn't happen to anybody like that?

25 A Yeah, that's what I said.

1 Q And that because of what you'd seen, you didn't
2 even think you should get paid for what you were
3 telling them?

4 A Yeah.

5 Q That's what you told them on July 2nd?

6 A Yes, ma'am.

7 Q And like you said over and over, now you're
8 saying that's a lie?

9 A Yeah, that's what I had the meeting for.

10 Q Okay. I'll get back to that?

11 A I'm sorry.

12 Q That's okay. Then the next day did you meet with
13 investigators again on July 3rd after this had
14 happened?

15 A Yeah. They tried to get me to get them to call.

16 Q Do you remember being shown some photographs?

17 A Yes, ma'am, of Lorenzo.

18 Q I'm going to show you some photographs.

19 MR. KRZYSTON: Judge, we're going to object.

20 MS. CAMPBELL: I need to mark this.

21 THE COURT: Approach.

22 (WHEREUPON, a bench conference was held in the
23 presence, but not within the hearing of the
24 jury.)

25 (WHEREUPON, State's Exhibit Number 420 was marked

1 for identification only.)

2 BY MS. CAMPBELL:

3 Q I'm going to show you what's been marked as
4 State's Exhibit ---

5 MR. SCHNEE: Hold on.

6 THE COURT: One second.

7 (WHEREUPON, a bench conference was held in the
8 presence, but not within the hearing of the
9 jury.)

10 BY MS. CAMPBELL:

11 Q I want to show you what's been marked as 420. Do
12 you recognize these as the photographs you were shown?
13 Do you want to look through it or do you want me to
14 look through it for you?

15 A It only shows one picture. I didn't get no
16 lineup right there.

17 Q And you recognize this person? You circled it?

18 A Yes, ma'am.

19 Q And then you wrote down the name of the person
20 you recognized?

21 A Yeah.

22 Q Okay. And that was shown to you by which
23 investigator, do you remember?

24 A McCoy.

25 Q Mr. McCoy?

1 A Uh-huh.

2 MS. CAMPBELL: Your Honor, at this time we would
3 offer it subject to the redactions. I'm not going to
4 publish it.

5 MR. SCHNEE: So long as it's redacted.

6 MR. KRZYSTON: No objection.

7 THE COURT: What's the number?

8 MS. CAMPBELL: 420, Your Honor.

9 THE COURT: Okay. 420 without objection.

10 (WHEREUPON, State's Exhibit Number 420 was
11 admitted into evidence.)

12 BY MS. CAMPBELL:

13 Q Without going into it again, and then in August
14 --- I think it's August --- I said the 9th or the 18th,
15 I'm not sure of the exact date, but in August of that
16 year, 2013, did you have another recorded phone call
17 with Investigator McCoy where he talked to you over
18 the phone?

19 A Yeah, yeah. Yes, ma'am.

20 Q And he basically asked you some additional
21 questions?

22 A He asked --- he said who I say which one was
23 Lorenzo, which one was Troy?

24 Q And you told him Lorenzo was in the red?

25 A Yes, ma'am.

1 Q And you thought the other one was Troy?

2 A I told him, I said that Troy was in the gray.

3 Q And then you had a conversation about whether it
4 could be Trenton?

5 A No, I never said nothing about Trenton.

6 Q In August, you were at your home about --- do you
7 deny saying that?

8 A Yes, ma'am.

9 Q About it could be Trenton?

10 A Yes, ma'am.

11 Q So you deny that part?

12 A Yes, ma'am.

13 Q And again, that took place August 9th with
14 Investigator McCoy. Do you remember where you were
15 when you received that phone call?

16 A Probably --- I was at home. Yeah, I was at home.

17 Q You were at home?

18 A He came and brought the phone to me.

19 Q And there was a recorded conversation of what you
20 said to them?

21 A That it was Lorenzo with the red on?

22 Q Uh-huh.

23 A And Troy with the gray on?

24 Q You deny talking about it could have been
25 Trenton?

1 A Yeah.

2 Q Moving forward then, you didn't have any more
3 contact with anybody from law enforcement for a long
4 time in this case, right?

5 A No, ma'am.

6 Q And then on October 20th of this year, just a few
7 weeks ago, you met with an investigator, I believe in
8 my office, and your lawyer?

9 A Streeter.

10 Q And then with your lawyer?

11 A Yes, ma'am.

12 Q And your lawyer is here in the courtroom, right?

13 A Yes, ma'am.

14 Q Is that her with the purple shirt on in the third
15 row?

16 A Yes, ma'am.

17 Q And when you met with them, basically you
18 listened to the recorded conversation?

19 A Yes, ma'am.

20 Q That we've been talking about?

21 A Yes, ma'am.

22 Q And at that point, according to you, you told
23 them that it was all right except there was one lie in
24 it?

25 A Yes, ma'am.

1 Q Is that what you told them at that time? But
2 then ---

3 A No, I said everything was a lie but one part.
4 Yeah, I ain't saying everything was right. I said
5 everything was a lie but one part.

6 Q Your lawyer was there.

7 A Yeah, she was in there.

8 Q Then there was a hearing in this courtroom on
9 November 3rd of this year, and that's when you said
10 that there were two lies?

11 A Yes, ma'am.

12 Q Is that right?

13 A Yes --- no, I said there was two things that was
14 the truth.

15 Q Well, I'm getting to that. Then the next day you
16 met with investigators from my office and lawyers from
17 my office, and That's when you said the entire
18 statement was a lie except for two parts. Does that
19 sound right?

20 A The day before I said --- the day before when I
21 came in I said I lied about everything and that's when
22 we had the meeting. Then I told them I lied about
23 everything but two parts, and I told him the two
24 parts, yes, ma'am.

25 Q And you said that you had made it all up just

1 because you were worried about getting implicated?

2 A No, I made it up because I didn't know Troy had a
3 stepdad in Charlotte. I thought he was about me, so I
4 made up a story.

5 Q Made up a story. You weren't scared?

6 A No, I wasn't scared. What was I going to be
7 scared of?

8 Q The person that you know as Lorenzo that we've
9 been talking about here today. Do you see him here in
10 the courtroom?

11 A Yes, ma'am.

12 Q And he's the one you picked out of the lineup?

13 A Yes, ma'am.

14 Q Can you point him out for the jury?

15 A Yeah, that's him right there.

16 Q What's he wearing?

17 A White shirt.

18 Q And what else?

19 A A blue tie.

20 Q Thank you. The person that we've talking about,
21 Trenton, do you see him here in the courtroom?

22 A Yes, ma'am.

23 Q Can you point him out for the jury?

24 A Right there, in the black shirt.

25 Q Farthest near the wall?

1 A Yes, ma'am.

2 MS. CAMPBELL: Your Honor, may the record reflect
3 that he has identified both defendants?

4 THE COURT: So reflected.

5 BY MS. CAMPBELL:

6 Q What did you say Trenton was to you?

7 A That's my boy, my friend.

8 Q Were you closer to Trenton or to Troy?

9 A Trenton.

10 Q And right now as we speak, you have pending in
11 our office a strong arm robbery?

12 A Yes, ma'am.

13 Q And we don't want to go into any details about
14 that. That's pending. Do you know what that carries
15 as far as penalties?

16 A Eight to 15 years, something like that.

17 Q If it's zero to 15, does that sound, right?

18 A Zero to 15, yes, ma'am.

19 Q So you could get anything from probation to 15
20 years?

21 A Yes, ma'am.

22 Q And as far as your prior record back to 2007, you
23 were convicted of false --- is it information or
24 conviction of a bomb or something, conveyance of a
25 bomb or something?

1 A Yes, ma'am.

2 Q That's when you were down in Louisiana, and since
3 you've been here, in 2012 you were convicted of two
4 counts of burglary in the second degree?

5 A Yes, ma'am.

6 Q That was back in April of 2012. You got
7 convicted of that?

8 A Yes, ma'am.

9 Q Sound right?

10 A Yes, ma'am.

11 Q Do you want to be here today?

12 A No, ma'am.

13 Q Are you under subpoena?

14 A Yes, ma'am.

15 MS. CAMPBELL: Beg the Court's indulgence.

16 (Pause.)

17 Thank you, sir.

18 MR. KRZYSTON: Thank you, Your Honor. May it
19 please the Court.

20 CROSS-EXAMINATION:

21 BY MR. KRZYSTON:

22 Q Donald?

23 A Yes, sir.

24 Q Ms. Campbell just asked you do you want to be
25 here today?

1 A Yes, ma'am.

2 Q Do you think anybody wants to be here today?

3 A No, sir.

4 Q All right. Now, you came into this courtroom on
5 November 3rd of this year?

6 A Yes, sir.

7 Q A few shorts weeks ago, and you put your hand on
8 this Bible?

9 A Yes, sir.

10 Q And you swore an oath that you would tell the
11 truth in this courtroom?

12 A Yes, sir.

13 Q And you got up on that stand?

14 A Yes, sir.

15 Q And what you told the court was that everything
16 you had said on the tape was a lie?

17 A Yes, sir.

18 Q Ms. Campbell asked you if you remember back in
19 July of 2013 and seeing or telling the police that you
20 saw Lorenzo and Troy off Bonner Avenue with Tyreek?

21 A Yes, sir.

22 Q And in July of 2013 you told them you did?

23 A Yes, sir.

24 Q But on November 3rd of 2014, you told them that
25 was a lie?

1 A Yes, sir.

2 Q You told the police on that day in 2013, that you
3 had had a conversation with Lorenzo and Troy and
4 Tyreek and that they had pitched to you to be part of
5 this robbery and asked you to be part of a robbery?

6 A Yes, sir.

7 Q But then on November 3rd, 2014, you said that was
8 a lie, didn't you?

9 A Yes, sir.

10 Q You said they were trying to get you to do the
11 robbery then, but when you came back and swore an oath
12 on that Bible, swore an oath on this Holy Bible, you
13 told them the truth, that it was a lie.

14 You told them Lorenzo had bought a Glock 40. It
15 was black with white sights at that point, right?

16 A Yes, sir.

17 Q What did you tell them on November 3rd, 2014?

18 A That it was a lie.

19 Q And in October 2013, you said that Lorenzo had
20 pointed a gun at your face?

21 A Yes, sir.

22 Q What did you tell them on November 3rd, 2014?

23 A That it was a big lie.

24 Q Now, I'm not going to curse, but you asked
25 Lorenzo why was he pointing that gun at your face,

1 right?

2 A Yes, sir.

3 Q And that was a lie?

4 A Yeah, it was lie.

5 Q And it was a lie when you told him on
6 October 2013 that you stood under a street light and
7 that you saw a Glock 40 with white sights and that it
8 was in Lorenzo's possession.

9 You came in here on November 3rd and told him that
10 was a lie?

11 A Yes, sir.

12 Q In October 2013, you said you and Lorenzo went to
13 Troy and Trenton's house on Lucille Drive, correct?

14 A Yes, sir.

15 Q And in October 2013, you said you saw Lorenzo put
16 a gun up?

17 A Yes, sir.

18 Q But on November 3rd, 2014 when you came in here
19 and swore an oath on that Bible in front of the judge,
20 what did you tell them?

21 A I told them I was lying.

22 Q Now, I want to talk about what you told them
23 about some clothing and some video that you had
24 already seen prior to coming and speaking with
25 Investigator McCoy over here and Investigator Reese.

1 A Yes, sir.

2 Q They picked you up, took you down to CPD
3 headquarters and put you in a room?

4 A Yes, sir.

5 Q Y'all started to have a conversation, right?

6 A Yes, sir.

7 Q It's in October 2013, right?

8 A Yes, sir.

9 Q At that point you told them you thought that you
10 could identify Lorenzo and that you could identify
11 Trenton or possibly Troy?

12 A I said Troy.

13 Q But on November 3rd, 2014, what did you come in
14 and tell this court about those facts?

15 A That it wasn't --- it was fixed.

16 Q That it was a lie?

17 A Yeah, it was a lie.

18 Q Now, Donald, you told the police some things that
19 weren't true in October of 2013?

20 A Yes, sir.

21 Q Because of that, three people got arrested.

22 MS. CAMPBELL: Objection, Your Honor.

23 MR. KRZYSTON: The police ---

24 THE COURT: Sustained. Disregard the last
25 statement.

1 MR. KRZYSTON: The Court's indulgence, Your
2 Honor.

3 (Pause.)

4 BY MR. KRZYSTON:

5 Q Now, the last thing that I'm going to ask you,
6 Donald ---

7 A Yes, sir.

8 Q Before you took the stand today ---

9 A Uh-huh.

10 Q --- you touched this Holy Bible again, didn't
11 you?

12 A Yes, sir.

13 Q And on November 3rd, 2014, you touched this Holy
14 Bible?

15 A Yes, sir.

16 Q And on both of those days you swore an oath to
17 tell the truth in this courtroom?

18 A Yes, sir.

19 Q But in October of 2013, when you met with these
20 two gentlemen, there wasn't a Bible in the room, was
21 there?

22 A No, sir.

23 Q And that's when you lied?

24 A Yes, sir.

25 MR. KRZYSTON: No further questions.

1 MR. SCHNEE: May it please the Court, Your Honor.

2 THE COURT: Yes, sir.

3 CROSS-EXAMINATION:

4 BY MR. SCHNEE:

5 Q Donald, how many photos, on the lineup, how many
6 photos were you shown?

7 A Sir?

8 Q The photos you were shown by Ms. Campbell, how
9 many photos were you shown by the police?

10 A Just one.

11 Q Just one. They asked who that was?

12 A Yes, sir.

13 Q And you told them that was a picture of Lorenzo?

14 A Yes, sir.

15 Q Did they ask how you knew him or anything?

16 A No, no, sir.

17 Q Did they ask you to identify someone on the video
18 or were they just saying do you recognize this photo?

19 A Do I recognize this photo.

20 Q Okay. Now, obviously you're coming in here
21 potentially exposing yourself to more criminal charges
22 and providing false information to police. You talked
23 to your lawyer, right?

24 MS. CAMPBELL: Objection, Your Honor.

25 THE COURT: Sustained. Disregard the last

1 statement.

2 BY MR. SCHNEE:

3 Q When you met with the investigators from the
4 solicitor's office and with the solicitors on
5 November 3rd ---

6 A Yes, sir.

7 Q --- you told them why you lied, didn't you?

8 A Yes, sir.

9 Q Why is that?

10 A Because they said it was charged with Donald, but
11 they wasn't talking about me. I didn't find out until
12 later they was talking about Troy's stepdad.

13 Q When you say they, are you talking about people
14 on the street?

15 A Yeah.

16 Q So street talk out there is the --- if I'm
17 understanding, is that Shorty was involved with this?

18 A Yes, sir.

19 Q And that's a nickname you go by?

20 A Yeah.

21 Q Okay, but you weren't involved in this at all,
22 were you?

23 A No, sir.

24 Q You were never at a meeting the week before this
25 happened?

1 A None of that.

2 Q There wasn't a meeting the week before, was
3 there?

4 A All that was made up.

5 Q You made that up because you thought word on the
6 street was that you were a participant?

7 A Yeah, I know.

8 Q So you went to the police and tried to clear your
9 name?

10 A Yes, ma'am --- I mean, yes, sir, to stop it.

11 Q And by the time you went to the police, other
12 names had already been put out there, right?

13 A Yes, sir.

14 Q And that's why you put Lorenzo's name in there,
15 right?

16 A Yes, sir.

17 Q And that's why you put Troy's name in there?

18 A Yes, sir.

19 Q That's why they were talking about to you about
20 Trenton also?

21 A I told them that I didn't know Trenton. I said
22 me and Trenton don't have no intersection with each
23 other.

24 Q Okay. So you were kind of trying to protect him
25 too, a little bit?

1 A He is my boy.

2 Q I understand that, but Troy is, as well, right?

3 A Yeah.

4 Q You weren't protecting him when you lied to the
5 police?

6 A Yes, sir.

7 Q You were really just trying to protect yourself?

8 A Yes, sir.

9 Q Because you thought that your name was being put
10 out there as involved?

11 A Yes, sir.

12 Q You're coming in here today and you're telling
13 the truth?

14 A Yes, sir.

15 Q Did you ever see anyone in a red hoodie that
16 night or anything related to it?

17 A I wasn't even on that side of town.

18 Q How about the gray sweatshirt, anything like
19 that?

20 A No, sir.

21 Q Okay. I have no further questions.

22 MS. CAMPBELL: Just a few questions.

23 REDIRECT EXAMINATION:

24 BY MS. CAMPBELL:

25 Q And when you talked to the police and came

1 forward back --- that was in July or October?

2 A I think. July, I think.

3 Q July. Was Lorenzo there when you talked to
4 police?

5 A At the police station?

6 Q Uh-huh.

7 MR. KRZYSTON: Objection, Your Honor. Approach,
8 Your Honor?

9 THE COURT: Yes, approach.

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

13 THE COURT: All right. Overruled.

14 BY MS. CAMPBELL:

15 Q Were either Lorenzo or Trenton there when your
16 were talking to police?

17 A No, ma'am.

18 Q But when you came to court on November 3rd, were
19 both of them looking at you?

20 A I don't remember.

21 MR. KRZYSTON: Objection.

22 BY MS. CAMPBELL:

23 Q Were both of them in the courtroom?

24 THE WITNESS: No, ma'am.

25 THE COURT: Overruled.

1 BY MS. CAMPBELL:

2 Q And as you said, Trenton is your boy?

3 A Yeah. He's my boy.

4 Q You're trying to protect him?

5 A No. I just ain't put him out there. I ain't
6 even know he was down.

7 Q Okay. You didn't know that part?

8 A No.

9 Q Okay. And Shorty --- the Shorty you heard about
10 who might have some knowledge of this on the street.
11 What relation is he to Trenton Barnes and Troy
12 Stevenson?

13 A Huh?

14 Q The Shorty you were talking about, the reason you
15 came forward?

16 A Yeah, I thought she was talking about me, but
17 they wasn't talking about me.

18 Q Who is the Shorty that you heard about on the
19 street?

20 A The old stepdad.

21 Q Whose stepdad?

22 A Troy and Trenton.

23 Q Troy and Trenton's stepdad.

24 And what is Lorenzo's relationship with Troy and
25 Trenton?

1 A No relationship. I only know Troy and Trenton.
2 I seen Lorenzo one time my whole life.

3 MS. CAMPBELL: Thank you, sir.

4 MR. KRZYSTON: Briefly, Your Honor.

5 RECROSS-EXAMINATION:

6 BY MR. KRZYSTON:

7 Q You said you had seen Lorenzo one time when you
8 identified him. I think today makes what, four, four
9 times that you've seen him your whole life?

10 A Yes, sir. Just seen him one time in my whole
11 life.

12 MS. CAMPBELL: Objection, Your Honor. He just
13 testified that he had only seen him once.

14 THE COURT: He has just testified he saw him once
15 in his whole life.

16 BY MR. KRZYSTON:

17 Q Donald, at the time that you identified ---

18 A Lorenzo?

19 Q Yes.

20 A Yeah, I only had seen him one time.

21 Q And you seen him subsequently you saw him on
22 November 3rd when you testified?

23 A Yeah.

24 Q And then earlier today?

25 A Yeah, I wasn't talking about like that. I was

1 talking about before the case.

2 Q And obviously now?

3 A Yeah, and now.

4 Q When you're in front of him?

5 A I've seen him four times now.

6 Q Now, Ms. Campbell asked you when you came in here
7 and you said that you lied, she asked you if Trenton
8 and Lorenzo were in here?

9 A Yeah.

10 Q And they were?

11 A Yes, sir.

12 Q But Trenton and Lorenzo weren't in the
13 solicitor's office on November 20th when you told them
14 it was a lie, were they?

15 A No, sir.

16 MR. KRZYSTON: No further questions, Judge.

17 MR. SCHNEE: Very briefly.

18 RECROSS-EXAMINATION:

19 BY MR. SCHNEE:

20 Q Is anyone threatening you?

21 A No, I'm good. Good.

22 Q Do you feel pressured at all?

23 A No, good.

24 MR. SCHNEE: All right..

25 THE COURT: Have a nice day. Thank you very

1 much.

2 All right. Call your next witness.

3 MS. CAMPBELL: The State calls Latoya Barnes.

4 MS. GARFIELD: Judge, may I approach while she is
5 coming up?

6 THE COURT: Yes, ma'am.

7 (WHEREUPON, a bench conference was held in the
8 presence, but not within the hearing of the
9 jury.)

10 THE COURT: Yes, ma'am. I'm sorry. I didn't see
11 you down there. I apologize. Come on up.

12 LATOYA BARNES,
13 after being duly sworn, testified as follows:

14 THE CLERK: Have a seat, state your full name for
15 the record.

16 THE BAILIFF: Watch your step. Slide up a little
17 bit forward. All right.

18 DIRECT EXAMINATION:

19 BY MS. CAMPBELL:

20 Q Good afternoon, Ms. Barnes.

21 A Hi.

22 Q Are you from the Columbia area?

23 A Yes, ma'am.

24 Q How long have you been living here?

25 A All my life.

1 Q Do you work?

2 A No, ma'am.

3 Q Where do you live?

4 A

5 Q How long have you been living at

6 ?

7 A Five years.

8 Q Five years?

9 A Yes, ma'am.

10 Q And do you have any children?

11 A Yes, ma'am.

12 Q And is one of your children Trenton Barnes?

13 A Yes, ma'am.

14 Q And is another one of your children Troy

15 Stevenson?

16 A Yes, ma'am.

17 Q And back in July of last year, were Trenton and

18 Troy living with you?

19 A Yes, ma'am.

20 Q Would that be at the Lucille Street address?

21 A Yes, ma'am.

22 Q Do you know Lorenzo Young?

23 A Yes, I did do.

24 Q Can you tell the jury what Lorenzo Young's

25 relationship is to your family?

1 A He is a friend of my son Troy.

2 Q He is a friend of your son Troy?

3 A Yes, ma'am.

4 Q Is it unusual for Lorenzo to come over to your
5 house?

6 A No, it wasn't unusual.

7 Q In fact, was it unusual for him to stay over at
8 your house?

9 A No, ma'am.

10 Q I want to turn your attention to that Sunday
11 evening, June 30th into the early morning hours of
12 July 1st that we're talking about?

13 A Yes, ma'am.

14 Q Were you at home that night, ma'am?

15 A Yes, ma'am.

16 Q What were you doing at home that night?

17 A Just home.

18 Q Okay. Were there other people in your home, too?

19 A Yes, ma'am.

20 Q At some point earlier in the evening, were
21 Lorenzo and Troy ---

22 A And Trenton.

23 Q And Trenton all there?

24 A Yes, ma'am.

25 Q And were there also some other young men staying

1 at that your house?

2 A Marquis Johnson.

3 Q Marquis Johnson?

4 A Yes, ma'am.

5 Q At some point though did any of these people
6 leave the house that evening?

7 A That night?

8 Q That night, I'm sorry.

9 A Trenton and Lorenzo left that night.

10 Q Do you remember what time that was?

11 A Like eleven, twelve, something like that.

12 Q Eleven or twelve, so that would that be close to
13 midnight?

14 A Yes, ma'am.

15 Q And did you know where they were going at that
16 point?

17 A No, ma'am.

18 Q Was Troy still in your house at that point?

19 A He had already left with other friends.

20 Q With other friends?

21 A He didn't leave with them so it was like a party
22 or whatever.

23 Q But at some point in the early morning hours did
24 Troy come home?

25 A Yes, ma'am.

1 Q And were Trenton and Lorenzo still were not home?

2 A Correct.

3 Q Was Marquis still in your house?

4 A He was like with Troy.

5 Q Okay.

6 A With that group.

7 Q With that group. Okay. So they came back and
8 came to your home?

9 A Yes, ma'am.

10 Q Later in the early morning hours going now to
11 like two or three in the morning were Trenton and
12 Lorenzo still gone?

13 A Yes, ma'am.

14 Q At some point did you receive a phone call that
15 morning around two or three in the morning?

16 A Yes, ma'am.

17 Q You tell me what time was it?

18 A Like two or three in the morning. I'd say about
19 three'ish.

20 Q Three'ish. Okay. And who did you get the first
21 phone call from that morning?

22 A Lorenzo Young.

23 Q And did you actually answer the phone that day?

24 A Yes, ma'am.

25 Q And what if anything did Lorenzo want?

1 A He wanted Marquis Johnson.

2 Q Marquis Johnson?

3 A Yes, ma'am.

4 Q What did you do as a result of what he asked you?

5 A I just gave him the phone. He asked to speak to
6 him.

7 Q Where was Marquis at that point?

8 A Asleep in Troy's room.

9 Q And where was Troy?

10 A Asleep in his room.

11 Q And again were Lorenzo and Trenton still not home
12 at that point?

13 A No, ma'am.

14 Q Once you gave Marquis the phone, did you take it
15 actually to him in the room?

16 A Yes, ma'am.

17 Q What did you do?

18 A I went back in my room.

19 Q Okay.

20 A Yes, ma'am.

21 Q And then a little while later did you get another
22 phone call?

23 A Yes, ma'am.

24 Q Did you answer that one?

25 A Yes, ma'am.

1 Q Who was it?

2 A Lorenzo Young.

3 Q At that point what if anything did you say to
4 Lorenzo about your other son Trenton?

5 A Where is Trenton? He said that we're right down
6 the street, Ms. Barnes. And I was like tell Trenton
7 to come on home.

8 Q At that point what did you do with the phone?

9 A Gave the phone to Marquis Johnson.

10 Q And, again, did you walk it down to the room
11 where Troy was?

12 A Well, across the hall.

13 Q Across the hall, I'm sorry. Please don't let me
14 put words in your mouth, okay.

15 At that point, did you leave the phone with
16 Marquis?

17 A Yes, ma'am.

18 Q And where did you go?

19 A Back to my room.

20 Q Did you go to sleep that night?

21 A Yeah, I went to sleep.

22 Q At some point, do you know when or if Trenton ---
23 oh, excuse me. At some point, did you know if anybody
24 else the house that evening?

25 A No, ma'am.

1 Q What about Troy?

2 A When I --- he went to go get his brother.

3 Q That's why I'm getting at. Was that after the
4 second phone call?

5 A Yes, ma'am.

6 Q Okay.

7 A Not like after or whatever. When it took a
8 minute for him not to come home after I spoke to
9 Mr. Young.

10 Q After you spoke to Mr. Young?

11 A And told him to come home. It was a good little
12 minute, so I told him to go get your brother.

13 Q And who did you tell to get his brother?

14 A Troy Stevenson.

15 Q What did Troy do as a result of what you told him
16 to do?

17 A He went to go look for his brother.

18 Q So this would have been sometime after
19 three o'clock in the morning?

20 A Yes, ma'am.

21 Q And when he left, what did you do?

22 A I just went back to my room.

23 Q At some point, did you see Troy or Lorenzo or
24 Trenton anymore that night?

25 A No, ma'am.

1 Q The next morning, who is the first one you saw
2 the next morning?

3 A Oh, gosh.

4 Q Do you remember?

5 A All three of them was at my own home.

6 Q At your home?

7 A Right. All three of them was in there. So I
8 don't know who I seen first.

9 Q Okay. But they were all there the next morning
10 when you got up?

11 A Yes, ma'am.

12 Q Do you remember about what time it was when you
13 got up?

14 A About six or seven.

15 Q Six or seven in the morning?

16 A Yes, ma'am.

17 Q At some point did one of them leave?

18 A Yes, ma'am.

19 Q Who was it that actually left?

20 A Lorenzo Young.

21 Q Do you know how he left?

22 A A ride picked him up.

23 Q A ride picked him up?

24 A Yes, ma'am.

25 Q That night, do you remember what each of them was

1 wearing when they left the house?

2 A Around 11 or 12?

3 Q Yeah, when Trenton and Lorenzo left, do you
4 remember what they were wearing?

5 A Trenton had a gray jacket and Lorenzo had a red
6 jacket or hoodie.

7 Q Lorenzo had on a red jacket or hoodie?

8 A Uh-huh.

9 Q And Trenton had on what?

10 A A gray jacket or hoodie. It was gray.

11 Q Was that something he wore a lot?

12 A Yeah. You know, they're brothers and friends.
13 They share clothes, but he wears it a lot.

14 Q Was there anything specific about that hoodie, a
15 certain tear in it that he wore it and Troy didn't
16 like to wear it anymore?

17 A Yeah, it had a little hole in it.

18 Q Is that why Troy didn't like to wear it anymore?

19 A Correct.

20 Q So Trenton wore that. That's what he was wearing
21 that night when he left?

22 A That's what he had on, the gray jacket.

23 Q And then later on, several hours later, when Troy
24 left to go look for him, when you asked him to leave
25 and go look for Trenton?

1 A Yes, ma'am.

2 Q What was he wearing?

3 A It was dark. I couldn't see if it was Navy blue
4 or black.

5 Q But it was a dark jacket.

6 A Yeah.

7 Q But it wasn't gray one?

8 A No, ma'am.

9 Q And again, you didn't see any of them come back
10 in the house?

11 A No, ma'am.

12 Q Okay. How did you become aware of what had
13 happened at the bakery? Is the bakery near your
14 house?

15 A Yes, ma'am.

16 Q In fact, is it within walking distance?

17 A Yes, ma'am.

18 Q How did you become aware of what had happened at
19 the bakery?

20 A The news.

21 Q The news?

22 A I still didn't know where, what bakery, because I
23 used to go to the bar.

24 Q Okay.

25 A So it was never a bakery when I was going to the

1 bar so...

2 Q So let me backup for a minute. You're familiar
3 with the bar that's next door?

4 A Yes, ma'am.

5 Q And what's the name of that bar?

6 A Ale House.

7 Q Ale House?

8 A Yes, ma'am.

9 Q And you had been there before?

10 A Yes, ma'am.

11 Q You knew there was a building next door. Did you
12 know what it was?

13 A No, ma'am.

14 Q But once video was on the news, did you see it?

15 A Yes, ma'am.

16 Q When you saw the video, did you recognize who was
17 on it?

18 A No, I didn't.

19 Q Okay. I'll get back to that. Several days later
20 on the 5th, did the police come to your home?

21 A Yes, ma'am.

22 Q And what were they there for?

23 A To arrest --- I guess, to arrest my kids. I
24 don't know. They just came. I didn't know what was
25 going on. I was in shock.

1 Q You were in shock?

2 A Yes, ma'am.

3 Q At that point, did they execute, I think, a
4 search warrant at your home?

5 A Yes, ma'am.

6 Q To look for things?

7 A Yes, ma'am.

8 Q At that point when the police came, was Troy at
9 your home?

10 A No, ma'am.

11 Q Was Trenton at your home?

12 A Yes, ma'am.

13 Q Was Lorenzo at your home?

14 A No, ma'am.

15 Q And once they came, did they then want to talk to
16 Trenton?

17 A Did they want to talk to Trenton? Yes, ma'am.

18 Q Did Trenton end up going with them down to the
19 police station?

20 A Yes, ma'am.

21 Q Later on did you end up going to the police
22 station, as well?

23 A Yes, ma'am.

24 Q At some point did you contact Troy?

25 A Yes, ma'am.

1 Q And let him know the police were looking for him?

2 A Yes, ma'am.

3 Q And he actually went to the police station, as
4 well?

5 A Yes, ma'am.

6 Q Later on, do you recall having a conversation
7 with Investigator McCoy about a month later or six
8 weeks later?

9 A Yes, ma'am.

10 Q Over the phone and you and he discussed some
11 things that you had had an opportunity to see at that
12 point; is that correct?

13 Do you remember?

14 A Ma'am?

15 Q Y'all had a conversation?

16 A Yes, ma'am.

17 Q And you told them just like you told this jury
18 about what they were wearing that night when they
19 left?

20 A Yes, ma'am.

21 Q And you told them about the phone calls?

22 A Yes, ma'am.

23 Q And about the tear in the hoodie?

24 A Yes, ma'am.

25 Q And about Troy leaving to go get Trenton?

1 A Yes, ma'am.

2 Q Do you remember telling them at that time that
3 Trenton was the only one that ever wore that gray
4 hoodie?

5 A Telling them that, yeah, Troy put it on but he
6 wore it more than Trent --- than Troy.

7 Q And do you remember telling them in that
8 conversation that Trenton was the one on the video in
9 the gray sweatshirt?

10 A Do you recall telling him that?

11 Q Uh-huh.

12 A I never told him that.

13 Q But do you remember having the recorded
14 conversation in August of 2013?

15 A Yes.

16 Q With Investigator McCoy?

17 A Yes, ma'am.

18 Q And you were cooperating with them?

19 A Yes, ma'am.

20 Q And at that point both Troy and Trenton were
21 under arrest; is that correct?

22 A Yes, ma'am.

23 Q Do you remember telling them --- and I'm just
24 going to okay say what was in the recorded
25 conversation, "I mean, yeah, it was ---

1 MR. SCHNEE: Judge, I'm going to object to
2 Ms. Campbell reading from that. That's not a valid
3 transcript.

4 THE COURT: She can read from it.

5 MS. CAMPBELL: Thank you. "Yeah, I mean, yeah,
6 it was Trenton with the gray on. Like I said, I know
7 my kids' build. I know them from their fingers to
8 their toes. I know my kids."

9 A I never stated that's Trenton, never. I said I
10 know my kid's body build, yes, I did.

11 Q Okay.

12 A Clearly, that is not Troy. When he was
13 questioning me about the video.

14 Q Do you remember saying it was Trenton with the
15 gray on?

16 A I never stated that to Mr. McCoy.

17 Q So you didn't say that?

18 A No.

19 Q Okay. And do you remember telling him about the
20 gray sweatshirt, that Troy didn't want it anymore
21 cause it got a hole in it?

22 A Yeah, I told him that, yes.

23 Q So he let his brother have it and told Trenton he
24 could just have it?

25 A Right.

1 Q Okay. Later on, did you get a letter from your
2 son Trenton?

3 A Yes, ma'am.

4 Q I'm going to show you'll what's been marked as
5 State's Exhibit Number 404 and 403, are these copies
6 of the letter and the actual envelope it came in? Do
7 you want to look at those?

8 A Thank you.

9 Q Is that a copy of the letter?

10 A Yes, ma'am.

11 Q And at the top of State's Exhibit 404, who does
12 it say is writing you?

13 A Your son, Trenton Barnes, well, Trenton B.

14 Q Trenton B. and is this a copy of the letter you
15 actually got from him?

16 A Yes, ma'am.

17 Q And do you actually recognize the handwriting?

18 A Yes, ma'am.

19 Q Whose handwriting is it?

20 A Trenton.

21 Q Your son Trenton.

22 A Yes, ma'am.

23 MS. CAMPBELL: Your Honor, at this time we'd
24 offer State's Exhibit 404 and 403 into evidence.

25 MS. PINNOCK: Your Honor, we would object. We

1 have a matter of law.

2 THE COURT: All right. Ladies and gentlemen,
3 return to your jury room. Do not discuss the case.
4 Keep an open mind.

5 (WHEREUPON, the jury left the courtroom at 3:46
6 P.M.)

7 MS. PINNOCK: May it please the court, Your
8 Honor. The item that the solicitor is attempting to
9 introduce is a letter written by Trenton Barnes to his
10 mother that includes Lorenzo Young in the body of the
11 letter. This was brought Your Honor's attention
12 earlier this week in chambers. There was mention of
13 them trying or suggesting it be redacted to remove any
14 mention of Mr. Young, but it is a statement written by
15 Mr. Barnes. We are not going to be cross-examining
16 about Mr. Young and things that he did or alleged to
17 have done, and it's a --- it's a due process violation
18 at this point.

19 It's not a statement that was taken by law
20 enforcement, but it is still a statement against our
21 client offered by a witness that we do not have the
22 opportunity to cross-examine, so it is a due process
23 issue at this point and a fundamental fairness
24 violation with our right to a fair trial. They're
25 introducing a statement written by a non-testifying

1 witness. So as far as Mr. Young's case, that letter
2 in its entirety is hearsay.

3 I understand it's admissible against Mr. Barnes,
4 but it's not admissible against Mr. Young. The only
5 solution I can come up with is either exclude it from
6 evidence because we are being tried jointly, it is a
7 violation of his constitutional rights to have that
8 introduced into evidence. I don't believe that any
9 curative instruction would be able to only get a jury
10 to consider that only against Mr. Barnes and not
11 Mr. Young, so our right to a fair trial at this point
12 is going to be violated when that letter is
13 introduced.

14 THE COURT: Ms. Campbell.

15 MS. CAMPBELL: May it please the Court. This was
16 non-testimonial. This was not taken by police
17 officers. This was mentioned in court the other day.
18 Quite frankly, I thought they might make a motion on
19 this, but there was no pretrial motion to exclude
20 this. We did hand up case law. We handed up United
21 States Supreme Court, I believe, in the Garvin case.

22 THE COURT: Fourth Circuit Court of Appeals.

23 MS. CAMPBELL: I'm sorry, yes, Fourth Circuit.

24 MS. PINNOCK: Your Honor, can I see your copy so
25 I can ---

1 MS. CAMPBELL: I gave it to you.

2 THE COURT: US vs Garvin 738 ---

3 MS. PINNOCK: That was a few days ago.

4 MS. CAMPBELL: I believe, pursuant to that case,
5 Your Honor, the letter would come in in its entirety.

6 MS. PINNOCK: And, Your Honor, I would cite
7 Williamson vs. United States. It's a US Supreme Court
8 case 512 US 594, as well as State vs. Fuller. The
9 Supreme Court of South Carolina 1999. It's 337 S.C.
10 236 and Lilly vs. Virginia. I do apologize. I don't
11 have the cite for that one, but I could get the cite.
12 I can't seem to find it.

13 THE COURT: Do any of those deal with --- are
14 those all statements to law enforcement?

15 MS. PINNOCK: No, sir, these are statements made
16 --- they are inculpatory as to one person's
17 involvement, but still references a codefendant. They
18 are not any statements given to law enforcement.
19 That's not a situation that these cases deal with.

20 They are situations where just because a
21 statement may be considered a statement against
22 interests with the person who is making the statement,
23 it does not necessarily mean that it's admissible
24 against the other people who are involved. This was
25 brought up Wednesday morning, I believe.

1 Your Honor did say that you would address these
2 issues because they came up during the course of the
3 testimony from the witnesses.

4 I believe Mr. Schnee actually submitted a written
5 motion on this, but this is a situation that we all
6 predicted was going to come up.

7 Your Honor, this letter --- again, I admit that
8 yes, everybody can agree that this letter is
9 admissible against Mr. Barnes, but the body of letter,
10 I would ask Your Honor to review it.

11 It fully implicates our client. We would not
12 have an opportunity to cross-examine Ms. Barnes, so it
13 is inadmissible against Mr. Young. If they were being
14 tried separately, this letter would not be introduced
15 into evidence.

16 The only reason it's got the possibility of being
17 introduced is because Mr. Barnes is in here with us.

18 MS. CAMPBELL: Can I get a copy of the cases you
19 just mentioned?

20 MS. PINNOCK: I only have one.

21 MS. CAMPBELL: You don't have them?

22 MS. PINNOCK: I only have one.

23 MS. CAMPBELL: Your Honor, could I just make
24 copies real quick of their cases?

25 THE COURT: Sure.

1 MS. PINNOCK: You can have those.

2 THE COURT: I need copies of those cases.

3 MS. PINNOCK: I want you to have these.

4 Your Honor, we can --- we are going to go print
5 copies for you.

6 THE COURT: My question is --- the Garvin case
7 wasn't a joint trial.

8 MS. CAMPBELL: But I believe it addresses even if
9 it is a joint trial in the body.

10 I guess I'm at a little bit of a loss as to why
11 this wasn't brought up in pretrial matters.

12 MS. PINNOCK: Your Honor, I did actually bring
13 this up about evidence that would be introduced that
14 was admissible against Mr. Barnes that was not
15 introducible against Mr. Young in our motion to sever.

16 THE COURT: So how is this statement testimonial?

17 MS. PINNOCK: Your Honor, I'm not saying the
18 statement itself is testimonial. The only reason ---

19 THE COURT: It has to be testimonial for the
20 confrontation clause to apply.

21 MS. PINNOCK: Your Honor, the only reason that
22 this statement is admissible against Mr. Barnes is
23 because of the interviews and the statement against
24 interest.

25 The interest that --- the interest that is at

1 issue is Mr. Barnes' interest. The exceptions to
2 hearsay do not apply to Mr. Young when they are using
3 the exceptions to the hearsay rule against Mr. Barnes
4 and that's the situation we have. It is not
5 admissible against Mr. Young. It fully implicates
6 him, but they're going about it through any exception
7 to the evidence rules that allows them to get it in
8 against Mr. Barnes.

9 THE COURT: So how is the statement testimonial
10 or is your position that it's not?

11 MS. PINNOCK: I'm not arguing that it's
12 testimonial.

13 THE COURT: Your position is that it's not
14 testimonial.

15 MS. PINNOCK: No. I'm not arguing that the
16 statement itself is testimonial. I'm acknowledge that
17 it's not given to law enforcement. It's a letter that
18 was written by Mr. Barnes and sent to his mother. The
19 letter is admissible with Mr. Barnes' case under the
20 hearsay exceptions. The statement against interest
21 for Mr. Barnes does not apply to Mr. Young.

22 In those cases, Judge --- and again, I apologize.
23 I don't have extra copies, but Lilly vs. Virginia
24 was --- Lilly vs. Virginia, Judge, was reversed.

25 All of these cases that we're going to be

1 providing you in just a moment all deal with the
2 804(3) exception to the hearsay rule in dealing with
3 statements against interests with multiple parties, so
4 I guess for clarity purposes my objection is hearsay
5 for Mr. Young.

6 THE COURT: So your objection is hearsay?

7 MS. PINNOCK: Yes, sir, the objection to that
8 letter for Mr. Young is hearsay, and for his situation
9 it does not fall under any of the exceptions to the
10 hearsay rule.

11 THE COURT: Is somebody going to get those
12 copies?

13 MS. PINNOCK: Yes, sir, Mr. Krzyston just ran
14 downstairs to speed things up a bit.

15 THE COURT: What's your response to the hearsay
16 argument?

17 MS. CAMPBELL: Your Honor, it's not hearsay
18 because it's an issue against interest against
19 Mr. Barnes. It is non-testimonial. She's admitted
20 that. Therefore it comes in its entirety the same way
21 a jail phone call would, Your Honor. It's being
22 offered against Mr. Barnes. If she wants a limiting
23 instruction, I have no problem with that.

24 MS. PINNOCK: Your Honor, to cite Lilly, the
25 court said that when dealing with the admission

1 against penal interest we have taken great care to ---

2 THE COURT: That's not the rule she cited.

3 MS. PINNOCK: I'm sorry?

4 THE COURT: That's not the rule she is saying.

5 She is saying it's not hearsay because it's an
6 admission by a party opponent. She is not even making
7 to it 804.

8 MS. CAMPBELL: You're, right.

9 MS. PINNOCK: It has to fall under some
10 exception.

11 THE COURT: Well, it can be just not hearsay.

12 MS. PINNOCK: For Mr. Barnes, yes, but not
13 Mr. Young. This is one of the reasons we were asking
14 for a severance because there is evidence they are
15 trying to introduce this. It's not admissible against
16 Mr. Young. Being admitted as presented in its
17 entirety denies us the right to a fair trial. He is
18 being implicated by a letter ---

19 THE COURT: You can't just say a fair trial.
20 Courts have held over and over again that you have to
21 point to a specific constitutional right. You can't
22 just say fair trial. The specific constitutional
23 right is the confrontation clause, which is not
24 implicated because the statement is not testimonial
25 according to your own admission and the law is very

1 clear that non-testimonial statements do not invoke
2 the confrontation clause. Therefore, there is no
3 Bruton issue.

4 MS. PINNOCK: He is being denied due process,
5 Judge.

6 THE COURT: You can't just say due process.

7 MS. PINNOCK: It's fundamental fairness.

8 THE COURT: You can't just say due process. The
9 law says you have to point to a specific
10 constitutional right. You just can't say due process,
11 fair trial. It's like answering fundamental fairness
12 on the bar exam. It doesn't work. There has to be
13 something concrete. So your argument is that it falls
14 under --- or it doesn't fall under 804(d)(3). Is that
15 it?

16 MS. PINNOCK: Your Honor, the objection is
17 hearsay. As applied to Mr. Young, it is hearsay.

18 MR. KRZYSTON: Permission to approach, Judge.

19 MS. PINNOCK: Your Honor, I would just note Lilly
20 talks about a recorded statement by police, not a
21 codefendant.

22 MS. CAMPBELL: It talks about confessions.

23 (Pause.)

24 THE COURT: So where do you want me to read in
25 Lilly?

1 MS. PINNOCK: Sir?

2 THE COURT: What do you want me to read in Lilly?

3 MS. PINNOCK: Well, Lilly because it's been
4 represented they're not offering it against a penal
5 interest, that's what Lilly dealt with, but it's still
6 a hearsay statement against Mr. Young.

7 They are offering this letter for its truth. We
8 are being denied the right to question the witnesses.

9 THE COURT: So you're back to confrontation.

10 MS. PINNOCK: Your Honor, we have a Fourteenth
11 Amendment right to confront the witnesses against us.

12 THE COURT: Actually, you have a Sixth Amendment
13 given to you by the Fourteenth Amendment.

14 MS. PINNOCK: Yes.

15 THE COURT: But are you back to confrontation?
16 Just a minute ago you said it was hearsay.

17 MS. PINNOCK: Your Honor, it is hearsay and the
18 fact it is hearsay is a statement from somebody else
19 being offered into evidence, and they're offering it
20 for the truth. That is the definition of hearsay, and
21 if it's introduced into evidence. We are then being
22 denied the right to question the witness making the
23 statement. That is why hearsay is not admissible in
24 court because we have a right to question witnesses
25 who make statements. When they're out-of-court

1 statements, we have a right to do that.

2 THE COURT: But not when they're non-testimonial.

3 MS. PINNOCK: Your Honor, I would argue that we
4 do have the right to question witnesses who make out
5 of court statements --- that's why the solicitor can't
6 call a witness to say Ryan told me this. They would
7 have to bring Ryan into court. We do have the right
8 to question witnesses who make statements.

9 THE COURT: I'm talking about when it's
10 non-testimonial.

11 MS. PINNOCK: That would be the situation when it
12 is non-testimonial, Judge. We still have the right to
13 cross-examine witnesses called against us. It doesn't
14 only apply to statements made to law enforcement. It
15 applies to any witness who makes any statement.
16 Again, Steve can't come in here and say that Ryan told
17 him something.

18 THE COURT: That's not necessarily true, but
19 okay.

20 MR. KRZYSTON: Your Honor, if I may approach. I
21 have State vs. Holmes here.

22 MS. CAMPBELL: Holmes and Crawford specifically
23 are confrontational.

24 THE COURT: This case says our court has rejected
25 the Lilly decision.

1 MS. CAMPBELL: Uh-huh.

2 MS. PINNOCK: Your Honor, I would direct --- I
3 would ask you to direct your attention to Williamson.

4 THE COURT: So now I'm not reading this because
5 it says we declined to adopt the reasoning of the
6 Lilly plurality, which would be the Lilly case you
7 just told me about.

8 MS. PINNOCK: You're referring to Holmes?

9 THE COURT: Yes.

10 Now you want me to read the 11th Circuit Court of
11 Appeals Williamson case?

12 MS. PINNOCK: Sir, I'm sorry. It's a US Supreme
13 Court case.

14 THE COURT: Which one?

15 MS. PINNOCK: Williamson.

16 THE COURT: I have an 11th Circuit Court of
17 Appeals case called Williamson. Oh no, no, no. Yeah,
18 they're Supreme Court. I'm sorry. I read it wrong.
19 Hold on. Let me pull it up on here so I can see it
20 easier.

21 MS. CAMPBELL: And I would just point out, Your
22 Honor, while you're pulling it up in Williamson, we're
23 talking about two custodial interviews by police, so
24 clearly those are testimonial.

25 MS. PINNOCK: Your Honor, clearly the case is not

1 hinged on the confrontation clause. It only addressed
2 the hearsay issue.

3 THE COURT: Let me read it. Hold on. That is
4 drug case?

5 MS. CAMPBELL: Yes, sir.

6 THE COURT: Okay. I wanted to make sure I was
7 reading the right one.

8 Can somebody give me the actual letter so I can
9 see that?

10 MS. CAMPBELL: Yes, sir.

11 (Pause.)

12 THE COURT: How is the statement admissible
13 against Mr. Young? That's my question.

14 MS. CAMPBELL: How is it admissible against
15 Mr. Young?

16 THE COURT: Right.

17 MS. CAMPBELL: It's admissible against the
18 codefendant in this case. It's a non-testimonial
19 statement. Therefore it's not subject to the
20 safeguards of a testimonial statement.

21 THE COURT: All right. But how is it admissible
22 under the --- how is it not hearsay?

23 MS. CAMPBELL: It's not ---

24 THE COURT: I mean, as to Mr. Young. I
25 understand how it's not as to Mr. Barnes.

1 MS. CAMPBELL: I don't think we have to preempt
2 it from being hearsay against Mr. Young. I mean, if a
3 limiting instruction were given, if they could
4 consider it, that would limit any prejudice to
5 Mr. Young since it is non-testimonial, and I believe,
6 and I don't have the case before me, Your Honor, the
7 but the Garvin case we handed up does address this
8 issue.

9 THE COURT: The Garvin case addresses the
10 confrontation issue and the Bruton issue and the
11 non-testimonial issue. It doesn't discuss the hearsay
12 issue.

13 What is it you want me to read in Williamson?

14 MS. PINNOCK: Your Honor, actually Williamson
15 deals with --- it's dealing with an exception to the
16 hearsay rule.

17 THE COURT: 804(d)(3).

18 MS. PINNOCK: Yes, sir, and the court went
19 through the analysis and made the determination on it
20 pretty much a line by line basis whether or not the
21 self --- the interest against the writer exists and if
22 it didn't, they had to then decide if it was a
23 statement against the other party's interest.

24 They made --- they went through that analysis.
25 There is a difference when dealing with statements by

1 a codefendant or statements by other witnesses, and in
2 that case they use the --- the exception to the rule,
3 but I think the analysis they went through and the
4 whole ruling they came to shows that there is supposed
5 to be a separation. They're not one in the same.
6 It's not just because it's admissible against Barnes
7 it's admissible against Young. There is an analysis
8 and it's a separate issue.

9 As to Mr. Young again, this letter falls under
10 none of the exceptions to the hearsay rule. They are
11 offering this letter for its truth. There is no other
12 reason this letter would be introduced into evidence.
13 That is --- by definition that is hearsay and there is
14 no exception that applies to Mr. Young.

15 (Pause.)

16 THE COURT: All right. Ms. Campbell, what's your
17 argument?

18 MS. CAMPBELL: Your Honor, I just had a chance to
19 glance at Williamson. I'm not familiar with it.
20 However, in this case, it's very case-specific. This
21 is where a codefendant alone was on trial. They
22 called up the codefendant in the case and implicated
23 him. He refused to testify, and they allowed it to
24 come in. They specifically talk about the
25 trustworthiness of ---

1 THE COURT: They allowed the cop to testify.

2 MS. CAMPBELL: The cop to testify as to what the
3 witness would have testified to.

4 THE COURT: Right.

5 MS. CAMPBELL: And again, they don't even reach
6 the confrontation clause issue. They do another
7 thing, and they talk specifically about what's an
8 admission against interest. In this case, Your Honor,
9 they also note that a forced statement may be
10 admissible under other previous positions of rules
11 like under 801(d)(2)(E) and other statements that you
12 guarantee circumstantial evidence of trustworthiness
13 and 804(b)(5), which is the hearsay exception.

14 Specifically they talk about co-conspirator
15 statements. If you read this letter, in addition to
16 our position that it would be admissible because it is
17 a statement against interest against the codefendant.
18 Number two, even if you find that not to be enough,
19 then a limiting instruction would be enough to make
20 sure that the jury did not consider it against
21 Mr. Young. Number three, if you don't find that in
22 this confession, he specifically talks about the
23 conversation he had with Lorenzo Young that night in
24 furtherance of this conspiracy to commit the crime,
25 the robbery, the conversation between the two of them.

1 So that would be an additional exception it could come
2 under if you were to find the others didn't put up.

3 We feel the cases we handed up and the law ---
4 since this is non-testimonial, which the defense
5 admits it should come in under the exception for
6 804(b)(3), but if you go back to 801 to the conspiracy
7 and you read the actual part, in Williamson, they
8 specifically about how it wasn't fair to Williamson
9 because they're using the codefendants statements,
10 which basically minimize what the codefendant did but
11 implicate Mr. Williamson as the broader person.

12 In this case, Your Honor, an additional exception
13 as co-conspirator, what the defendant in this case
14 talks about Mr. Barnes about what about Mr. Young said
15 to him would be a co-conspirator statement in
16 furtherance of the conspiracy that night. Basically
17 he outlines the conversation that he had in addition
18 to other exceptions that follows against the party
19 opponent exception line. Your Honor, and if --- I
20 just haven't had a lot of time to read through
21 Williamson, but that's my take in glancing at it.

22 MS. PINNOCK: Judge, the Lilly court does address
23 this. The case was based on a confrontation clause,
24 but the court did address this exact issue. They said
25 that had the non-testifying codefendant been in trial,

1 the use of the non-testifying codefendant's confession
2 to prove his guilt might have had an adverse impact on
3 the rights of the accomplices. The court also stated
4 in this regard that when dealing with the admissions
5 against penal interest, the courts have taken great
6 care to separate using admissions against the
7 declarant from using them against another criminal
8 defendant.

9 So if they're now arguing 804(b)(3) for the
10 exception, it's still a statement made by Mr. Barnes
11 that would be a statement against his interest, but
12 it's not applied to Mr. Young's interest, so if
13 they're going to be arguing that that exception
14 applies, then we have come full circle.

15 THE COURT: What did he say about Troy in this
16 letter?

17 MR. SCHNEE: He said Troy had nothing to do with
18 it, that he simply went down there to get him. He
19 completely takes Troy out of the picture as to any
20 culpability.

21 THE COURT: So the letter, State's 404, would be
22 exculpatory as to Troy.

23 MR. SCHNEE: 100 percent exculpatory, yes.

24 THE COURT: Okay. But it would be inculpatory,
25 self-inculpatory against himself.

1 MR. SCHNEE: Yes, Your Honor.

2 THE COURT: And inculpatory against Mr. Young.

3 MR. SCHNEE: Correct.

4 MS. CAMPBELL: Your Honor, the only other thing I
5 would point out in having reviewed their Holmes
6 decision, they talk about ---

7 THE COURT: Which one?

8 MS. CAMPBELL: If it's just a truly
9 self-inculpatory statement, it could be offered as
10 relevant to further a co-conspirator liability theory.
11 We are going under the theory of a hand of one, hand
12 of all in this case.

13 MS. PINNOCK: Judge, if the State is now going to
14 argue co-conspirator theory. Before it's introduced,
15 the letter itself indicates that Mr. Barnes didn't
16 even want to do it. That is not in furtherance of any
17 conspiracy of me saying he was never planning on doing
18 it.

19 MS. CAMPBELL: I don't think anybody is going to
20 get up here and say this statement is not an admission
21 against interest against Mr. Barnes, which is what
22 Williamson's focus is on.

23 THE COURT: How about the notes on Federal Rules
24 of Evidence on 804(b)(3) that says the statement
25 admitting guilt and implicating another person ---

1 that would be Mr. Young --- made while in custody may
2 well be motivated by a desire to curry favor with
3 authorities and hence fail to qualify as against
4 interest, but the same word spoken under different
5 circumstances, for example to an acquaintance would
6 have no difficulty in qualifying under 804(b)(3).

7 MS. PINNOCK: I'm sorry, can you say the last
8 part again?

9 THE COURT: The same statements given under
10 different circumstances, meaning not to the police,
11 for example to an acquaintance, would have no
12 difficulty in qualifying under this rule.

13 All right. The letter is in. I find --- I'm
14 going to overrule the hearsay objection. It's
15 non-testimonial. It's non-testimonial, thus there is
16 no confrontation clause issue. Thus there is no
17 Bruton issue. I don't even know that they're arguing
18 that, but I'm ruling that anyway, and I find that it
19 falls under a hearsay exception, that being 804(b)(3).
20 It has an inherent level of trustworthiness and based
21 on the corroborating circumstances, the State's 404 is
22 in over Defendant Young's objection.

23 We're going to take about a five minute quick
24 bathroom break and then we'll be right back.

25 MS. PINNOCK: Your Honor, if I could, just for

1 the record, we will object to any sort of jury
2 instruction. The Bruton court did address that. They
3 recognized the practical limitations on juries. So, I
4 think in this situation, there is no curative
5 instruction.

6 THE COURT: So you don't want a curative
7 instruction?

8 MS. PINNOCK: Well, Your Honor, if you choose to
9 give it, we're going to be objecting to the
10 sufficiency.

11 THE COURT: So the question is do you want a
12 curative instruction or a --- it's not actually a
13 curative instruction. It's a limiting instruction.
14 Do you want a limiting instruction that the statement
15 could not be used against your client?

16 MS. PINNOCK: Yes, Your Honor.

17 THE COURT: Okay. Draft it up. Okay. Five
18 minutes. Ms. Barnes, I'm sorry. I forgot you were
19 sitting there. I really do apologize. I would have
20 let you get down. I literally did forget that you
21 were there. I apologize. That was completely my
22 fault. You were free to use whatever facilities you
23 need to. You are not allowed to discuss your
24 testimony with anyone in any way, shape, or form.
25 When we come back into court if you'll just be sitting

1 right there for me. Is that okay?

2 THE WITNESS: Yes.

3 THE COURT: I apologize, Ms. Barnes.

4 THE WITNESS: Okay

5 THE COURT: Thank you for being here and ready to
6 go.

7 THE WITNESS: Okay.

8 THE COURT: Okay. You can bring them in,
9 Mr. Tolbert.

10 (WHEREUPON, the jury entered the courtroom at
11 4:53 P.M.)

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

13 THE COURT: All right. Thank you. Hold on just
14 a moment, ladies and gentlemen. I lost a lawyer.
15 They have so many different things going on, so I've
16 sent for them. They should be right here.

17 (Pause.)

18 THE COURT: We didn't do anything without you.

19 Okay, Ms. Campbell, you may continue.

20 MS. CAMPBELL: Thank you. Your Honor, I believe
21 we were offering State's Exhibit 403 and 05 --- 404,
22 excuse me.

23 THE COURT: Over Defendant Young's objection.

24 (WHEREUPON, State's Exhibit Numbers 403 and 404
25 were admitted into evidence.)

DIRECT EXAMINATION:(continued)

BY MS. CAMPBELL:

Q This is your son's Trenton's handwriting?

A Yes, ma'am.

Q That would be his signature up here?

A Yes, ma'am.

Q Just so I can be sure for the record, on
August 9th of 2014, you had a phone conversation with
Investigator McCoy?

A Yes, ma'am.

Q From the Columbia Police Department?

A Yes, ma'am.

Q And that phone conversation, it was recorded?

A Yep.

Q Okay, and basically you told them some of the
things we talked about in front of the jury here
today. Where were you when that conversation took
place. Were you at home?

A Yes.

Q He was returning your phone call?

A Yes, ma'am.

Q At that point --- and I just want to be sure for
the record. You didn't say "Yeah, I mean, it was
Trenton with the gray on. Like I said, I know my

1 kid's build. I know them from their fingers to their
2 toes. I know my kids."

3 A Did I say that?

4 Q You did say that.

5 A About the fingers and the toes?

6 Q Yes. And about it being Trenton with the gray
7 on.

8 A I never said that to him. No, ma'am.

9 Q So you did not at that point?

10 A No, ma'am.

11 Q And finally did you tell him that Trenton was
12 wearing the jacket when he left with Lorenzo?

13 A He was wearing a gray jacket.

14 Q That was the gray jacket?

15 A He had on a gray jacket when he left with
16 Lorenzo, yes, ma'am.

17 Q You also told him that he was the only person
18 that wears that jacket?

19 A Wears a gray jacket, yes, ma'am.

20 Q Thank you. The people in the courtroom that
21 we're talking about, Lorenzo Young, do you see him
22 here in the courtroom?

23 A Yes, ma'am.

24 Q Can you point him out for the jury?

25 A Sitting right there.

1 Q At the table with the white shirt?

2 A Yes, ma'am.

3 Q And then your son Trenton Barnes, whose
4 handwriting you recognized. Do you see him here?

5 A Yes, ma'am.

6 Q Where is he seated?

7 A Right there.

8 Q To the far left with his lawyer, wearing the kind
9 of dark sweater?

10 A Yes, ma'am.

11 MS. CAMPBELL: Your Honor, may the record reflect
12 she has identified the defendants.

13 Thank you very much, Ms. Barnes.

14 THE COURT: Okay. Cross-examination?

15 MS. PINNOCK: May it please the Court, Your
16 Honor.

17 CROSS-EXAMINATION:

18 BY MS. PINNOCK:

19 Q How are you doing, Ms. Barnes?

20 A Hey.

21 Q Ms. Campbell asked you a lot about some phone
22 calls you had with the investigators?

23 A Yes, ma'am.

24 Q That was back in August?

25 A Yes, ma'am.

1 Q And she asked you about a clothing description
2 you gave at that point?

3 A Yes, ma'am.

4 Q She asked you if you said that Lorenzo was
5 wearing red. Do you remember her asking you that?

6 A Yes, ma'am.

7 Q But didn't you tell Investigator McCoy back in
8 August that you can't remember what the color was?

9 A I don't remember.

10 Q You don't recall him asking you?

11 A I just said what they had on when they left my
12 house.

13 Q You don't recall him asking you was it red, was
14 it orange, was it something like that?

15 A Yeah, he did ask me.

16 Q And you told him ---

17 A --- wasn't a ---

18 Q And you told him it wasn't ---

19 THE COURT: Hold on, now.

20 THE WITNESS: Okay.

21 THE COURT: You both can't talk at the same time.

22 THE WITNESS: Okay.

23 THE COURT: The court reporter can only take one
24 down at a time, so she will let you finish.

25 THE WITNESS: Okay.

1 THE COURT: You let her finish. If she asks you
2 a question, you have the right to answer it.

3 THE WITNESS: Okay.

4 THE COURT: And you have the right to explain
5 your answer.

6 THE WITNESS: Okay.

7 THE COURT: I won't let her cut you off from
8 doing that, but if you talk over each other, we can't
9 accurately get down what anybody says, okay.

10 THE WITNESS: Okay.

11 THE COURT: Go ahead, Ms. Pinnock.

12 MS. PINNOCK: Thank you, Your Honor.

13 BY MS. PINNOCK:

14 Q Do you remember telling him it was not a dark
15 color, but you weren't 100 percent sure what it was?

16 A Right.

17 Q And you said that Lorenzo and Trenton were at
18 your house earlier that night?

19 A Yes, ma'am.

20 Q And they left anywhere between 11 and 12?

21 A Yes, ma'am.

22 Q You don't know where they went?

23 A No, ma'am.

24 Q You don't know who they were with?

25 A No.

1 Q You don't know really even if they were together?

2 A Exactly, they just left together.

3 Q You said that Troy had gone out separately?

4 A Yes, ma'am.

5 Q And when he got back, you still didn't know the
6 whereabouts of Lorenzo or Trenton?

7 A Correct.

8 Q They just were not at the house?

9 A No, ma'am.

10 Q Now, I want to ask you about some conversations
11 you had with Investigator McCoy after arrests were
12 made, and that would have been back in August.

13 A Okay.

14 Q He called you at your house?

15 A Yes, ma'am.

16 Q And you were trying to get in touch with him,
17 right?

18 A Yes, ma'am.

19 Q Because you had come across some information that
20 you wanted to give him?

21 A Yes, ma'am.

22 Q Some information you felt was important?

23 A Yes, ma'am.

24 Q Some information that you wanted to pass along to
25 him because you knew he was investigating this case?

1 A Exactly, yes, ma'am.

2 Q And you called him about somebody named Marcus
3 Johnson?

4 A Yes, ma'am.

5 Q His nickname is Shorty?

6 A Yes, ma'am.

7 Q The reason you called him is you heard he had
8 some details about what happened that night?

9 A Yes, ma'am.

10 Q And that caused you concern?

11 A Yes, ma'am.

12 Q He was in the jail at that point?

13 A Yes, ma'am.

14 Q Mr. Johnson was in the jail?

15 A Yes, ma'am.

16 Q You told Investigator McCoy that?

17 A Yes, ma'am.

18 Q And you told him, you know, something is --- this
19 doesn't feel right to me. Something is going on. You
20 need to talk to Marquis Johnson?

21 A Yes, ma'am.

22 Q Again, his nickname is Shorty?

23 A Yes, ma'am.

24 Q At that point Investigator McCoy told you he was
25 going to talk to him?

1 A Yes, ma'am.

2 Q It was really important he was going to talk to
3 him?

4 A Yes, ma'am.

5 Q He was the next person on his list to go talk to
6 him?

7 A Yes, ma'am.

8 Q He also told you he was going to speak to --- who
9 was at your house, Marquis?

10 A Marquis Johnson.

11 Q Marquis Johnson. He was at your house?

12 A Yes, ma'am.

13 Q And he told you he was going to talk to Marquis
14 Johnson?

15 A Yes, ma'am.

16 Q He said that was very very important.

17 A Yes, ma'am.

18 Q He told you in August that he was still actively
19 investigating this case?

20 A Yes, ma'am.

21 Q Be he called you and thanked you for letting him
22 know?

23 A Yes, ma'am.

24 Q He even wanted to sit down with you again a week
25 or so after the phone call to take a statement, a

1 written statement?

2 A Yes, ma'am.

3 Q That didn't happen, did it?

4 A No, ma'am.

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

6 THE COURT: Yes, ma'am.

7 MS. PINNOCK: Thank you, Your Honor. I have no
8 further questions.

9 Thank you, Ms. Barnes.

10 THE COURT: Okay. Yes, sir.

11 MR. SCHNEE: May it please the Court.

12 CROSS-EXAMINATION:

13 BY MR. SCHNEE:

14 Q Good afternoon.

15 A Good afternoon.

16 Q Ms. Barnes, in August of last year when you were
17 talking with Investigator McCoy, did he indicate to
18 you that one of your sons would have to take a fall
19 for this?

20 A Yes, sir.

21 Q He didn't say which one, but that's what he told
22 you?

23 A Yes, sir.

24 Q That was in August of last year?

25 A Yes, sir.

1 Q Now, this letter that was written, State's 404.
2 Could you read the date on that letter?
3 A March 31st of '14..
4 Q So approximately six, seven months after ---
5 A Yes, sir.
6 Q --- your conversation with McCoy?
7 A Yes, sir.
8 Q When Lorenzo --- you said Lorenzo and Trenton
9 left somewhere around eleven o'clock, midnight?
10 A Yes, sir.
11 Q Okay. Troy was already gone at that point?
12 A Yes, sir.
13 Q He was out doing things with other friends?
14 A Yes, sir.
15 Q At some point later, Troy comes back and that's
16 when the phone calls from Lorenzo comes?
17 A Well, Troy wasn't even home yet.
18 Q Oh, Troy wasn't even home?
19 A He was like asleep or he wasn't even home.
20 Because I was asleep. It was like three or four in
21 the morning. It was like three or four in the morning
22 when Lorenzo called for Marquis.
23 Q At some point after that, Troy is there and you
24 sent Troy to go get Trenton?
25 A Yes, exactly.

1 Q You don't go with Troy?

2 A (There was no response.)

3 Q You don't go with Troy, do you?

4 A To go get him? No, sir.

5 Q So you send Troy out to get your other son
6 Trenton?

7 A Yes, sir.

8 Q Do you have any idea --- do you have personal
9 knowledge as to what actually happened?

10 A No, sir.

11 Q You weren't physically there?

12 A No, sir.

13 Q Does Trenton love his older brother? Does
14 Trenton love his older brother?

15 A Yes, sir.

16 Q Does he want to protect his older brother?

17 A I don't know.

18 Q I mean, you're his mother, right?

19 A Yeah. I'm his mother, but I can't feel what he
20 feels.

21 Q But you're sure that he loves him?

22 A Yeah.

23 Q And he wants to do anything he could to help him,
24 right?

25 A Yes.

1 MR. SCHNEE: That's all I have.

2 THE COURT: Ms. Campbell?

3 MS. CAMPBELL: Just a minute, Your Honor.

4 REDIRECT EXAMINATION:

5 BY MS. CAMPBELL:

6 Q You were just asked one question about you didn't
7 know who was with whom after Lorenzo and Trenton left
8 the house?

9 A Yeah.

10 Q You don't even know if they were together?

11 A I stated that they left together.

12 Q They left together, but you don't know what
13 happened after that?

14 A Yeah, I don't know if they parted or what.

15 Q But on that second phone call, you testified
16 earlier that you told Lorenzo to tell Trenton to come
17 home?

18 A Yes, ma'am.

19 Q And that was the second phone call after 3:00
20 A.M.?

21 A Yes, ma'am. The question was asked so apparently
22 they were still together.

23 MS. CAMPBELL: Thank you, ma'am. I don't have
24 anything further.

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

1 (Pause.)

2 Nothing further, Judge.

3 MR. SCHNEE: No more questions.

4 THE COURT: Have a nice day, Ms. Barnes. Have a
5 nice day, ma'am.

6 MR. AIKEN: Your Honor, since she testified, I
7 think your rule was if she leaves and nobody says
8 anything she is free of her subpoena. May she be in
9 the courtroom for the remainder of the trial?

10 THE COURT: Yes, sir. Yes, sir.

11 MR. AIKEN: Thank you, sir.

12 THE WITNESS: Thank you.

13 THE COURT: Yes, ma'am.

14 Do you have a short one or do you want to...

15 MS. SIMPSON: Your Honor, that's what I was about
16 to approach about scheduling issues.

17 THE COURT: Do you want to stop?

18 MS. SIMPSON: We actually have two witnesses
19 available, but can I approach?

20 THE COURT: Sure.

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

24 THE COURT: All right. We're going to do one
25 more witness, and I'll get you out of here tonight.

1 I've already looked at the time for tomorrow night.
2 We're going to shoot to stop tomorrow about 4:30 to
3 make sure everybody gets home in time for whatever. I
4 know there's football games and all those things that
5 people go to on Friday night, so we're going to push
6 to stop a little closer to 4:30 tomorrow night to make
7 sure everybody gets to whatever they need to

8 All right. You can call your next witness.

9 MS. GARFIELD: Thank you, Your Honor, Your Honor.
10 The State calls Gail Heath.

11 THE COURT: Okay.

12 BRENDA GAIL HEATH,
13 after being duly sworn, testified as follows:

14 THE CLERK: State your full name for the record
15 and have a seat.

16 THE WITNESS: My name is Brenda Gail Heath
17 H-E-A-T-H.

18 DIRECT EXAMINATION:

19 BY MS. GARFIELD:

20 Q Good afternoon, Ms. Heath.

21 A Good afternoon.

22 Q Please share with the jury what your profession
23 is.

24 A I am a forensic document examiner, that is, I
25 look at handwriting, hand printing, any form of

1 written communication to determine authorship or the
2 originality of the document.

3 Q And where do you work?

4 A I work for the South Carolina Law Enforcement
5 Division commonly known as SLED.

6 Q How long have you work at SLED in this capacity?

7 A For 30 years.

8 Q And just share a little bit with the jury about
9 your professional background, about 30 years in
10 handwriting?

11 A That's correct. I have two other graduate
12 degrees from the University of South Carolina. I've
13 taken courses from the United States Secret Service,
14 the Federal Bureau of Investigation and have attended
15 continuing education over the last 30 years in my
16 chosen profession.

17 Q Have you ever been qualified before in court as
18 an expert?

19 A Yes, I have.

20 Q And what types of courts have you testified in?

21 A I have testified in municipal, state and federal
22 court.

23 Q In South Carolina?

24 A Yes, ma'am.

25 Q How many times have you been qualified?

1 A I've been qualified 179 times.

2 MS. GARFIELD: Your Honor, at this time, I'd
3 introduce Ms. Heath as an expert in question document
4 comparison analysis.

5 THE COURT: Voir dire?

6 MR. KRZYSTON: No, Your Honor.

7 THE COURT: Voir dire?

8 MR. SCHNEE: No, Judge.

9 THE COURT: Okay. Ladies and gentlemen. Agent
10 Heath will be qualified as an expert in the area of
11 question document comparison and analysis. Normally
12 as --- I don't think I've told you this today, but
13 normally a witness is not allowed to give opinion
14 testimony. Normally they have to testify as to what
15 they either saw, heard, did, smelled or something of
16 that nature. However, there is an exception when
17 someone is qualified because of education or
18 experience. They are permitted to give their opinion.
19 Ms. Heath will be qualified as an expert in the area
20 of questioned documents --- how do you say it again?

21 THE WITNESS: Forensic document examination or
22 questioned document examination.

23 THE COURT: Okay, examination. She will be
24 allowed to give opinion testimony in that area. That
25 does not mean that you have to accept her opinion, but

1 it is evidence for you to use in any way that you see
2 fit and give it the weight and the credibility you
3 believe is appropriate, which you are required to do
4 with each and every witness which appears before you.
5 Ms. Garfield.

6 MS. GARFIELD: Thank you, Your Honor.

7 BY MS. GARFIELD:

8 Q Ms. Heath, I'm going to hand you State's Exhibits
9 Number 403 and 404. Are you familiar with these two
10 documents?

11 A Yes, I am.

12 Q And please share with the jury what they are?

13 A They are an envelope addressed to Latoya Barnes
14 and a two page letter dated March 31st, 2014.

15 Q And what capacity --- why are you familiar with
16 those documents?

17 A These two documents were submitted to the SLED
18 forensic laboratory for me to examine for questioned
19 handwriting on them.

20 Q Specifically, if you will look at the envelope,
21 which I believe is State's Exhibit 403?

22 A That's correct.

23 Q And you said that was addressed to Latoya Barnes?

24 A That is correct.

25 Q What was the address it was addressed to?

1 A Columbia, South Carolina
2 29204.

3 Q And what was the return address?

4 A The return address is 201 John Mark Dial Drive,
5 Columbia, South Carolina, 29209.

6 Q And that would be the address for our local
7 detention center?

8 A That is my understanding, yes, ma'am.

9 Q And who was that from? Is it listed on there?

10 A It does not say who it was --- well, it may be,
11 but it's cut off on the photocopy.

12 Q On what you were provided, it didn't have a
13 return name?

14 A That's correct.

15 Q And then the next document, I believe it's
16 State's Exhibit 30 ---

17 A 404.

18 Q I'm sorry, 404. What is that document?

19 A It is a two page letter.

20 Q And have you had an opportunity to review that
21 document?

22 A Yes, I have.

23 Q And at this time, Ms. Heath, would you mind
24 publishing it to the jury by reading it?

25 A Okay.

1 MR. KRZYSTON: Objection, Your Honor. Previously
2 mentioned grounds.

3 THE COURT: Overruled. Now, don't read too fast.

4 THE WITNESS: Okay.

5 THE COURT: When people read, they read faster
6 than they normally talk. Don't read too fast.

7 BY MS. GARFIELD:

8 Q Go ahead.

9 A It's dated March 31, 2014. It starts off:

10 "Your son, Trenton B. What's up mom? They
11 got me in lock-up for 25 days for some crazy
12 stuff. They was gonna let me stay in the dorm,
13 but I came down here so I can talk to Troy.
14 I'm down here with Troy and Renzo. I talked to
15 Troy about the case. I'm ready to talk back with
16 them people and tell them the truth, ma, tell
17 them Troy ain't had nothing to do with it.

18 "I should have told them that Troy really
19 came down here to get me. Ma, what really
20 happened was I was on the phone with Ty Inco's
21 (phonetic) little sis and Renzo was on the phone
22 with his baby mama.

23 "We was only two up, and he got off the
24 phone and was like, Let me talk to you when you
25 done. Then he was like, I got this little lick,

1 and then I was like, I don't know, bro. I'm
2 cooling, talking to my lady, and I was like,
3 money come first.

4 "I tell him you or no --- I tell him you or
5 no yet, so I woke Troy up and asked him what I
6 should do, and he says hell no. Don't go with
7 that man, and he went back to sleep. I went back
8 in my room. Renzo was back on the phone. Then
9 Ty had texted me. Renzo got off the phone and
10 was like, you ready? And I told him I'm cooling.
11 Then he start talking about how much money was
12 going to be there. Then he says let's go scoop
13 it out and we ain't got nothing --- we ain't got
14 to do nothing.

15 "Then we went outside, and I said Bro, I
16 ain't trying to go to jail, and he said on my
17 baby, you ain't going to jail little Bro. He
18 asked me what --- he asked me do I have a gun,
19 and I said no, but I know way one at and he said
20 way at and I said I know way Shorty be putting
21 his gun at outside, so I took him to it, and he
22 pulls out his gun and says which one you ---
23 which one you want, and I said the small one.

24 "Then we started back walking. Then I said
25 what type of lick is it, because I don't be on

1 that other stuff. I just take mopeds and dirt
2 bikes, and he was just a little lick, so I was at
3 the bar down the street from the house, and it
4 started raining hard.

5 "I was like I'm about to go home, and he
6 said hold on little bro. Then he was like damn,
7 they closed. So I said come on, let's go back to
8 my house. Then he said you see that lady over
9 there? I said I don't see nobody. He --- he was
10 like come on. Then we was by the door, and I
11 seen a lady walk past, and I looked back and I
12 seen Troy waving his hand telling me to come
13 back. Then Renzo walked in the place, and I went
14 behind him. Then he grabbed her and put the gun
15 to her head and told me to get in front of her,
16 and she swung at me. And I closed my --- and
17 jumped --- I got scared, ma.

18 "I didn't do it. I'm sorry. I said it was
19 Troy because I was scared to go to jail with
20 Renzo by myself. I'm sorry, mama. I just want
21 to come home. I'll be good, mama. I promise.
22 I miss you, mama. I should have never listened
23 to Renzo. I just want to come home and be with
24 you. People keep telling me I'm going to prison
25 for a long time. Love you, mama. I just want to

1 come home real soon, not no grown man. Love you,
2 mama, your baby boy, Trenton."

3 Q Thank you. Have you had an opportunity to
4 compare a standard --- a handwriting standard from the
5 defendant Trenton Barnes with those two documents you
6 have?

7 A Yes, I have.

8 Q Explain to the jury how you went about doing
9 that?

10 A Okay. The documents came into the laboratory. I
11 initially --- I microscopically examined the
12 questioned documents, and then I microscopically
13 examined the known documents. Those are the ones that
14 I have the handwriting standards from Mr. Barnes. I'm
15 looking for similarities, as well as differences. I
16 compare beginning and ending strokes. I compare
17 terminal strokes. I compare height ratios. I compare
18 how the letters connect to another. After microscopic
19 comparison, I then begin what I refer to as a side by
20 side comparison where I put the questioned document
21 and the known document up beside each other looking
22 for similarities or differences that I might find
23 within the two sets of documents. After that I make
24 photocopies of both the questioned and known
25 documents.

1 On the questioned and known documents, I have a
2 yellow highlighter pen for similarities and a red
3 arrow that I place on any differences that I might
4 find.

5 So I do my comparison letter by letter throughout
6 the entire document based on the evidence that I have
7 to examine.

8 Q How do you go about getting a known standard from
9 the person that you're comparing to?

10 A A known standard can come from a person's work or
11 social environment or it can be requested and you can
12 dictate the information to the person and they
13 actually provide writing for you. Sometimes I do it
14 myself. Sometimes a police officer will do it and
15 submit it to the laboratory.

16 Q In this case was a known standard requested from
17 the defendant Trenton Barnes?

18 A That's correct.

19 Q And please explain to the jury what kind of
20 standard you asked for him to submit for your
21 comparison?

22 A Okay. I asked Mr. Barnes if he would --- I
23 dictated the letter as I just read to you and
24 published to you and the envelope --- the actual
25 verbiage off of that letter one time, and then I went

1 back and picked out several phrases and all from the
2 letter. Then after that I went back and picked out a
3 couple of words from each of the documents and had him
4 write that. Then I asked him to write the alphabet
5 for me.

6 Q Then at that time did you make comparisons
7 between the documents?

8 A Yes, I did.

9 Q Did you render an opinion?

10 A Yes, I did.

11 Q And what was your opinion of the known document
12 and the questioned document?

13 A In my opinion Trenton Barnes wrote both the
14 envelope and the questioned entries on the two page
15 letter.

16 Q Did you prepare blow-ups of your --- of the known
17 document and the questioned document for purposes of
18 court today?

19 A Yes, I did.

20 Q And have you had an opportunity to review those
21 for court today?

22 A Yes, I have.

23 MS. GARFIELD: And I'm going to ask the witness
24 to step down, Judge.

25 THE COURT: Keep your voice up, Ms. Heath.

1 THE WITNESS: Sure.

2 MR. SCHNEE: Judge, if I can take a look?

3 MS. GARFIELD: Sure.

4 THE COURT: Sure.

5 (Pause.)

6 MR. SCHNEE: May we approach, Judge?

7 (WHEREUPON, a bench conference was held in the
8 presence, but not within the hearing of the
9 jury.)

10 BY MS. GARFIELD:

11 Q Ms. Heath, if you will just please look at ---
12 I'm on the wrong side --- exhibits 405 through 419.
13 Are these the exhibits you prepared to illustrate your
14 testimony to the jury today?

15 A Yes, they are.

16 MS. GARFIELD: Your Honor, at this time I'd like
17 to introduce these into evidence and allow Ms. Heath
18 to present them to the jury and explain her
19 comparison.

20 THE COURT: What are the numbers?

21 MS. GARFIELD: 405 through 419.

22 THE COURT: All right. Admitted over defense
23 objection.

24 MR. KRZYSTON: I would join in Mr. Schnee's
25 objection. I also would add the additional grounds

1 that this is cumulative at this point.

2 THE COURT: All right.

3 (WHEREUPON, State's Exhibit Numbers 405-419 were
4 admitted into evidence.)

5 MR. KRZYSTON: And obviously based on my
6 additional previously mentioned grounds, as well.

7 BY MS. GARFIELD:

8 Q At this time, Ms. Heath, I'll give you a pointer
9 and allow you to explain to the jury how you went
10 about ---

11 A Well, it's right here. It doesn't matter.

12 Q --- how your went about your comparison process.
13 Please proceed and explain to the jury what you did
14 when you were preparing the known document and the
15 questioned document?

16 A This is a photographic enlargement of the
17 questioned document, and this is one of the known
18 standards that I took from Mr. Barnes. I began by
19 starting at the first of it. One of the great
20 uniquenesses that I noticed in this letter was the
21 space in between the initial step at the end and the
22 arch. We have it over here in the known document ---
23 in the questioned document, excuse me, and then we
24 also have it over here in the known document.

25 If you'll notice the formation of the "R", the

1 "R" is up higher than the --- what should be a capital
2 "M". This should be a lower case "a" and a lower case
3 "r". If you'll notice, it's up higher, the height
4 ratio, than the rest of the word. We also have that
5 in several of the samples that I obtained from
6 Mr. Barnes and all where the "R" is up higher in a
7 height dimension. We also have it over here on the
8 word "drive".

9 Same thing we went through with the "b", initial
10 stroke down, almost a three formation. We have that
11 within the known writing. The "U" has no retrace on
12 it, and the "U" from this writer has no retrace on it.
13 Again, we still have that same spacing that we found
14 in the "M" formation. One of the more unique --- I
15 think it was more so in the whole letter. If we can
16 move the ---

17 Q Absolutely, before you do, will you just publish
18 the exhibit numbers for the record?

19 A Certainly. This was State's Exhibit Number 405
20 and State's Exhibit 409, okay. This is a photographic
21 enlargement of the questioned letter, and this is a
22 photographic enlargement of the known standard. One
23 of the uniquenesses that I noticed of this particular
24 writer was to make the "S" formation, and then he
25 would add an additional little stroke.

1 Sometimes to the front of it, but then sometimes
2 within the writing here, he added it inside of the "S"
3 coming in this way. Sometimes he did it from this
4 side and sometimes from this angle, but that is
5 constant throughout the writing. This was a
6 uniqueness in all. As we go through school and we
7 learn to write and all, we all learn to write from
8 copy book style, which means it has to look alike for
9 people to be able to recognize it and be able to read
10 it. We do that when we were first learning to write..
11 As we go through school and the process of getting
12 older and all, we develop uniquenesses that are unique
13 to our writing and our writing alone. In this
14 particular instance the "S" formation is very
15 individualized to this particular writer. It carries
16 throughout the writing and throughout the sample that
17 he gave me. We can see the "S" there with the stroke
18 added on it, and the "S" right there with the stroke
19 added to it.

20 This particular writer, the "S" is also more
21 pointed. Instead of down lower with the rest of the
22 writing, the "S" is kind of a prominent letter in all
23 of the writings and all that begin with an "S" or even
24 have an internal "S" within them. I went through and
25 looked for each and every one of the letter

1 formations. One of the other ones, too, this
2 particular writer makes a lot of circle "i" dots. I
3 also found that in the known standards that he gave,
4 and in some of the other standards that I have for
5 comparison purposes and all, I found those circle "i"
6 dots in those, too. Sometimes the writer would add an
7 kind of an initial curl into the strokes. That is on
8 some of the writings that I have on some of the these
9 standards and on some of these, as well. I looked at
10 each and every one of the letter formations to compare
11 them to the set of known standards and then arrived at
12 my conclusion.

13 Q Ms. Heath, again for the record will you just
14 publish the exhibit numbers?

15 A The questioned letter is Exhibit Number 407 and
16 the known is Exhibit 419.

17 Q Do you have other documents to share with the
18 jury to explain?

19 A They're basically all kind of cumulative of the
20 same thing, but I can go through them if you like.

21 Q No, that's fine.

22 A But that's basically how I examined the
23 documents.

24 Q Go ahead. And take the stand.

25 Ms. Heath, you said this writer. When you were

1 talking about this writer, were you referring to the
2 questioned document?

3 A I was referring to Trenton Barnes who was the
4 writer of the questioned document.

5 Q Okay.

6 MS. GARFIELD: Beg the Court's indulgence.

7 (Pause.)

8 Thank you, Ms. Heath.

9 MS. GARFIELD: Please answer any questions
10 defense counsel may have.

11 THE COURT: Mr. Krzyston?

12 MR. KRZYSTON: I have nothing for this witness,
13 Judge.

14 THE COURT: Mr. Schnee?

15 MR. SCHNEE: Very briefly.

16 CROSS-EXAMINATION:

17 BY MR. SCHNEE:

18 Q Ms. Heath, your determination only goes so far as
19 to say that Trenton Barnes wrote this letter, correct?

20 A That's correct.

21 Q So you have no way of knowing if anything in
22 there is actually a true statement of fact?

23 A That is correct.

24 MS. GARFIELD: That's all I have.

25 MS. GARFIELD: Nothing further.

1 THE COURT: Thank you, Ms. Heath. Have a nice
2 night.

3 A Thank you.

4 THE COURT: All right. Ladies and gentlemen,
5 we're going to break there for the evening. You have
6 been going for a very long time today. I think we
7 made it through maybe 11 witnesses with some breaks in
8 between, so I want to say thank you for your service
9 today. You're all doing an excellent job of staying
10 with me, paying attention, keeping up what's going on
11 and giving it this time attention it deserves
12 regardless of who is asking questions or what may be
13 going on. I know on behalf of all the parties, they
14 would all want me to say thank you for the attention
15 you have given us today.

16 If you'll be in your jury room tomorrow morning
17 at 9:15, we will be ready to go. Do not discuss the
18 case and keep an open mind. You will recall that I
19 told you before you must decide this case solely on
20 what happens in this courtroom and the evidence in
21 this courtroom because we're about to take a break
22 overnight, I'm now reminding you of that warning. You
23 made a commitment to me, you made a commitment to each
24 other, and you made a commitment to the parties that
25 you will not discuss this case with anyone in any way,

1 shape, or form. You will not use any type of
2 electronic device, phone, tablet, computer or TV,
3 radio, news media, print newspaper or anything that
4 you can imagine to do any type of research or look up
5 anything on this case. We will see you bright and
6 early tomorrow morning. Thank you for your hard work
7 today and have a safe night.

8 Thank you.

9 (WHEREUPON, the jury left the courtroom at 5:34
10 P.M.)

11 THE COURT: Okay. Ma'am, in the pink, who do you
12 work for?

13 UNIDENTIFIED WOMAN: Fox.

14 THE COURT: Stand up. What's your name?

15 UNIDENTIFIED WOMAN: My name is Tonya Alley, WACH
16 Fox.

17 THE COURT: Have you submitted a request to be in
18 this courtroom?

19 NEWS REPORTER: Yes, I have.

20 THE COURT: Did you understand my ruling that you
21 were not allowed to take down equipment or remove
22 equipment during testimony?

23 NEWS REPORTER: No, sir. I did not. Who was
24 here earlier there are week that heard that from your
25 agency?

1 NEWS REPORTER: No one.

2 THE COURT: Well, I don't have a request for you.
3 Do you have it signed by me?

4 NEWS REPORTER: I didn't get anything signed by
5 you.

6 THE COURT: If you don't have something signed by
7 me that means you can't be in my courtroom with a TV
8 camera. Do you understand that?

9 NEWS REPORTER: I understand.

10 THE COURT: On every one that I signed it says
11 you can't set up or take down during testimony. You
12 can only do it before court, after court, or during a
13 break. Do you understand that now?

14 NEWS REPORTER: I do, yes.

15 THE COURT: I expect to see a signed document by
16 me before you bring a camera in here again or your
17 news station is going to be banned from this courtroom
18 with a TV camera. Do you understand me?

19 NEWS REPORTER: Yes, sir.

20 THE COURT: Do you have any questions about that?

21 NEWS REPORTER: No, sir.

22 THE COURT: Thank you very much. You may be
23 excused.

24 Anything from --- you can leave the courtroom if
25 you need to, ma'am. I forget to give the limiting

1 instruction.

2 Okay. I'll give the limiting instruction. I
3 have it sitting here with a big fat note on it saying
4 to give the limiting instruction first thing in the
5 morning.

6 MR. KRZYSTON: I'm also going to have a motion
7 concerning the limiting instruction, as well, as some
8 additional stuff.

9 THE COURT: Okay. What is that?

10 MR. KRZYSTON: Judge, I would at this point move
11 for a mistrial based on what has just happened.
12 Earlier we objected to the introduction of the letter
13 that was just published to the jury against Mr. Young.
14 Specifically we cited USC Williamson. In that case,
15 the court noted that the most favorable ruling of
16 804(b)(3) is that it does not allow the admission of
17 non self-inculpatory statements even if they are made
18 within a broader narrative that is generally self-
19 inculpatory. The court may not just assume for
20 purposes of 804(b)(3) that a statement is
21 self-inculpatory because it is part of a fuller
22 confession and this is especially true when the
23 statement implicates somebody else. The court goes on
24 to note that the trial courts should engage in a
25 phrase by phrase analysis of the statement in order to

1 sanitize the statement so that in enjoined trials such
2 as this inadmissible evidence is not admitted.

3 That letter was admitted to this trial or into
4 evidence on the basis of the --- an exception ---
5 excuse me, a statement against interest to exception
6 to hearsay. That hearsay exception specifically
7 requires the unavailability of the defendant. State
8 v. Cheeseboro is instructive on this, Your Honor.

9 THE COURT: I know what Cheeseboro says. I don't
10 need it. I've read it already.

11 MR. KRZYSTON: State v. Cheeseboro is instructive
12 on this and says that where it a defendant or
13 codefendant pleads the Fifth Amendment or hides under
14 his Fifth Amendment protection, he is not unavailable
15 for purposes of the State against interest. Based on
16 that, Your Honor, I would ask that a mistrial be
17 granted. I would assert that manifest necessity
18 dictates as much. And further, Your Honor, I would
19 move --- and I understand you have not given the
20 limiting instruction.

21 When you do give it, I am going to have
22 additional objections for the preservation of the
23 record.

24 THE COURT: All right. So you're going to object
25 to your own limiting instruction?

1 MR. KRZYSTON: Judge, I'm in kind of a tough
2 position because Bruton is instructive on limiting
3 instructions. Bruton has --- the US Supreme Court in
4 Bruton has recognized explicitly the common sense and
5 practical limitations that the jury not be --- excuse
6 me. Bruton has recognized there is a common sense
7 limit on what the jury can do. I believe they have
8 said it's impractical for the jury to consider
9 evidence against one defendant and not the other. For
10 that reason in Bruton, the limiting instructions were
11 found insufficient to cure the prejudice that was
12 imposed upon the petitioner.

13 In this case, I have got to object to the
14 limiting instruction, but I have also got to ask for
15 it. I can't waive an objection to a limiting
16 instruction which I think is by its very nature
17 insufficient without seeding my preservation of the
18 appeal. So for that record --- based on that I have
19 to ask for you to give the limiting instruction and
20 then object to the sufficiency of the overall remedy.

21 THE COURT: Just for the record, you wrote the
22 limiting instruction that I'm going to give.

23 MR. KRZYSTON: It was a collaboration between
24 Mr. Young's counsel, yes.

25 THE COURT: Okay. All right. What else?

1 MR. KRZYSTON: Additionally, Your Honor, I would
2 ask for a curative instruction. The jury was seated
3 outside the presence of me and Ms. Pinnock when we
4 arrived back in the courtroom after writing the
5 limiting instruction. The entire courtroom was full.
6 All parties were here save for Ms. Pinnock and myself.

7 I would ask that --- I think there is a possible
8 negative inference that the jury would draw from that.
9 I would ask for some type of curative instruction.

10 THE COURT: All right. Your motion for a
11 mistrial is denied. We haven't reached the level of
12 manifest necessity, and in fact we are not even close
13 to it. I am going to give the limiting instruction
14 because somebody in the room --- I am required to
15 protect your client in this case and I think he needs
16 to be protected via a limiting instruction. I'm going
17 to given the limiting instruction that you have given
18 me.

19 Furthermore, as to you not being in here when
20 court started, I told the break was seven minutes. I
21 gave you ten minutes and you still weren't in here. I
22 told them that lawyers have a million different things
23 going on and we are getting other lawyers here and
24 nothing took place outside of their presence. It's
25 impossible to draw any kind of negative inference from

1 you or Ms. Pinnock not being here. I specifically
2 gave a very reasonable reason as to why you were not
3 here, but in regards to that, you were both
4 disregarding a court order. I told you a seven minute
5 break. I came back in ten minutes and neither one of
6 you were here.

7 All right. 9:00 o'clock.

8 MR. KRZYSTON: Thank you, Judge.

9 MS. SIMPSON: Thank you, Your Honor, Your Honor.
10 (WHEREUPON, Court was adjourned for the day.)

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12 THE COURT: Okay. We got another note from a
13 juror about an end date so they can adjust
14 appointments as needed. Does anybody want to give a
15 proposed end date?

16 MS. CAMPBELL: Our case should be through Monday.

17 MR. KRZYSTON: We don't have anything.

18 THE COURT: Okay.

19 MR. SCHNEE: If I put up anyone, I would not
20 anticipate it being long.

21 THE COURT: Okay.

22 MR. SCHNEE: If they finish Monday, it will wrap
23 up Tuesday maybe.

24 MS. CAMPBELL: Tuesday or Wednesday with closing
25 arguments.

1 MR. SCHNEE: Tuesday or Wednesday at the latest, I
2 would guess.

3 THE COURT: What I'll tell them if it's okay with
4 y'all when we come back in, at this point we're not
5 going to work Saturday or Sunday. They have asked
6 about travel on the weekends and that best case
7 scenario probably Tuesday would be the earliest that
8 we would finish. I am not holding any of the lawyers
9 to that. If things change, I'm just asking you to
10 give an estimate. I know you're doing the best you
11 can. Things change and cases change and that's
12 normal, but just to kind of --- I don't want them to
13 think anything is set in stone or anything like that.
14 I don't want any of you all feeling hampered by me
15 giving any time frame, but I'll probably say Tuesday,
16 early Wednesday next week.

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

19 MR. KRZYSTON: Judge, while we're on issue of
20 jurors, I need to put something on the record. This
21 morning, I was walking out of the public defender's
22 office at a rather brisk pace in order to make it to
23 court on time and I bolted through the door. There
24 was a lady within a couple inches of the door. Before
25 she even turned around, her back was to me, I began to

1 say, "I'm sorry, ma'am." She turned around. It was
2 one of the jurors. Her and I locked eyes. She did
3 not speak to me. Took me about a second-and-a-half to
4 realize it was her. I turned around and went back
5 into the office. I told Ms. Garfield prior to a
6 tribunal convening and just wanted to put it on the
7 record.

8 THE COURT: Did you say tribunal?

9 MR. KRZYSTON: I did. I've been wanting to say
10 it for awhile.

11 THE COURT: Mr. Li is laughing at you. I think
12 it's hilarious.

13 THE COURT: Okay. That's fine. That was
14 appropriate for you to turn around and go back in and
15 not have any conversation, so that's good. Okay. All
16 right. Anything from the State before we get started?

17 MS. CAMPBELL: Yes, Your Honor. If we could
18 settle the records on a couple of witnesses real
19 quick.

20 THE COURT: Okay.

21 MS. CAMPBELL: Also, Your Honor, yesterday I
22 moved for a bench warrant on Mary Brown. We got in
23 contact with her last night. She has been ill and
24 back and forth in the emergency room. She is here
25 today. She came here voluntarily, we would ask to

1 lift that bench warrant.

2 THE COURT: Okay. That's fine. Whose records
3 are we dealing with? I don't have a copy of that to
4 vacate it, but whatever you need for me to vacate
5 that, I can do that. I don't have it with me. I
6 can't physically do it. I don't have a copy of it.
7 Okay. So who are we starting with on records?

8 MS. CAMPBELL: If we could go ahead with Alfred
9 Wright.

10 THE COURT: Alfred Wright.

11 MS. CAMPBELL: He has a pending murder charge.

12 THE COURT: Okay.

13 MS. CAMPBELL: Which, of course, has 30 to life.
14 That comes in. Your Honor, I'm not sure, he has some
15 drug convictions.

16 THE COURT: Who is this?

17 MS. CAMPBELL: Alfred Wright.

18 THE COURT: Okay. It looks like he has a
19 conviction from 2005 for possession of cocaine.

20 THE COURT: Okay.

21 MS. CAMPBELL: And it looks like maybe a PWID
22 cocaine, as well. Is that how you're reading it?

23 MS. BAMBACH: It looks like a lot. I'm thinking
24 maybe it's a probation violation.

25 MS. CAMPBELL: Yes, a probation violation, but

1 there are maybe two underlying convictions.

2 MS. BAMBACH: Yes.

3 MS. CAMPBELL: Do you agree with that?

4 MS. BAMBACH: Yes, they're all 2005, so I'm
5 thinking that it would just be a probation violation
6 on those charges.

7 MR. SCHNEE: To me it looks like a PWID cocaine
8 and unlawful carrying of a pistol are the two charges
9 from the 2005 charges.

10 MS. CAMPBELL: So we agree it's one PWID cocaine
11 and then the other one is not admissible. Do we agree
12 on that one, Mark?

13 MR. SCHNEE: Yes.

14 MS. CAMPBELL: And then other than that it's
15 magistrate's level and then, of course, he's got the
16 pending, it looks like murder and burglary in the
17 first degree.

18 THE COURT: That's pending murder, pending
19 burglary first and a pending armed robbery.

20 MS. BAMBACH: I also have a pending conspiracy.

21 MS. CAMPBELL: I need to ---

22 MR. SCHNEE: Judge, there's also a federal
23 conviction. It's ---

24 THE COURT: Hold on just one second.

25 MR. SCHNEE: I'm sorry.

1 MS. CAMPBELL: It looks like he has a conspiracy
2 conviction from federal court; is that right?

3 MS. BAMBACH: No. It says pending conspiracy
4 here. It's on the bottom of the document ---

5 MS. CAMPBELL: Okay. We'll go with that, too.

6 MS. BAMBACH: --- in between the two pages.

7 MS. CAMPBELL: And then I believe he has a
8 conviction --- we're double checking --- for
9 conspiracy, and then in 2008 it looks like the federal
10 conviction was for a drug charge, as well as a gun
11 charge?

12 MR. SCHNEE: Yes.

13 THE COURT: Is that what you were about to tell
14 me about, Mr. Schnee?

15 MR. SCHNEE: Yes, Your Honor, it looks like he
16 was sentenced to it looks like 130 months so I think
17 those both qualify.

18 THE COURT: Correct. Okay. So we have --- let's
19 make sure we have it right. Mr. Wright has a pending
20 murder, pending burglary first, pending armed robbery
21 and a pending conspiracy.

22 MS. CAMPBELL: Yes.

23 THE COURT: And those are State Court charges?

24 MS. CAMPBELL: Yes.

25 THE COURT: Fair enough. Then he has a

1 conviction from around 2005 for possession with intent
2 to distribute cocaine.

3 MS. CAMPBELL: Uh-huh.

4 THE COURT: Then he has a 2008 federal conviction
5 involving drugs and guns.

6 MS. CAMPBELL: Looks like cocaine and guns. Do
7 you agree with that?

8 THE COURT: Is that right?

9 MR. SCHNEE: It looks like --- it says cocaine
10 sell. I don't know if that's just a general
11 conspiracy for drugs or actual distribution. It says
12 cocaine on there.

13 THE COURT: I think in federal court, it's all
14 the same thing. They get you three ways to Sunday.

15 MS. CAMPBELL: Right.

16 THE COURT: But it clearly involves drugs and at
17 least a gun.

18 All right. Who else?

19 MS. SIMPSON: Your Honor, with respect to this
20 witness, we just want to make sure that you advise
21 Mr. Wright that he cannot mention anything regarding
22 gang involvement because that is in his letter and
23 some people referenced with regard to gang activity,
24 as well as the fact that Mr. Young was actually told
25 him that he was out on bond for armed robbery,

1 kidnapping.

2 THE COURT: Okay. Mr. Wright. Is Mr. Geise your
3 lawyer?

4 THE WITNESS: Yes.

5 THE COURT: All right. I'll let him explain this
6 to you, too, before we get started. You're not going
7 to be allowed to mention anything about any kind of
8 gang activity. Does that make sense?

9 THE WITNESS: Right.

10 THE COURT: I don't want you saying either --- I
11 don't even know what you're going to testify to, I
12 mean, literally, so I don't want anything about any
13 gang activity said during your testimony. Do you
14 understand that?

15 THE WITNESS: Yes, sir.

16 THE COURT: And if somebody allegedly said to you
17 they were out on bond while they committed some
18 offense, I don't want anything about that either.
19 Does that make sense?

20 THE WITNESS: Yes, sir.

21 THE COURT: Okay. Do you have any questions
22 about that?

23 THE WITNESS: No, sir.

24 THE COURT: Mr. Geise, are you comfortable with
25 his ability to understand my instructions?

1 MR. GEISE: Absolutely.

2 THE COURT: Okay. Thank you, Mr. Geise.

3 MR. GEISE: Can I have a minute to speak with
4 him?

5 THE COURT: Absolutely. Yes, sir.

6 (Pause.)

7 MR. KRZYSTON: I'm going to have some issues
8 before for jury comes back. I don't know if we're
9 finished settling records, maybe Mary Brown, maybe a
10 couple others.

11 THE COURT: Okay. Let's finish settling records.
12 I have that page open in my book.

13 MS. GARFIELD: I can do Michael Schaefer next.
14 It appears, Judge, that he has a fighting conviction
15 in 2006. He was sentenced to nine days, and that's in
16 South Carolina. He also just pled this past summer to
17 three counts of armed robbery. What's what he is
18 currently incarcerated for and in Georgia in 2011 he
19 had two convictions for cruelty to animals and
20 criminal trespass, which would be before a magistrate.
21 I believe the only thing he could be impeached with
22 are his convictions for armed robbery for which he is
23 currently serving time for.

24 THE COURT: Ms. Bambach? Does he have any
25 pending charges?

1 MS. GARFIELD: I'm sorry?

2 THE COURT: Does he have any pending charges?

3 MS. GARFIELD: No, sir.

4 THE COURT: Okay.

5 MS. CAMPBELL: Are we good with that?

6 MS. BAMBACH: That's for Georgia.

7 (Pause.)

8 I'm okay with that.

9 MR. SCHNEE: Judge, the only thing I'd perhaps
10 raise, and I'm not sure exactly how Georgia works, it
11 appears there's a probation violation for one of
12 those. It's entirely possible it would carry more
13 than one year and be impeachable. If's the cruelty to
14 animals charge. I'm trying to find where it says what
15 the actual sentence was.

16 MS. GARFIELD: He was sentenced to four days, 80
17 hours service, and 12 months probation. That was on
18 the trespass charge, and then on the cruelty to
19 animals, it was a fine and probation. It looks like a
20 concurrent sentence.

21 MR. SCHNEE: I would argue if he's on probation
22 for 12 months, we may need to look up the statute to
23 find out.

24 THE COURT: You'll have to look up the statute.

25 MS. GARFIELD: Okay.

1 THE COURT: You could get 12 months of probation
2 on ---

3 MS. GARFIELD: Magistrate level in Georgia,
4 right?

5 THE COURT: I don't know. You could get it on an
6 unlawful carrying of a pistol here and not carry more
7 than a year. Somebody just needs to look it up.

8 MS. GARFIELD: Yes, sir.

9 THE COURT: I'm not saying it does or doesn't. I
10 don't know.

11 MR. SCHNEE: That's why I bring it up. I don't
12 know either.

13 THE COURT: Yes, you need to look it up before he
14 testifies.

15 Who else?

16 MS. SIMPSON: Your Honor, we --- you're still on
17 records?

18 THE COURT: We're still on records.

19 MS. CAMPBELL: Mary Brown.

20 MR. KRZYSTON: Your Honor, I do not have a copy
21 of Ms. Brown's record.

22 MS. CAMPBELL: We've given you a copy before, but
23 we'll give you another one.

24 MR. KRZYSTON: Okay. Thank you.

25 MS. CAMPBELL: It looks like nothing is

1 impeachable on her.

2 MR. KRZYSTON: No juvenile adjudications?

3 MS. CAMPBELL: Do you want to look at her date of
4 birth? Sixty-eight?

5 MR. KRZYSTON: Still could be.

6 MS. CAMPBELL: She has no juvenile record in the
7 last ten years.

8 THE COURT: All right. Do you see anything,
9 Mr. Schnee?

10 MR. SCHNEE: The only thing I could even remotely
11 argue is a fraudulent check involving a crime of
12 dishonesty, but that's from 1994.

13 THE COURT: All right. Okay, it's outside of the
14 ten years.

15 MS. SIMPSON: And, Your Honor, one of our
16 witnesses who will be up and coming is Investigator
17 Gaston. He is one of the crime scene investigators
18 who processed the scene at Bronx Street during the
19 execution of the search warrant.

20 In that search, there was paperwork found
21 regarding Lorenzo Young's DJJ, I guess involvement or
22 adjudications, and there are photographs which have
23 been marked, so I just want to go ahead withdraw them.
24 I've indicated to the defense that we will withdraw
25 them, as well. It's State's 201 and 202.

1 (WHEREUPON, State's Exhibit Numbers 201 and 202
2 were withdrawn.)

3 THE COURT: Okay. Anything else on settling
4 records for today?

5 MS. SIMPSON: Nothing from the State at this
6 time.

7 THE COURT: On records? Okay.

8 MR. KRZYSTON: Your Honor, Your Honor at this
9 point I'm going to again renew my mistrial motion I
10 made yesterday. I certainly understand and respect
11 Your Honor's ruling. I do feel that I need to make an
12 additional motion for mistrial on the grounds that the
13 limiting instruction which I, for the record, object
14 to the sufficiency of. I feel that, you know --- this
15 is through no fault I think of anybody here. It was a
16 long day, and we neglected to give the limiting
17 instruction yesterday after the letter was introduced.
18 The letter that was introduced was extremely
19 prejudicial to my client.

20 The taint of that evidence has sat in their mind
21 for over eight hours at this point. I think based on
22 the failure to give a timely instruction, I do think
23 it warrants a mistrial and so on those grounds --- on
24 those additional grounds, I'm also moving for a
25 mistrial. I certainly do understand Your Honor's

1 ruling.

2 THE COURT: All right. Your motion is denied. I
3 believe that the jury has the ability to listen to and
4 follow instructions. They have paid attention
5 throughout this entire trial, and I have no knowledge
6 that they would disregard my instructions or fail to
7 follow my instructions, so your motion for a mistrial
8 is denied.

9 MR. KRZYSTON: Thank you, Your Honor.

10 MR. SCHNEE: Judge, I have a couple of things
11 from yesterday ---

12 THE COURT: Okay.

13 MR. SCHNEE: --- that we did at sidebar that I
14 need to put on the record.

15 THE COURT: Okay.

16 MR. SCHNEE: First would be the testimony of
17 Donald Moore. I would direct Your Honor to State v.
18 Bottoms. It's 260 S.C. 187. Essentially after the in
19 camera hearing of Donald Moore, Your Honor ordered
20 that he was required to testify, could not plead the
21 Fifth. Donald Moore got up there. The solicitor
22 called him to the stand knowing full well he was going
23 to say that everything in his prior statements to
24 police were lies, which is exactly what he did.

25 The solicitor then pretty much ripped through all

1 the actual statements he made to law enforcement. He
2 continued to deny them saying they were lies.

3 State v. Bottoms is pretty clear on this. The
4 witness was called for the express purpose of
5 impeachment.

6 What Bottoms really describes is the fact that
7 the questions by the lawyer are not evidence.
8 Impeachment of a witness is not actual substantive
9 evidence.

10 The only purpose of impeachment is to show the
11 jury that the witness may or may not be credible, but
12 not to actually introduce that evidence as substantive
13 evidence.

14 Considering Donald Moore's testimony, every
15 single question or almost every question asked by the
16 State, he said, "Well, that was a lie." That was the
17 entire line.

18 I believe the jury is going to have a very hard
19 time understanding that. I don't believe there was
20 ever an instruction regarding that, and I believe that
21 would require that this witness should be struck from
22 the record entirely. Based on that, I don't believe
23 you could remove the taint from the jury. I would
24 request a mistrial from that.

25 MS. CAMPBELL: Your Honor, if I could be provided

1 a copy of the case law he is relying on.

2 THE COURT: It's from 1973.

3 MS. CAMPBELL: The rules have even changed since
4 1973, Your Honor.

5 THE COURT: Right. The Rules of Evidence weren't
6 even in effect when that case was decided.

7 MS. CAMPBELL: Your Honor, clearly State v.
8 Bottoms doesn't apply. The Rules have changed.
9 Specifically, the Rule now allows that either party
10 can impeach a witness. Additionally, Your Honor it's
11 not that we also impeached him. We also just asked
12 him and he did say voluntarily that he believed he
13 made those statements to police, so he admitted to
14 doing that.

15 THE COURT: Right. He admitted to making all the
16 statements.

17 MS. CAMPBELL: Yes.

18 THE COURT: He just said when he made them they
19 were a lie.

20 MS. CAMPBELL: Yes.

21 THE COURT: But he did not deny making all the
22 statements. So your motion under Bottoms is overruled
23 and the testimony will stand.

24 Bottoms was early 1970's before the Rules of
25 Evidence we are in effect. The Rules of Evidence are

1 very clear now that either side can impeach a witness.
2 You can actually impeach your own witness now pursuant
3 to some rule in the 600 range in the Rules of Evidence
4 and I think it was proper. It's for the jury to
5 determine the believability and the credibility and
6 the weight of the evidence that is presented and your
7 motion for a mistrial is denied.

8 MR. SCHNEE: Thank you, Your Honor. Secondly
9 dealing with the handwriting expert, Ms. Heath,
10 yesterday, I'm again --- I know we did this sidebar.
11 I'm objecting to the actual exhibits that were
12 introduced, the blow ups. That's particularly
13 important because the only thing that was shown to the
14 jury on those blow ups, at least the main thing was
15 the original letter that was received by the
16 solicitor's office and then the sample, and those were
17 the only things shown to the jury and that's exactly
18 the fear that I had when this was the request from the
19 SLED agent to take that type of sample as opposed to
20 any other type of valid writing sample, so now the
21 jury was forced to look at two copies of an identical
22 letter. I believe that's highly prejudicial, and I
23 would request that it be stricken from the record and
24 I request a mistrial for that. I understand Your
25 Honor's ruling. You already ruled on it yesterday. I

1 just wanted to put it on the record.

2 The only other issue that I would raise very
3 briefly is if there is some reason the court
4 determines that Mr. Krzyston's motion for a mistrial
5 should be granted, I would, of course, join in at this
6 point. If he would be separated from the trial I
7 would have a --- would be unable to continue the
8 trial, so I would request a mistrial with him.

9 THE COURT: Your motions are denied. An expert
10 is allowed to go into the information that they used,
11 gathered, created, collected. It was never presented
12 to the jury that he had on a separate occasion written
13 this letter in some confession or anything. She
14 explained very clearly that she collected this as part
15 of her gathering process to determine the validity of
16 the question document and that it was given at her
17 request or that he gave the sample at her request and
18 therefore I can't really even see or understand any
19 prejudicial effect. Any prejudicial effect that is
20 made is outweighed by the probative value of documents
21 and concerning that and concerning the existence of
22 the information about who penned the letter, so your
23 motion for a mistrial is denied.

24 MR. SCHNEE: Yes, Your Honor.

25 THE COURT: Thank you very much.

1 MR. SCHNEE: The only other brief thing I would
2 ask at this point is I'm going to renew my pretrial
3 motion and memorandum that I gave Your Honor on
4 Wednesday. That would be dealing with the 804(b)(3)
5 hearsay evidence. I know there are a number of
6 jailhouse witnesses coming up or in the next few
7 minutes I believe the very first one even gets
8 information from people other than my client.
9 Anything that would be tending to inculcate my client,
10 exonerate the client or shift blame in any way, shape,
11 or form is inadmissible by those rules. My notice has
12 been discussed ad nauseam. Just wanted to point out
13 for the record that I'm renewing that objection to any
14 such hearsay testimony.

15 THE COURT: Okay. I'll have to hear it. I can't
16 make that decision in the abstract.

17 Where is Ms. Heath on the witness list?

18 MR. SCHNEE: I don't believe she is, Your Honor.

19 MS. GARFIELD: She should have been, Judge. If
20 she is not, that was a complete oversight.

21 Okay. Let's bring in the jury.

22 (WHEREUPON, the jury entered the courtroom at
23 9:33 A.M.)

24 MS. CAMPBELL: May we approach?

25 (WHEREUPON, a bench conference was held in the

1 presence, but not within the hearing of the
2 jury.)

3 THE BAILIFF: The jury panel is present, Your
4 Honor.

5 THE COURT: All right. Good morning. Welcome
6 back. Thanks for being on time. It's completely
7 different weather today and tomorrow, so make sure you
8 dress appropriately.

9 THE JUROR: Yes, it is.

10 THE COURT: All right. Ladies and gentlemen, one
11 of the things that I told you in my opening
12 information to you or what we call the opening on the
13 law is that certainly things are not evidence. I know
14 we have talked about that since then. One of those
15 categories of things that are not evidence is anything
16 that I tell you to disregard. So there's been a
17 couple of times throughout this trial, I don't
18 remember specifically when, that I ordered you to
19 disregard certain information and so I want you to
20 understand that backdrop as I read this information
21 I'm about to read to you.

22 Members of the jury, the State has introduced a
23 letter purported to be written by Trenton Barnes.
24 Now, you heard about this letter last night. The
25 admission of this evidence, the admission of the

1 letter is only to be considered against Trenton
2 Barnes. This evidence cannot be considered against
3 Mr. Young at all.

4 You are not to weigh this evidence whatsoever
5 when considering if the State has met their burden of
6 proof against Lorenzo Young, so that's a further
7 instruction that I'm giving you on things that are not
8 evidence. Essentially the letter would not be
9 evidence against Mr. Young, and so you are to
10 disregard the letter in regards to Mr. Young's
11 involvement.

12 Okay. All right. You may call your next
13 witness.

14 MS. SIMPSON: The State calls Alfred Dominique
15 Wright.

16 THE BAILIFF: Raise your right hand, place your
17 left hand on the Bible.

18 ALFRED DOMINIQUE WRIGHT,
19 after being duly sworn, testified as follows:

20 THE CLERK: Have a seat. State your full name
21 for the record.

22 THE WITNESS: Dominique Wright.

23 DIRECT EXAMINATION:

24 BY MS. SIMPSON:

25 Q Can you state your full name for the record?

1 A Alfred Dominique Wright.

2 Q Mr. Wright, how old are you?

3 A Thirty-four.

4 Q And are you from Columbia?

5 A Not originally, but I've lived here since '94.

6 Q Ninety-four. So did you go to school here in
7 Columbia?

8 A Yes, ma'am.

9 Q Where did you go to school?

10 A Hammond.

11 Q Hammond and how far did you go in school?

12 A About a year into college.

13 Q A year into college. Where did you attend
14 college?

15 A South Carolina. I want to turn your attention to
16 this case. Do you know the defendant, Lorenzo Young?

17 A I met him on one occasion.

18 Q How did you come to meet him? How did you know
19 him?

20 A They have a law library at Alvin S. Glenn, and I
21 happened to be in there one time when he was also in
22 there.

23 Q Are you in the law library a good bit?

24 A Yes, ma'am.

25 Q And at the time, did you know Lorenzo by his

1 name, Lorenzo Young, or did you know him by a
2 nickname?

3 A I heard his nickname, you know, through other
4 people.

5 Q Okay. And tell us about your conversation with
6 Mr. Young.

7 A Well, I was helping an individual with some legal
8 work, and he came up to me and asked me if I knew some
9 people that were in my dorm that he knew and then
10 asked for some assistance with his situation.

11 Q And how did you respond to that statement --- did
12 you know anybody he knew?

13 A Yes, ma'am.

14 Q Were you friends with some of those people?

15 A Yes, ma'am.

16 Q So Mr. Young actually asked you for some help
17 with the legal portion of his case?

18 A Yes, ma'am.

19 Q In that process, tell us what occurred and what
20 you learned.

21 A He told me that he was with two other individuals
22 and that ---

23 MR. SCHNEE: Objection, Your Honor. My prior
24 hearsay objection.

25 THE COURT: Overruled.

1 MR. SCHNEE: Thank you.

2 BY MS. SIMPSON:

3 Q You can continue. What did he tell you about his
4 case?

5 A That he was with two other individuals that he
6 called Trigg and Trap, and I later got their names
7 from somebody else, but not from him. He just gave me
8 their nicknames. He said they went to rob a club, but
9 the club was closed, so they went next door to a
10 bakery where Trap stayed outside as a look out and he
11 and Trigg went in. A woman resisted when they
12 demanded for money and swung a knife at them, and he
13 shot her two times.

14 Q And backing up just a little bit, you said he
15 mentioned that he did this with two other individuals?

16 A Right.

17 Q Did you learn who Trigg was?

18 A I was told by someone else, not him, that Trigg
19 was Troy Stevenson and Trap was Trenton Barnes and
20 they were both brothers.

21 Q They were both brothers?

22 A Uh-huh.

23 Q So Mr. Young actually said to you that he and
24 Stevenson were the was who went in with guns?

25 A Yes, ma'am.

1 Q At that point he also indicated that he himself
2 is one of the people that actually shot the
3 individual?

4 A Yes, ma'am.

5 Q What was his purpose again for telling you this
6 information?

7 A I was speaking with another individual on ways
8 to, you know --- recently the individual was using the
9 stand your ground law. I think it was State v. Isaac
10 case because it was about a year ago.

11 Q So he was just asking for advice, essentially, on
12 this case?

13 A I told him he could try the stand your ground and
14 maybe he could get a better chance at voluntary
15 manslaughter or something like that.

16 Q So he was willing to talk to you and he gave this
17 information?

18 A Yes, ma'am.

19 Q Did you actually know Trenton Barnes or ever meet
20 him?

21 A No.

22 Q What about Troy Stevenson? Did you ever have any
23 conversations or meet him?

24 A I never had any conversations, but I saw him
25 quite frequently because we were both in programs. We

1 were in the same section at the jailhouse. We would
2 often have to walk down the hallway, but I never
3 talked to him.

4 Q Again, Trap or who your later learned was
5 Trenton, was the look out?

6 A Yes, ma'am.

7 Q According to Mr. Young?

8 A Yes, ma'am.

9 Q But Mr. Young went in with the gun?

10 A Yes, ma'am.

11 Q And their initial plan, you said, was to rob a
12 club?

13 A Right, but the club was closed.

14 Q What was Mr. Young's demeanor as he was talking
15 to you and telling you about his case?

16 A It was pretty calm.

17 Q It was calm? He was just asking you questions?

18 A Yes, ma'am.

19 Q And did you actually kind of record this
20 conversation or document the conversation that you had
21 with Mr. Young in some way?

22 A I wrote it down later. I just tried to remember
23 it.

24 Q Okay. And what did you do with that information?

25 A I handed it over to an investigator.

1 Q Okay. And in the form of a letter?

2 A A --- handwritten, yes.

3 Q And you sent that letter to our office?

4 A Well, to the investigator, and then it got there
5 to your office.

6 Q Okay. And did you also --- are you currently
7 facing some charges yourself?

8 A Yes, ma'am.

9 Q What are your current charges?

10 A Murder, first degree burglary, criminal
11 conspiracy and armed robbery or attempted robbery.

12 Q So for murder, you're actually looking at a
13 minimum of 30 years up to life, correct?

14 A I believe so.

15 Q And for burglary first, do you know what amount
16 of time you're facing?

17 A Fifteen to life, I believe.

18 Q Fifteen years to life? And with respect to your
19 armed robbery, what are you facing on those charges?

20 A I know armed robbery is ten to 30, but I have
21 attempted armed robbery, so I don't know if there is a
22 difference.

23 Q So it's attempted armed robbery, but up to 30
24 years?

25 A Yes, ma'am.

1 Q And then criminal conspiracy is?

2 A Zero to five.

3 Q Do you actually have an attorney?

4 A Yes, ma'am.

5 Q Who are you represented by?

6 A Right now I'm being represented by Barney Geise.

7 At the time I wrote these statements, I think ---

8 Q Well, you were actually represented by someone
9 else at the time of the statements, right?

10 A Yes, ma'am.

11 Q But right now you were presented by Mr. Geise?

12 A Yes, ma'am.

13 Q Is he actually present in the courtroom today?

14 A Yes, ma'am.

15 Q Along with one of your other attorneys, Justin
16 Kata?

17 A Yes, ma'am.

18 Q And you turned that information over to them, as
19 well?

20 A Right.

21 Q At some point did you also meet with an
22 investigator, along with your lawyers, from my office?

23 A Yes, ma'am.

24 Q To discuss the case?

25 A Yes.

1 Q But you've never talked to me, right?

2 A Right.

3 Q And you actually dealt with law enforcement and
4 been in the penitentiary before, correct?

5 A I'm still serving my sentence right now.

6 Q You're currently actually in federal custody, I
7 believe?

8 A Yes, ma'am.

9 Q For drugs and a weapons charge?

10 A Firearm, yes, ma'am.

11 Q That's from 2008?

12 A Yeah. I was arrested in 2007, but sentenced in
13 2008.

14 Q And you also have a prior conviction for
15 possession with intent to distribute cocaine?

16 A Yes, ma'am.

17 Q And did you actually know the victim in this case
18 or anyone else involved in this case?

19 A Not at all.

20 MS. SIMPSON: Beg the Court's indulgence.

21 (Pause.)

22 BY MS. SIMPSON:

23 Q Finally, the individual that you met in the law
24 library who indicated to you that he shot the woman in
25 the bakery, do you see him here in the courtroom

1 today?

2 A Yes, ma'am.

3 Q Can you point him out for the jury and tell them
4 what he is wearing?

5 A A blue suit with a cup in his hand right now.

6 Q Is he sitting at the center table?

7 A Yes, ma'am.

8 MS. SIMPSON: Your Honor, let the record reflect
9 that the witness has identified the defendant Lorenzo
10 Young.

11 THE COURT: So redirected.

12 MS. SIMPSON: Thank you.

13 THE COURT: All right. Mr. Krzyston or --- I'm
14 sorry. I apologize, Ms. Bambach.

15 MS. BAMBACH: Thank you, Your Honor. May it
16 please the Court.

17 THE COURT: Yes, ma'am.

18 CROSS-EXAMINATION:

19 BY MS. BAMBACH:

20 Q Mr. Wright, you had this conversation with
21 Lorenzo on February 28th?

22 A Yeah.

23 Q 2014, correct?

24 A I believe before the end of February, yes, ma'am.

25 Q Yes. Your letter states February 28th, 2014.

1 You met him in the law library at the jail?

2 A Yes, ma'am.

3 Q You only met him that one day, right?

4 A That's it.

5 Q You were never in the same dorm as him?

6 A No.

7 Q So the only interaction was in the law library at
8 the jail?

9 A Yes, ma'am.

10 Q And after meeting you for the first time he
11 wanted your advice?

12 A Well, as I mentioned, I knew some people he knew,
13 and he heard me helping someone else with the same ---
14 well, a similar situation.

15 Q Okay. So you've been in the Mike dorm almost the
16 entire time you've been at Alvin S. Glenn, right?

17 A Yes, ma'am.

18 Q So that would be from March 2013 until today,
19 you're still in Mike dorm?

20 A No, sir.

21 Q You're not at Mike?

22 A I'm not at Alvin S. Glenn right now.

23 Q Oh, I'm sorry. You moved, right? You know
24 Michael Schaefer, don't you?

25 A He was in my dorm, as well.

1 Q And he was in the same dorm as you for about 11
2 months then?

3 A Off and on.

4 Q Back and forth?

5 A He went back and forth.

6 Q Do you know Michael Schaefer and Lorenzo were in
7 Juliette together?

8 A I believe so. Yeah, of course, because that's
9 one of the people he actually asked me about and asked
10 did I know when I was --- when we had the whole
11 conversation.

12 Q Okay.

13 A They used to play cards. They were friends or
14 something.

15 Q Okay. You were in the jail in July of 2013,
16 right?

17 A Yes, ma'am.

18 Q When this incident happened?

19 A Yes, ma'am.

20 Q Okay. And during this time you were in Mike dorm
21 so you did have access to television, right?

22 A Yes, ma'am. They do watch TV there a lot.

23 Q I know in each pod they have the TVs in each pod
24 at Mike, right?

25 A Right.

1 Q So there is cable in Mike dorm?

2 A Yes, there is.

3 Q And as Ms. Simpson said, you're currently in jail
4 for a pending murder, burglary, armed robbery ---
5 attempted armed robbery and conspiracy, right?

6 A Yes, ma'am.

7 Q And murder carries up to life?

8 A Yes, it does.

9 Q Day for day?

10 A Yes, it does.

11 Q And burglary first carries up to life, and the
12 solicitor's office is prosecuting your case, right?

13 A Yes, ma'am.

14 Q Actually, the Deputy Solicitor is prosecuting
15 your case. And you met with the solicitors a few
16 weeks ago to discuss your testimony, right?

17 A Yes, ma'am.

18 Q So on February 28th, 2014, you were in the law
19 library. Would it surprise you to know that you're
20 not able to go to the law library if your in SHU dorm?

21 A That wouldn't surprise me, but I'm confused what
22 is a dorm right now.

23 Q Okay. Well, just if your in SHU dorm, you aren't
24 allowed to go ---

25 A Right.

1 Q --- to the law library?

2 A I do know that.

3 Q Also, did you know that you're not allowed to go
4 to the library for 30 days after you get out of the
5 SHU dorm?

6 A Yes, I do know that.

7 MS. BAMBACH: I have nothing further.

8 THE COURT: Mr. Schnee?

9 MR. SCHNEE: May it please the Court, Your Honor.

10 THE COURT: Yes, sir.

11 CROSS-EXAMINATION:

12 BY MR. SCHNEE:

13 Q Mr. Wright, do you recognize the man sitting over
14 there?

15 A No.

16 Q Never seen him before? Sitting at the table
17 where I got up from?

18 A I can't really see with his hand covering his
19 face, sir.

20 Q Trenton, move your hand.

21 A No.

22 Q Never seen him before?

23 A No.

24 Q Never talked to him?

25 A Pretty sure I haven't.

1 Q Okay. All the information you have about this
2 case you're saying came from Lorenzo Young?

3 A Yes, sir.

4 Q And he told you that it was him inside with Troy
5 Stevenson?

6 A Yes, sir.

7 Q Okay. And Trenton never went inside according to
8 the Lorenzo?

9 A Yes, sir.

10 Q Okay.

11 MR. SCHNEE: No further questions.

12 MS. SIMPSON: Brief redirect, Your Honor.

13 THE COURT: Yes, ma'am.

14 REDIRECT EXAMINATION:

15 BY MS. SIMPSON:

16 Q Have you actually spoken with either myself,
17 Ms. Campbell or Ms. Garfield?

18 A No.

19 Q About your case or about this case?

20 A No.

21 Q And were you threatened or coerced to come
22 forward in any way?

23 A No, not at all.

24 Q And have you been made any promises or offered
25 any deals ---

1 A Not at all.

2 Q --- in this case with respect to your charges?

3 A Not at all.

4 Q But you're hoping for some benefit or help down
5 the road or consideration by either my office or a
6 Judge?

7 A Of course.

8 Q Additionally, you said Lorenzo told you that she
9 had resisted with a knife?

10 A Uh-huh.

11 Q And again you were in jail during July?

12 A Right.

13 Q And had seen something on the news to about this
14 case?

15 A I mean, I heard about it. I actually missed it
16 because I was playing cards at the time. I just know
17 I didn't see it on TV, but I heard about it.

18 Q But he told you that she resisted with a knife?

19 A No, sir yeah.

20 Q And he and Troy are the ones that went in?

21 A Yes, ma'am.

22 MS. SIMPSON: Thank you.

23 THE COURT: Ms. Bambach.

24 RECROSS-EXAMINATION:

25 BY MS. BAMBACH:

1 Q Mr. Wright, would it surprise you to learn that
2 Lorenzo Young was in SHU dorm on February 19th, 2014?

3 A It would. Maybe I put down the wrong date. I
4 was pretty sure it was toward the end of February.

5 Q Okay. February 28th he was in Juliette. Would
6 that surprise you?

7 A Not at all.

8 Q And per the policy at Alvin S. Glenn, you're not
9 allowed to go to the library ---

10 A Thirty days.

11 Q --- for 30 days?

12 A Yes, ma'am.

13 Q And February 19th to February 28th is nine days?

14 A It is not 30 days.

15 Q It is not 30 days.

16 A I understand that.

17 MS. BAMBACH: Thank you.

18 R. SCHNEE: Thank you, no further questions,
19 Judge.

20 THE COURT: Have a good day, sir.

21 Call your next witness.

22 MS. SIMPSON: The State calls Investigator
23 Gaston.

24 INVESTIGATOR JOHNSON GASTON, JR.,
25 after being duly sworn, testified as follows:

1 THE CLERK: Please have a seat, state your full
2 name for the record.

3 THE BAILIFF: Pull your chair up. Thank you.

4 DIRECT EXAMINATION:

5 BY MS. SIMPSON:

6 Q Can you state your name for the record?

7 A Officer Gaston from the CPD.

8 Q And your first name?

9 A Johnny Gaston, Jr.

10 Q Investigator Gaston, how long have you been with
11 the Columbia Police Department?

12 A Eight-and-a-half years.

13 Q Eight-and-a-half years?

14 A Yes, ma'am.

15 Q And what position do you currently hold?

16 A I'm a crime scene investigator.

17 Q And prior to being a crime scene investigator,
18 did you work some other aspect within the department?

19 A I was on patrol for about six years.

20 Q For about six years?

21 A Yes, ma'am.

22 Q During your time on patrol, what types of cases
23 did you respond to?

24 A Murders, attempted murders, burglaries, auto
25 break-ins, just domestics, basically anything you

1 could think of.

2 Q A little bit of everything? And then later you
3 became a crime scene investigator, correct?

4 A Correct.

5 Q And are you actually trained or qualified with
6 respect to some forensics?

7 A Yes.

8 Q What are you qualified in or have training in?

9 A I'm a latent print examiner, palm print advanced
10 classes, as well as AFIS operator.

11 Q And ---

12 THE COURT: As well as what?

13 THE WITNESS: AFIS operator.

14 THE COURT: AFIS. I'm sorry. I didn't hear what
15 you said.

16 BY MS. SIMPSON:

17 Q And as a crime scene investigator, tell the jury
18 about what your duties include, what are you required
19 to do?

20 A Basically my job is to photograph, document, and
21 collect evidence.

22 Q What types of things do you respond to?

23 A Basically any auto break-ins, burglaries,
24 attempted murders, murders, assaults, any kind of
25 assault where anything is involved, fatalities,

1 accident with injuries, as well.

2 Q So you're called out generally to the scene by
3 either an investigator or dispatch or something of
4 that nature?

5 A Or supervision on the street.

6 Q So in addition to crime scenes themselves, do you
7 also respond with respect to search warrants and
8 things of that nature?

9 A Yes, search warrants, as well.

10 Q I want to turn your attention to July of 2013,
11 July 5th. Were you contacted to respond to a certain
12 location involved in this case?

13 MS. BAMBACH: Objection, Your Honor. I would
14 just renew our previous search warrant objection.

15 THE COURT: Understood. Overruled. Thank you
16 very much.

17 BY MS. SIMPSON:

18 Q Again, were you contacted to, I guess --- and
19 notified to respond to a certain location involved in
20 this case?

21 A Yes.

22 Q What was that location?

23 A That location was --- let me look at it real
24 quick,

25 Q

1 A Yes, ma'am.

2 Q If you could speak up a little bit so we can
3 hear, please.

4 A Okay.

5 Q And who were your notified by?

6 A I was notified by investigations, but I can't
7 remember which investigator notified me.

8 Q So investigations was already on the scene?

9 A Correct.

10 Q And were they actually executing a search warrant
11 at the location?

12 A Correct.

13 Q And when you arrived --- what was the date and
14 time of your arrival?

15 A The date and time was July 5th at approximately
16 11:15 in the morning.

17 Q So there were already some investigators who were
18 executing the search warrant and you were called out?

19 A Yes, ma'am.

20 Q And when you arrived, did you actually make
21 contact with one of the investigators on the scene?

22 A Yes, ma'am.

23 Q Who did you make contact with?

24 A Investigator McCoy.

25 Q And did he apprise you some certain information?

1 A No.

2 Q Did he let you know that --- anything about a
3 search that was currently being conducted or a
4 previous search at another location?

5 A No, just that the residence itself had already
6 been --- some of the search had already begun.

7 Q Okay.

8 A And they were pointing out evidence, items in the
9 house they wanted me to collect.

10 Q So they had conducted pretty much a search of the
11 entire home and wanted you to document some of
12 relevant stuff found within the home?

13 A It was parts of the home they had already
14 finished and was working on another area when I got
15 there.

16 Q And what was the primary location where the
17 relevant evidence was found that you documented in
18 that home?

19 A That would be Lorenzo's room, I guess.

20 Q Lorenzo's room?

21 A Correct.

22 Q Right. Did you learn later that he shared that
23 room with his girlfriend or the mother of his child,
24 Rolanda Coleman?

25 A I was unaware of who actually shared the room.

1 with him.

2 Q But you did learn that it was his room?

3 A Correct.

4 Q Tell the jury what you did with respect to your
5 crime scene investigation and his room?

6 A Basically when I got there the investigators had
7 already done a search of room and found certain
8 evidence. They pointed out evidence to me, which at
9 that time I placed markers on the evidence and
10 photographed the room and the markers and then I
11 collected evidence that shows markers.

12 Q And what is the purpose of photographing and
13 documenting at a scene?

14 A Basically to show the location where evidence is,
15 you know, prior to me collecting it to show what kind
16 of evidence it is, what it could be, like a pair of
17 shoes or something in a room that I located possibly.

18 Q So to actually document and preserve where it is
19 at the time?

20 A Right.

21 Q Because again you would respond to a number of
22 different locations?

23 A Correct.

24 Q So you photograph it. You do that before you
25 actually collect an item?

1 A Yes.

2 Q And when you collect an item, do you take special
3 procedures or precautions with respect to collecting
4 that item and placing it in evidence?

5 A Yes.

6 Q And did you actually collect some items in this
7 case?

8 A Yes, I did.

9 Q And did you document that ---

10 A Yes, I did.

11 Q --- in some way? Did you also construct a
12 diagram of the scene?

13 A Yes, I did.

14 Q Of the home just to kind of, I guess --- what was
15 the purpose of that?

16 A To kind of lay out where the evidence was located
17 inside the room.

18 Q Okay. I'm going to show you what's been marked
19 as State's Exhibit 400?

20 THE COURT: Is that 400?

21 MS. SIMPSON: Yes, Your Honor.

22 BY MS. SIMPSON:

23 Q Do you recognize State's 400?

24 A Yes, I do.

25 Q Was this actually a computerized version of what

1 you created in your hand drawn diagram?

2 A Correct.

3 Q With the additional location of markers?

4 A Correct.

5 Q In preparation for trial?

6 A Correct.

7 Q Does it fairly and accurately depict what you
8 recall?

9 A Yes, it does.

10 MS. SIMPSON: Your Honor, at this time I'd offer
11 State's 400 into evidence.

12 MS. BAMBACH: No objection.

13 MR. SCHNEE: None from here.

14 THE COURT: Okay. State's 400 without objection.

15 (WHEREUPON, State's Exhibit Number 400 was
16 admitted into evidence.)

17 MS. SIMPSON: Your Honor, permission for ---

18 BY MS. SIMPSON:

19 Q --- actually before we get there, I'm going to
20 show you some photographs and I believe the defense
21 has already reviewed all of these. It will be State's
22 141 through 157. Do you recognize those?

23 A Yes, I do.

24 Q And do they fairly and accurately depict what you
25 observed?

1 A Yes, ma'am.

2 MS. SIMPSON: Your Honor, at this time I'd offer
3 State's 141 through 157 into evidence?

4 MS. BAMBACH: We would just renew our previous
5 objection.

6 MR. SCHNEE: No objection.

7 THE COURT: All right. Admitted over defendant's
8 objection. No objection from Mr. Barnes. That's
9 State's the 141 through 157.

10 (WHEREUPON, State's Exhibit Numbers 141 through
11 157 were admitted into evidence.)

12 BY MS. SIMPSON:

13 Q I'm also going to show your what's being marked
14 as State's 158 through the 162. Do you recognize
15 those photographs, as well?

16 A Yes, I do.

17 Q Do they fairly and accurately depict what you
18 observed?

19 A Yes, ma'am.

20 MS. SIMPSON: Your Honor, at this time I would
21 offer State's 158 through 162 into evidence, as well.

22 MS. BAMBACH: We renew our previous objection.

23 MR. SCHNEE: No objection.

24 THE COURT: All right. Admitted.

25 (WHEREUPON, State's Exhibit Numbers 158 through

1 162 were admitted into evidence.)

2 MS. SIMPSON: Moving to State's ---

3 THE COURT: Hold on.

4 (Pause.)

5 BY MS. SIMPSON:

6 Q Moving to State's 172 and 173, do you recognize
7 those photographs, as well?

8 A Yes, I do.

9 Q And do they fairly and accurately depict what you
10 observed?

11 Q Yes, ma'am.

12 MS. SIMPSON: your Honor, at this time, I would
13 offer State's 172 and 173 into evidence.

14 MS. BAMBACH: Renew our previous objection.

15 MR. SCHNEE: No objection.

16 THE COURT: All right. Admitted.

17 (WHEREUPON, State's Exhibit Numbers 172 and 173
18 were admitted into evidence.)

19 BY MS. SIMPSON:

20 Q I'm going to show you what's been marked as
21 State's 163, 164 and 165 through 168, as well as 169
22 through State's 170.

23 THE COURT: So that's 163 through 170?

24 MS. SIMPSON: 171.

25 BY MS. SIMPSON:

1 A Yep, I recognize them.

2 Q Do they fairly and accurately depict what you
3 recognize, as well?

4 A Yes, ma'am.

5 MS. SIMPSON: Your Honor, at this time I would
6 offer those items into evidence.

7 MS. BAMBACH: I renew our previous objection.

8 MR. SCHNEE: No objection.

9 THE COURT: Very well. That's 163 through 171,
10 admitted.

11 (WHEREUPON, State's Exhibit Numbers 163 through
12 171 were admitted into evidence.)

13 THE COURT: Ladies and gentlemen, the reason I
14 take that little extra break is so that the court
15 reporter, not only is she typing things down, but she
16 is making a list of everything so at the conclusion
17 everybody knows what's coming back and what's not.
18 Once you run into this many exhibits everybody is
19 keeping different lists and their own list, and I want
20 her list, as well, so that's why I --- we take a
21 little break so she can write it down in a separate
22 place just for her own notes. That's the only thing
23 we're doing. I apologize, Ms. Simpson, I just wanted
24 to explain that. Go ahead.

25 MS. SIMPSON: Thank you, Your Honor.

1 BY MS. SIMPSON:

2 Q I want to show your State's 174 through State's
3 185. Do you recognize these photographs?

4 A Yes, I do.

5 Q And do those photographs fairly and accurately
6 depict what you observed?

7 A Yes, ma'am.

8 MS. SIMPSON: Your Honor, at this time I would
9 offer State's 174 through 185 into evidence.

10 MS. BAMBACH: I'd renew our previous objection.

11 MR. SCHNEE: No objection.

12 THE COURT: Very well. Admitted.

13 (WHEREUPON, State's Exhibit Numbers 174 through
14 185 were admitted into evidence.)

15 BY MS. SIMPSON:

16 Q And I am going to show you State's 186 thank you
17 197. Do you recognize these photographs?

18 (Pause.)

19 A Yes, I do.

20 Q And do they fairly and accurately represent what
21 you observed?

22 A Yes, ma'am.

23 MS. SIMPSON: Your Honor, at this time I would
24 offer State's 186 through State's 197 into evidence.

25 MS. BAMBACH: Renew our previous objection.

1 MR. SCHNEE: No objection.

2 THE COURT: All right. Very well. Those are
3 admitted.

4 (WHEREUPON, State's Exhibit Numbers 186 through
5 197 were admitted into evidence.)

6 BY MS. SIMPSON:

7 Q I'm going to show you State's 198, 199 and 200.
8 Do you recognize those photographs?

9 (Pause.)

10 A Yes, I do.

11 Q And do they fairly and accurately depict what you
12 observed?

13 A Yes, ma'am.

14 MS. SIMPSON: Your Honor, at this time I would
15 offer State's 198 through 200 into evidence.

16 MS. BAMBACH: We would renew our previous
17 objection.

18 MR. SCHNEE: No objection.

19 THE COURT: All right. Admitted.

20 (WHEREUPON, State's Exhibit Numbers 198 through
21 200 were admitted into evidence.)

22 BY MS. SIMPSON:

23 Q Okay. I'm going to show you'll State's 204 and
24 205. Do you recognize those photographs?

25 (Pause.)

1 A Yes, ma'am, I do.

2 Q And do they fairly and accurately represent what
3 you observed?

4 A Yes, ma'am.

5 MS. SIMPSON: Your Honor, at this time I would
6 offer State's 204 and 205.

7 MS. BAMBACH: We would renew our previous
8 objection.

9 MR. SCHNEE: No objection.

10 THE COURT: Those are admitted.

11 (WHEREUPON, State's Exhibit Numbers 204 and 205
12 were admitted into evidence.)

13 BY MS. SIMPSON:

14 Q State's 208, 209, 210 and State's 211. Do you
15 recognize these photographs?

16 (Pause.)

17 A Yes, I do.

18 Q And do they officially depict what you observed?

19 A Yes, ma'am.

20 MS. SIMPSON: Your Honor, at this time I would
21 offer State's 208 through 211 into evidence.

22 MS. BAMBACH: Renew our previous objection.

23 MR. SCHNEE: No objection.

24 THE COURT: All right. Very well. Those are
25 admitted.

1 (WHEREUPON, State's Exhibit Numbers 208 through
2 211 were admitted into evidence.)

3 BY MS. SIMPSON:

4 Q And State's 212 and 215. Do you recognize those?
5 (Pause.)

6 A Yes, ma'am.

7 Q And do they fairly and accurately depict what you
8 observed?

9 A Yes, ma'am.

10 MS. SIMPSON: Your Honor, at this time I would
11 offer State's 212 and 215 into evidence.

12 MS. BAMBACH: And we would renew our previous
13 objection.

14 MR. SCHNEE: No objection.

15 THE COURT: All right. Very well. 212 and 215
16 are admitted.

17 (WHEREUPON, State's Exhibit Numbers 212 and 215
18 were admitted into evidence.)

19 BY MS. SIMPSON:

20 Q Okay. I'm going to show you what's been marked
21 as State's 216 through State's 219. Do you recognize
22 those photographs?

23 (Pause.)

24 A Yes, ma'am.

25 Q And do they fairly and accurately represent what

1 you observed?

2 A Yes, ma'am.

3 MS. SIMPSON: Your Honor, at this time I would
4 offer those items into evidence.

5 MS. BAMBACH: We renew our previous objection.

6 MR. SCHNEE: No objection.

7 THE COURT: Very well. Those are admitted.

8 (WHEREUPON, State's Exhibit Numbers 216 through
9 219 were admitted into evidence.)

10 BY MS. SIMPSON:

11 Q And then finally I'm going to show you State's
12 220 and 221. Do you recognize those?

13 (Pause.)

14 A Yes, ma'am..

15 Q And do they fairly and accurately represent what
16 you observed?

17 A Yes, ma'am.

18 MS. SIMPSON: Your Honor, at this time I would
19 offer State's 220 and 221 into evidence.

20 MS. BAMBACH: And we would renew our previous
21 objection.

22 MR. SCHNEE: No objection.

23 THE COURT: Those are admitted.

24 (WHEREUPON, State's Exhibit Numbers 220 and 221
25 were admitted into evidence.)

1 MS. SIMPSON: Your Honor, permission for the
2 witness to step down?

3 THE COURT: Okay. Now, investigator, you speak
4 softly, okay. I'm okay with you standing down, but I
5 need you to keep your voice up to where the jurors on
6 the last row can hear you and the court reporter can
7 hear you.

8 THE WITNESS: Yes, sir.

9 THE COURT: Can you do that for me?

10 THE WITNESS: Yes, sir.

11 THE COURT: Okay. Thank you.

12 BY MS. SIMPSON:

13 Q I want to show you what's been marked as
14 State's --- marked and introduced as State's
15 Exhibit 400. If you'll stand on that side so the
16 court reporter can hear you better.

17 Tell the jury what we see just generally in this
18 diagram?

19 A Basically, this room right here was where all the
20 items of evidence was found out, Mr. Lorenzo's ID, as
21 well, in it. The dresser was here as you come in the
22 front door to where the bed was located here with the
23 closet and there was another dresser here with a TV on
24 top.

25 Q And again your focus by the time you got there

1 was on Mr. Young's bedroom where the relevant evidence
2 was found?

3 A Correct.

4 Q With respect to this murder. I'm going to show
5 you State's 141 through 157 --- or tell the jury, is
6 this the bedroom that you observed?

7 A No. That would be the parent's bedroom.

8 Q Oh, this is the parent's bedroom in State's --- I
9 apologize, 141 and in State's 142, 143, 144 and 145,
10 are these also in the parent's bedroom?

11 A Correct.

12 Q Okay. Did you actually find any evidence in that
13 room that was documented?

14 A Yes.

15 Q And when you say the parent's bedroom, did you
16 know the individual's names or just the parents lived
17 there, as well?

18 A Just the parents lived there. I didn't know any
19 individual's names at all.

20 Q And 146 and 147, is this the same room?

21 A Correct.

22 Q And that's located in the bedroom that's right
23 across the hall from Lorenzo Young?

24 A Correct. It's this room right here.

25 Q You indicated you found something in that room?

1 A Yes, ma'am.

2 Q What did you locate in that room?

3 A It was a pair of black tennis shoes. I believe
4 they were located under the bed.

5 Q I want to show you State's 148. Would this be
6 the pair of black tennis shoes?

7 A Yes, ma'am.

8 Q Those were pointed out to you to collect and
9 document?

10 A Yes, ma'am.

11 Q Now, moving across the hall to, I believe,
12 Lorenzo Young's bedroom, I want to show you what's
13 been marked State's 149, is that actually that
14 bedroom?

15 A Yes, ma'am, it is.

16 Q And at this point, no markers have been placed on
17 the scene yet, correct?

18 A That would be incorrect because this box here was
19 located in the top of the closet.

20 Q Okay. So this is after the markers. And State's
21 150, at that point, tell us what we observed.

22 A Correct.

23 Q The room, the mattress and bed area?

24 A Correct.

25 Q And we'll go to those items, but certain items of

1 evidence were found there, as well?

2 A Yes, ma'am.

3 Q And then State's 151 and 152, as well?

4 A Yeah, that's Lorenzo's room.

5 Q What area in the room is this?

6 A The dresser would be on the ---

7 Q Okay. It's right here?

8 A On this side of the room right here, the bed area
9 is back over here.

10 Q And when it's searched, things are moved around
11 in ---

12 A Correct.

13 Q --- order to search. Actually, I'm going to do
14 --- and you took other photographs just generally of
15 that area, as well?

16 A Yes, ma'am.

17 Q I want to move to see what --- my apologies, what
18 you actually found. You indicated earlier there was a
19 box located in the top of the closet?

20 A Yes, ma'am.

21 Q I'm going to show you State's 158 first. Is that
22 the box?

23 A Yes, ma'am.

24 Q And in State's 159, did you actually document
25 what was found in that box?

1 A Yes, ma'am.

2 Q And what was located in that box in the top of
3 Lorenzo Young's closet?

4 A It was several pairs of black gloves.

5 Q And let me show you first State's 160 and 161.
6 When you found these gloves, were they all packaged
7 together?

8 A Yes, ma'am, they were.

9 Q And they're all what, black gloves?

10 A Correct.

11 Q In the same box?

12 A Same box.

13 Q And then turning your attention to State's 162,
14 did you actually take those gloves out?

15 A Yes, ma'am.

16 Q In order to document them?

17 A Yes, I did.

18 Q And here we see a number of the gloves that was
19 in Lorenzo's closet?

20 A Correct.

21 Q And were those items ultimately collected?

22 A Yes. They were.

23 Q And turned into evidence?

24 A Yes, ma'am.

25 Q And when you collect items and turn them in to

1 evidence, do investigators decide what to later
2 process or send off for testing?

3 A Yes. They do.

4 Q I'm going to show you --- backtrack at Marker
5 (3), is that the placement of the box in the closet?

6 A Yes, ma'am.

7 Q So that's where you found it?

8 A Yes, sir.

9 Q And then moving to Markers (1) and (2), I'm going
10 to show you State's 164 and 165. What's depicted in
11 these photographs?

12 A It's going to be this dresser right here where
13 the drawers were open.

14 Q Did you later find something in that dresser?

15 A Yes, I did.

16 Q And we'll start first with Marker (1) in State's
17 165. There are a number of clothes in the dresser,
18 correct?

19 A Correct.

20 Q But you actually searched the dresser and located
21 another item?

22 A The investigator did and made me aware of that
23 item.

24 Q And so you documented that item, as well?

25 A Yes, ma'am.

1 Q I'm going to show you State's 166 and 167. What
2 item did you document?

3 A It was an unfired cartridge.

4 Q An unfired cartridge and that was found in the
5 dresser drawer?

6 A Correct.

7 Q Is that actually a lot --- you said unfired so a
8 live round?

9 A Correct.

10 Q And since it is a live round, did you also
11 document, I guess, the caliber?

12 A Correct, the headstamp.

13 Q The headstamp?

14 A Manufacturer and caliber.

15 Q Is that noted in State's 168?

16 A Yes, ma'am, it is.

17 Q What is the caliber on that one?

18 A 40 caliber.

19 Q 40 caliber, Smith and Wesson?

20 A Correct. Headstamp was an ELO.

21 Q And then Marker (2), which I believe is also
22 found in the dresser in State's 169, does this show
23 just the general area again?

24 A Correct.

25 Q Okay. Underneath those items in State's 170?

1 A Correct.

2 Q What is there?

3 A It's an unfired cartridge.

4 Q Unfired cartridge. And did you also document the
5 headstamp on that, as well?

6 A Correct.

7 Q And what was that?

8 A It was a nine millimeter Luger Winchester.

9 Q And then State's 171, is that ---

10 A Yes, ma'am, that's it.

11 Q --- what we see? You said that's a nine
12 millimeter Luger?

13 A Correct.

14 Q Moving to Marker (4) and on our diagram, I
15 believe that's actually --- there it is behind the
16 bed.

17 Showing you State's 174. Is that Marker (4)?

18 A Yes, ma'am.

19 Q And what was actually located at Marker (4)?

20 A It was a glass jar containing empty shell
21 casings. When you buy bullets, it comes in a plastic
22 container that their individual bullets sits it. It
23 contains that.

24 Q Okay. So State's Exhibit 175 and 176, we
25 actually see a close up of that container, correct?

1 A Correct.

2 Q And does it also contain additional items in the
3 cup?

4 A Correct.

5 Q What are those items at Marker (4) in the
6 ammunition?

7 A It's a 45 GAP, C.B.C headstamp and one Magtech
8 ammunition box with tray.

9 Q Okay.

10 Q And you said that round, was it a live round or a
11 casing or what was it?

12 A Live round.

13 Q Live round and it was for what caliber of a gun?

14 A That was for a 45.

15 Q The 45 GAP?

16 A Yes, ma'am.

17 Q Then in State's 177, what is that?

18 A That would be the Magtech ammunition box.

19 Q And what type of ammunition, if you recall --- I
20 don't know if we can see it in the picture?

21 A I can't recall.

22 Q Was that for?

23 A I can't recall.

24 Q Okay. But you're actually collected that box?

25 A Correct.

1 Q And we'll get to that momentarily. I'm going to
2 show you --- let's move to Markers (5) and (6). Where
3 are their locations in the room?

4 A That would be on the dresser right there, edge of
5 the dresser and on top of the dresser.

6 Q Okay. I'm going to show you State's 178 and 179.
7 Are these the markers?

8 A Yes.

9 Q That you placed down?

10 A Yes.

11 Q What items were actually located at --- I guess
12 that you documented as number (5) and (6)?

13 A That would be two fired rifle cartridges
14 headstamped ELO.

15 Q Let's see if I can find that. State's 180, is
16 that a close up?

17 A Correct.

18 Q Of that cartridge, as well, or is that --- I'm
19 sorry, a live round?

20 A Cartridge.

21 Q Okay.

22 A Fired round.

23 Q And then, again, Marker (6) is showing it up
24 closer up in 188, a little closer. So you actually
25 found a number of different types of ammunition in

1 this room?

2 A Yes, ma'am.

3 Q I'm going to move on to State's 183 and 184.

4 What is contained in these photographs?

5 A That is a Columbia Farms ID for Lorenzo Young and
6 a lanyard attached to it, as well.

7 Q So this was some identifying information with
8 respect to Mr. Young that you located?

9 A Yes, ma'am.

10 Q And it was for Columbia Farms?

11 A Yes, ma'am.

12 Q Was that located on the dresser area or where?

13 A On top of the dresser right here marked number
14 (6).

15 Q The dresser where some of the ---

16 A Shell casings were.

17 Q --- shell casings were found. Moving to Marker
18 (7), which I believe --- where is that located in our
19 diagram here? Is that beside the bed area?

20 A Beside the bed area right in front of the wall.

21 Q And in Marker number(7), I'll show you far away,
22 State's 186 what were you actually documenting at
23 Marker number (7)?

24 A The pocketbook.

25 Q A pocketbook that was found?

1 A Right.

2 Q In that pocketbook --- is that the pocketbook in
3 State's 190?

4 A Correct.

5 Q Whose identification have you indicated there?

6 A I can't see it.

7 Q Is Coleman listed?

8 A I can see Coleman, but I can't see the first
9 name.

10 Q It's definitely a female's purse?

11 A Right.

12 Q With a driver's license and Coleman indicated.

13 Q Then moving to State's 191, is that inside the
14 purse?

15 A Yes. It is.

16 Q And we'll move --- what exactly are you
17 documenting inside the purse?

18 A A ---

19 Q In State's 192?

20 A A Glock magazine.

21 Q A Glock magazine?

22 A Yes, ma'am.

23 Q What exactly is a Glock magazine?

24 A It's a magazine that holds a firearm, unfired
25 shell casings, for a pistol.

1 Q For a pistol? In this one, was that actually
2 loaded at the time or was it empty?

3 A It was empty.

4 Q And that item was ultimately collected by you?

5 A Correct.

6 Q And the magazine was found in Ms. Coleman's
7 purse?

8 A Yes, ma'am.

9 Q And I believe you documented --- I don't know
10 what portion of the magazine that's called, but
11 State's 193. What do we see?

12 A Yeah, that's part of the magazine showing it is a
13 Glock magazine.

14 Q Okay. And then moving to Marker (8), where is
15 that indicated on our diagram? Actually, I don't know
16 that it is.

17 That's because that's the parents' bedroom with
18 the shoes.

19 A Yes.

20 Q My apologies. And in State's 194 and 195 and
21 those shoes were pointed out to you by investigators?

22 A Correct.

23 Q Moving to Marker number (9) which you noted,
24 where is this on our diagram?

25 A This would be under the bed.

1 Q What do you we see in 196 and 197 at Marker (9)?

2 A A pair of black tennis shoes.

3 Q And those were just collected. When you arrive
4 at the scene, do you necessarily know what will be
5 pertinent to an investigation later down the road?

6 A No, I sure don't.

7 Q And then in Marker (10) --- actually, I want to
8 say Markers (10) --- what do you see in State's 199
9 and 200, what were you're actually noting there?

10 A Okay. That was the Visa debit card that was
11 there with a name on it.

12 Q And what's the name on that card?

13 A Lorenzo Young.

14 Q Lorenzo Young. So you found identifying
15 information for a Ms. Coleman and Mr. Young ---

16 A Correct.

17 Q --- in this room. Marker (12), what did you
18 document at Marker number (12) and where was that
19 located?

20 A That was a shoe box that was located in the
21 closet here between the two bedrooms.

22 Q So that closet is actually over here?

23 A No. It's ---

24 Q --- this closet over here.

25 A Yes.

1 Q And again, just more shoes that were as
2 documented in the residence?

3 A No, actually that was a manila envelope with
4 Lorenzo Young's name on it.

5 Q Oh, another with paperwork and things of that
6 nature. Moving to State's --- Marker (14) and State's
7 210 and 211, what is at Marker (14)?

8 A It is a San Disk thumb drive.

9 Q And on this we see a number of items on the
10 dresser to include, I guess, baby lotion and things of
11 that nature, as well?

12 A Correct.

13 Q Moving to Marker (15) in State's 212 and 215,
14 what was that?

15 A That is a little camcorder, a JVC camcorder that
16 was located on the dresser right here.

17 Q And you documented that item, as well?

18 A Correct.

19 Q And moving to Marker (16), let me show you in
20 State's 216, what was that item?

21 A That is a laptop that was under some paperwork
22 here on the dresser, as well.

23 Q And then at Marker (17) and --- I'm going to show
24 you State's 218 and 219, what is that Marker (17) that
25 you're documenting here?

1 A That is a cell phone.

2 Q A cell phone?

3 A Correct.

4 Q And again, phones sometimes may become important
5 in an investigation. You don't really know?

6 A Right.

7 Q But those are often items that are collected and
8 documented by a crime scene investigators, right?

9 A Correct.

10 Q And Marker (18), was there actually another cell
11 phone located?

12 A Yes, ma'am, there is.

13 Q Okay. Is that documented in State's 220 and 221?
14 That's a different cell phone?

15 A Correct. The first one, I believe, was located
16 on this dresser over here, and the second one was over
17 here.

18 Q Okay. And outside of those items, was anything
19 else documented in that room?

20 A No.

21 Q While you were in that room, did you also note
22 that there was kind of a crib or basinet, as well?

23 A I don't believe --- I don't remember that it was
24 in this room. I remember that it was in this room
25 right here. I could be mistaken. I'd have to look at

1 my photos again. I'd have to recall.

2 Q Okay. But there was a crib located in that home?

3 A Yes.

4 Q Okay. You can have a seat.

5 Q The items that we just went through, did you
6 actually collect those items?

7 A Yes, ma'am, I did.

8 Q I'll go through them and show you State's 174. I
9 don't know if you want gloves for this?

10 A Yeah, please.

11 Q Excuse me, State's 374. They may be a little
12 small. Sorry, I think they're for smaller sized
13 hands.

14 A These are Nike shoes.

15 Q Okay. Are those the Nike shoes that you
16 collected?

17 A Yes, ma'am.

18 MS. SIMPSON: Okay. Your Honor, at this time,
19 I'd offer State's 374 into evidence.

20 MS. BAMBACH: We would renew our previous
21 objection.

22 MR. SCHNEE: No objection.

23 THE COURT: Those are admitted over objection.

24 (WHEREUPON, State's Exhibit Number 374 was
25 admitted into evidence.)

1 BY MS. SIMPSON:

2 Q Okay. Let me show you what's been marked as
3 State's 369. Do you recognize that, as well?

4 A Yes, I do.

5 Q Okay. And what is that item?

6 A One pair of clean shoes.

7 Q And that would be one of the pairs that you
8 collected?

9 A Correct.

10 Q And documented in the photographs that we just
11 saw?

12 A Correct.

13 MS. SIMPSON: Your Honor, at this time we would
14 offer State's 369 into evidence.

15 MS. BAMBACH: We renew our previous objection.

16 MR. SCHNEE: No objection.

17 THE COURT: All right. Admitted.

18 (WHEREUPON, State's Exhibit Number 369 was
19 admitted into evidence.)

20 BY MS. SIMPSON:

21 Q And then State's 377, I believe we actually have
22 three cell phones located in State's 377?

23 A Correct.

24 Q And are those items that you collected from the
25 residence, as well?

1 A Yes, ma'am.

2 Q Again, do you actually conduct any phone
3 examinations or determine what items will be tested in
4 a certain case down the road?

5 A No, I sure don't.

6 Q When you collect these items are they properly
7 collected?

8 A Correct.

9 Q And when they're bagged and in your custody, are
10 they tampered or altered in any way?

11 A No, ma'am.

12 Q Moving to State's 375, do you recognize the items
13 in State's 375?

14 A Yes, ma'am, I do.

15 Q Okay. What are those items?

16 A That's a plastic cup with a part of the
17 ammunition box that holds the bullets.

18 MS. SIMPSON: And, Your Honor at this time I
19 would offer State's 375 into evidence.

20 MS. BAMBACH: I would renew our previous
21 objection.

22 MR. SCHNEE: No objection.

23 THE COURT: Very well. State's 375 is in.

24 (WHEREUPON, State's Exhibit Number 375 was
25 admitted into evidence.)

1 BY MS. SIMPSON:

2 Q Okay. Is this the cup and --- what is this?

3 A It's a cartridge holder that goes inside of an
4 ammunition box.

5 Q And that was actually found under the bed, and
6 we'll get to the rounds that were found, as well, but
7 that's the cup and the tray?

8 A Correct.

9 Q And then State's 1 --- excuse me, 373, do you
10 recognize these items and there are several items
11 contained in 373.

12 A Yes, ma'am, I do.

13 Q Are those some of the items that you collected
14 for this case?

15 A Yes, ma'am.

16 MS. SIMPSON: Your Honor, at this time, I would
17 offer State's 373 into evidence,

18 MS. BAMBACH: Renew our previous objection.

19 MR. SCHNEE: No objection.

20 (WHEREUPON, State's Exhibit Number 373 was
21 admitted into evidence.)

22 THE COURT: Admitted over objection, 373. Go
23 ahead.

24 BY MS. SIMPSON:

25 Q In this you have one nine millimeter cartridge,

1 correct?

2 A Yes, ma'am.

3 Q And then two rifle rounds that have actually been
4 spent?

5 A Correct.

6 Q And those were documented in your photographs?

7 A Yes, ma'am.

8 Q Moving to State's 380 --- 368, do you recognize
9 these items?

10 A Yes, ma'am, I do.

11 Q And what are those items?

12 A That --- they've got them sealed so --- let me
13 see that again.

14 Q And certain items are sent for testing, so it is
15 not your original packaging, correct?.

16 A Yes, they're what confused me. This is SLED
17 packaging. They're black gloves.

18 Q And these are the gloves that you located in that
19 CIROC box that's documented in the photos?

20 A Yes.

21 Q And they're actually wrapped up at this point.
22 Can you go ahead and open one of these? So black
23 gloves and you found several pairs?

24 A Correct.

25 Q I believe a total --- well, a number of gloves,

1 maybe five, six black gloves, one more if you can show
2 it, just show it to the jury and based on their
3 packaging it looks as though those items went to SLED
4 for testing.

5 A Correct.

6 Q And the others located in this bag are similar in
7 nature?

8 A Yes, ma'am.

9 Q Okay. I'm going to show you State's 401 and ---
10 371. Do you recognize these items?

11 A Yes, ma'am, I do.

12 Q And what are those?

13 A Unfired cartridges.

14 Q And are these the unfired cartridges that you
15 collected, I believe, from the dresser area?

16 A Yes, ma'am, they are.

17 MS. SIMPSON: Your Honor, at this time I would
18 offer State's 401, as well as 371.

19 MS. BAMBACH: We renew our previous objection.

20 MR. SCHNEE: No objection.

21 THE COURT: 401 and 371.

22 (WHEREUPON, State's Exhibit Numbers 401 and 371
23 were admitted into evidence.)

24 BY MS. SIMPSON:

25 Q And in State's 401, which live round is this?

1 A That is a Smith and Wesson 40 caliber headstamped
2 ELO.

3 Q Okay. So this is the actual round that you
4 found?

5 A Yes, ma'am.

6 Q For a 40 caliber?

7 A Yes, ma'am.

8 Q And then in State's 371, what is that?

9 A This is a 40 caliber Smith and Wesson headstamped
10 ELO.

11 Q So this is also for a 40 caliber, so similar?

12 A Yes, ma'am.

13 Q Same headstamp and that was located in the
14 dresser area, as well?

15 A Yes, ma'am.

16 Q And then I'm going to show you State's 372. Do
17 you recognize that item?

18 A Yes, ma'am.

19 Q What is that?

20 A That is the actual box, the unfired cartridge
21 container that was under the bed. It's for a 45 GAP,
22 165 grain bullets.

23 Q Okay. So this is the actual box for a 45 GAP,
24 165, what did you say?

25 A 165 grain bullet.

1 Q Grain bullet, and was this box empty when you
2 located it?

3 A Yes, ma'am.

4 Q Let me show you State's 370. Do you recognize
5 that item?

6 A Yes, ma'am.

7 Q And what is that?

8 A That's a 45 GAP live round.

9 Q 45 GAP live round?

10 A Yeah.

11 Q Okay. And that was located, I believe, in the
12 cup maybe in the bedroom?

13 A Yes, ma'am, in the cup.

14 Q And the headstamp on that reads?

15 A It reads a 45 GAP C.B.C.

16 Q Okay. And so that is also what was located in
17 Lorenzo Young and Rolanda Coleman's room?

18 A Correct.

19 Q Or Ms. Coleman's room.

20 A Correct.

21 Q Finally, I'm going to show you State's 376. Do
22 you recognize that?

23 A Yes, I do.

24 Q And what is State's 376?

25 A That is a block magazine for a 40 caliber.

1 MS. SIMPSON: Your Honor, at this time I would
2 offer State's 376 into evidence.

3 MS. BAMBACH: We renew our previous objection.

4 MR. SCHNEE: No objection.

5 THE COURT: All right. That's admitted.

6 (WHEREUPON, State's Exhibit Number 376 was
7 admitted into evidence.)

8 BY MS. SIMPSON:

9 Q And with respect to the item I just showed you, I
10 believe the --- we'll come back to that in just a
11 moment. State's 376, this is the Glock magazine that
12 you located in the purse?

13 A Correct.

14 Q And this actually contains or people put the
15 cartridges or live rounds, bullets essentially, as a
16 lay person ---

17 A Correct.

18 Q --- in this magazine?

19 A Yes, ma'am.

20 Q And that magazine then goes into a Glock weapon?

21 A Yes, ma'am.

22 MS. SIMPSON: And, Your Honor, at this time, I
23 would move State's 375 into evidence, which would be
24 the 45 GAP live round that he just testified to.

25 MS. BAMBACH: We renew our previous objection.

1 MR. SCHNEE: No objection.

2 THE COURT: All right. Admitted.

3 (WHEREUPON, State's Exhibit Number 370 and 375
4 were admitted into evidence.)

5 MS. SIMPSON: Your Honor, at this time I'd move
6 the cell phones located in 377 into evidence, as well
7 as 370.

8 THE COURT: 370?

9 Your Honor, I'd offer 370 into evidence as well.

10 MS. BAMBACH: Renew our previous objection.

11 MR. SCHNEE: No objection.

12 THE COURT: All right. 370 and 377 are in over
13 objection.

14 BY MS. SIMPSON:

15 Q Now, once you finished, I guess, processing this
16 scene and collecting these items, I'm again --- were
17 they properly sealed and packaged?

18 A Yes, ma'am, they were.

19 Q And what did you do with those items?

20 A Once I and package those items, I actually turn
21 them into our evidence locker. If it's after hours, I
22 drop them in a locker and put a lock on the locker and
23 they come in the next morning.

24 Q And with respect to the investigation, was that
25 the extent of your involvement in this case?

1 A Yes, ma'am.

2 Q You didn't process any other scenes ---

3 A No, ma'am.

4 Q --- with respect to this case. And the
5 investigators decide what ultimately to test?

6 A Correct.

7 Q You don't actually do any of the testing or
8 analysis yourself?

9 A No, ma'am, I sure don't.

10 MS. SIMPSON: Beg the Court's indulgence. Thank
11 you, investigator.

12 THE COURT: Approach real quick.

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

16 THE COURT: All right. We'll finish up this
17 witness and take a break. Bear with us a few minutes.
18 Cross-examination?

19 MS. BAMBACH: Thank you, Your Honor. May it
20 please the Court.

21 CROSS-EXAMINATION:

22 BY MS. BAMBACH:

23 Q Investigator Gaston, you found two pairs of shoes
24 at Bronx Road, right?

25 A Right.

1 Q And you said one was in Lorenzo's room and one
2 pair was in the parent's bedroom?

3 A Correct.

4 Q And did you know what size the shoes were on your
5 report?

6 A I did not notate them on my report. I did not.

7 Q Do you have a copy of your report with you?

8 A Yes, ma'am, I sure do.

9 Q Numbers, well, eight and nine, the pair of Puma
10 shoes and Nike shoes?

11 A Yes, I'm sorry.

12 Q Size 12?

13 A Yes, they both say size 12.

14 Q Okay.

15 A Correct, I apologize.

16 Q Would it surprise you to know that one of
17 Lorenzo's parents wears a size 12?

18 A Ma'am, I'm sorry, I didn't hear you.

19 Q Would it surprise you to hear that one of
20 Lorenzo's parents, his stepfather, wears a size 12?

21 A I had no clue.

22 Q Would it surprise you to know that Lorenzo wears
23 a size ten?

24 A I was unaware of what size he wore.

25 MS. BAMBACH: Thank you.

1 THE COURT: Mr. Schnee?

2 MR. SCHNEE: Very briefly.

3 THE COURT: Sure.

4 CROSS-EXAMINATION:

5 BY MR. SCHNEE:

6 Q Now, if I'm understanding your testimony
7 correctly, you were the one that physically collected
8 all this evidence?

9 A Right.

10 Q You didn't actually perform the search of the
11 house, did you?

12 A No, sir, I didn't.

13 Q So you didn't actually take out these items?

14 A No, sir, I didn't.

15 Q Who did that?

16 A The investigators.

17 Q Do you know which investigators?

18 A No, sir, there was a numerous amount of
19 investigators out there.

20 Q So you don't know who actually located these
21 items or where they were located before you got there?

22 A No, sir.

23 MR. SCHNEE: All right. No further questions.

24 MS. SIMPSON: Just briefly.

25 REDIRECT EXAMINATION:

1 BY MS. SIMPSON:

2 Q Investigator Gaston, you were actually there not
3 as an initial crime scene responder, but at the
4 execution of a search warrant, correct?

5 A I arrived after the execution of the search
6 warrant.

7 Q So you assisted in documenting things that were
8 located during the execution of a search warrant?

9 A Correct.

10 MS. SIMPSON: Nothing further, Your Honor.

11 MS. BAMBACH: I have no questions.

12 MR. SCHNEE: No, Your Honor.

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

15 THE WITNESS: Thank you.

16 THE COURT: Okay. Ladies and gentlemen. It's a
17 good time to take our morning break. We've been going
18 for about an hour-and-a-half. I appreciate your
19 patience with finishing that witness up. You can go
20 ahead. Thank you. I appreciate it.

21 All right. I'm going to order you lunch today.
22 Okay. Now, we are very limited in our choices, but
23 the clerk's office is going to give you a menu that
24 you can order lunch from the restaurant. We do that
25 for a couple of reasons. Number one, I can take a

1 shorter lunch break if everybody doesn't have to go
2 out and come back in. Number two, I can't do much
3 more you other than help you by buying your lunch
4 sometimes, so you'll get a menu. If you'll go ahead
5 order. We'll work up until lunch gets here, and then
6 we'll probably take about 45 minutes for lunch.
7 During that time if anybody needs to go outside,
8 stretch their legs, smoke or anything like that,
9 you'll be allowed to do that. We'll keep a shorter
10 lunch break today so we can get as much done as
11 possible.

12 All right. Do not discuss the case. Keep an
13 open mind. We'll see you back in about ten minutes or
14 so. Thank you very much.

15 (WHEREUPON, the jury left the courtroom at 10:51
16 A.M.)

17 THE COURT: All right. Let's take about a ten
18 minute break or so.

19 (WHEREUPON, a short break was taken.)

20 THE COURT: All right. Everybody ready?

21 MS. SIMPSON: State's ready.

22 MS. CAMPBELL: One housekeeping matter.

23 Apparently in the last witness there were references
24 to items 362 and 368. Those were not moved in. I
25 would move them in at this point. They have the same

1 objection.

2 MR. KRZYSTON: Yes, Your Honor. We would be
3 maintaining our other objections.

4 MR. SCHNEE: I have no objection.

5 THE COURT: 362 and 368 are in.

6 (WHEREUPON, State's Exhibit Numbers 362 and 368
7 were admitted into evidence.)

8 (WHEREUPON, the jury entered the courtroom at
9 11:12 A.M.)

10 THE BAILIFF: The jury panel is present, Judge.

11 THE COURT: All right. Thank you. Welcome back.
12 Call your next witness.

13 MS. CAMPBELL: May it please the Court. The
14 State calls Ila Simmons.

15 THE COURT: Simmons?

16 MS. CAMPBELL: Yes, sir, from SLED.

17 ILA SIMMONS,

18 after being duly sworn, testified as follows:

19 THE CLERK: Thank you very much. Take a seat in
20 the witness stand. State your full name for the
21 record and spell your last name, please.

22 THE WITNESS: My name is Ila Simmons. My last
23 name is spelled S-I-M-M-O-N-S.

24 DIRECT EXAMINATION:

25 BY MS. CAMPBELL:

1 Q Ma'am, where are you're currently employed?

2 A I am retired from the South Carolina Law
3 Enforcement Division also known as SLED's forensic
4 services laboratory trace evidence department.

5 Q And as a former member of the trace evidence
6 department, what did your duties include?

7 A We analyzed gun shot residues, gun powder
8 residues, we performed comparisons of glass,
9 automotive paints, as well as fibers and we also
10 analyzed explosives and arson debris.

11 Q Can you tell this jury a little bit about your
12 education and training in your field of trace
13 evidence?

14 A I received a bachelor of science degree in
15 chemistry. After completing that I went to work at
16 SLED and for the first three years that I was employed
17 there I worked with a court qualified SLED certified
18 trace evidence examiner. During that time I had to
19 take written and practical examinations and complete
20 them all with 100 efficiency. After completing those,
21 I was then being qualified by SLED to analyze trace
22 evidence. I am a member of the Southern Association
23 of Forensic Science. I am also a member of the FBI
24 symposium where the FBI has invited GSR analysts from
25 around the world to go and set up the standards and

1 practices that would be used by everyone in analysis
2 of gunshot residue.

3 Q Is SLED's lab accredited in any way?

4 A Yes, ma'am, it is.

5 Q And what agency actually accredits that
6 laboratory?

7 A At the time that this analysis was performed it
8 was A.S.C.L.D., the American Society of Crime Lab
9 Directors. We are now also accredited by ISO, which
10 is the International Standard Organization.

11 Q Have you been qualified before as an expert in
12 the field of trace evidence?

13 A Yes, ma'am, I have.

14 Q And specifically for this case as to gun shot
15 residue?

16 A Yes, ma'am, over 250 times in Federal, General
17 Sessions and civil courts in South Carolina.

18 MS. CAMPBELL: Your Honor, at this time we would
19 offer her as an expert.

20 THE COURT: In the area of trace evidence and
21 gunshot residue?

22 MS. CAMPBELL: Yes, sir.

23 THE COURT: Voir dire?

24 MS. BAMBACH: No questions.

25 THE COURT: Voir dire?

1 MR. SCHNEE: No questions, no objections.

2 THE COURT: All right. Thank you very much.

3 Ladies and gentlemen, this witness will be qualified
4 as an expert in the area of trace evidence and gunshot
5 residue. As I told you before, normally a person
6 cannot give opinion testimony. They're required to
7 talk about what they heard, smelled, did, said, saw,
8 things of that nature. However, this witness because
9 of education and experience will be allowed to give
10 opinion in the area of trace evidence and gunshot
11 residue. Now, just because she is allowed to give
12 opinion testimony in that area does not mean you have
13 to accept her opinion. It is evidence for you to use
14 in any way you see fit and to give it the weight and
15 credibility you see appropriate as you are required to
16 do with each and every witness that testifies before
17 you.

18 MS. CAMPBELL: Thank you.

19 THE COURT: Ms. Campbell.

20 BY MS. CAMPBELL:

21 Q Ms. Simmons, typically when you're doing gunshot
22 residue testing, what type of evidence do you
23 typically get in a case?

24 A We get a standardized gunshot residue kit and we
25 also sometimes receive clothing.

1 Q In this case when you're talking about a standard
2 gunshot residue kit, what does that mean?

3 A That is taken from the hands, the skin of
4 someone.

5 Q Okay. How that typically collected from a
6 person?

7 A It is collected with a small amount of nitric
8 acid on cotton swabs, as well as a piece of double
9 sided sticky that is dabbed over the hands of the
10 person from whom it's being collected.

11 Q Is there a time period within which a person that
12 shoots a gun --- in which that test is no longer
13 valid?

14 A Yes, ma'am.

15 Q In what time period does that test need to be
16 collected in order for it to have any probative value
17 as to whether or not a person has handled or fired a
18 gun?

19 A It has to be within six hours of the shooting
20 incident.

21 Q So if a person gets away from a crime scene and
22 is gone in excess of six hours, say five days later
23 they're arrested, would it be probative of anything to
24 do a gunshot residue kit at that point?

25 A No, ma'am, according to the studies that we've

1 conducted and studies that have published throughout
2 the world, gunshot residue does not remain on
3 somebody's hands for more than six hours after a
4 shooting incident.

5 Q How would you characterize gunshot residue
6 especially on a living person?

7 A It has the consistency of flour. It's very
8 light, very easily removed. If someone were to wash
9 their hands or shower, even sweat profusely, or use
10 hand sanitizer, that can all remove the gunshot
11 residue easily.

12 Q In fact, even if someone had collected gunshot
13 residue from a subject or a defendant in a case some
14 four or five days later, would you even agree to test
15 in your lab?

16 A No, ma'am.

17 Q That would be against the policy?

18 A Yes, ma'am.

19 Q For the reasons you just stated?

20 A Yes, ma'am.

21 Q But with clothing, can gunshot residue stay for a
22 longer period of time?

23 A Yes, ma'am, indefinitely.

24 Q Indefinitely?

25 A Yes, ma'am.

1 Q And what types of --- if clothing is subjected
2 though to being washed or something of the nature, can
3 that affect your ability to get gunshot residue?

4 A Yes, ma'am, if the clothing is washed, generally
5 the gunshot residue will be washed away.

6 Q When you're looking for gunshot residue and this
7 in this case, we're going to talk about some gloves
8 that were submitted to you, how do you do your testing
9 and what are you looking for?

10 A We are looking --- gunshot residue is a mixture
11 of microscopic chemicals that come out of a gun when
12 it discharges. It can get on anything within about
13 three feet of the gun including the hands of the
14 person shooting the gun. In this particular case, I
15 received some gloves to analyze. I took piece of
16 double sided sticky tape. I attached it to an
17 aluminum handle so that my hands were never touching
18 the gloves, only the double sided sticky tape. Once
19 the sticky tape was collected, I then analyzed it
20 using a scanning electron microscope, which can see
21 down a 100,000 times greater than the human eye can
22 see because the gunshot residue particles you're
23 looking for, you can fit about 100 across a hand.
24 This instrument, this scanning electron microscope can
25 see these particles, tell us what shape, what size and

1 elements are present. When you find a particle that
2 is round and contains lead, barium and antimony, it is
3 specific to a discharge of a firearm and only
4 discharging a firearm. It's never been found in
5 nature or manmade anywhere else other than from the
6 discharge of a firearm.

7 Q I want to talk about what was submitted in this
8 case. You mentioned a minute ago that basically how
9 the gunshot residue gets on a person or on their hands
10 or their clothing, is there is a cloud that comes out
11 when a gunshot is fired?

12 A Yes, ma'am.

13 Q Typically you said that's within about three
14 feet?

15 A Yes, ma'am.

16 Q Would it have been probative for you to do any
17 testing on the victim's clothing if she had been in
18 close proximity when shot?

19 A No, ma'am. You would expect that about 85
20 percent of persons sustaining a gunshot would have
21 gunshot residue on their clothing or their hands
22 simply because they're in close proximity to the gun
23 when it discharges.

24 Q In this case, however, if the person is wearing a
25 glove at the time that the gun is fired, could that be

1 probative?

2 A Yes, ma'am.

3 Q The cloud that you mentioned comes out of the gun
4 firing and if a gun is fired multiple times would you
5 expect to find gunshot residue because it would
6 basically compound itself somewhat?

7 A Yes.

8 Q I want to turn your attention to State's Exhibit
9 Number 368, and first if you recognize this?

10 A Yes, ma'am, I do. It is marked with our unique
11 identification number that is given to each case that
12 comes into our laboratory, as well as a container
13 number and item number. It is marked with my initials
14 and the date that I completed my processing of this
15 item.

16 Q And when that item was submitted to you, were all
17 of those gloves that were in there packed together?

18 A Yes, ma'am.

19 Q If it had been found in a manner such as that at
20 a crime scene, would it have been appropriate to have
21 been submitted to you in the way it was found?

22 A Yes, ma'am.

23 Q And that was done in this case?

24 A Yes, ma'am, it was.

25 Q Once you got the item, did you then separate out

1 the gloves?

2 A Yes, ma'am.

3 Q And specifically how many gloves did you actually
4 do testing on in this case?

5 A I received five gloves.

6 Q Are those gloves in there?

7 A Yes, ma'am.

8 Q Can we pull them out and show them to the jury?

9 A Certainly.

10 Q This is one of the gloves that was submitted?

11 A Yes, ma'am.

12 This is a match to the glove that was submitted.

13 THE COURT: Are all these part of the same
14 exhibit number, Ms. Campbell?

15 MS. CAMPBELL: Yes, sir, I'll put them back
16 together. I promise.

17 THE COURT: Okay. I just wanted to make sure I
18 understood that.

19 THE WITNESS: And this is another of the gloves
20 that analyzed. That's a match to that glove.

21 BY MS. CAMPBELL:

22 Q That's the last glove?

23 A Yes, ma'am, I believe that's all.

24 Q When you tested these gloves, ma'am, did you
25 separate them out to test them separately?

1 A Yes, ma'am, I did.

2 Q And I believe you mentioned a minute ago how you
3 actually did testing in this case. Can you tell the
4 jury about that one more time?

5 A Uh-huh. I took a double sided piece of sticky
6 tape, placed it on a handle and dabbed it over the
7 different areas of the gloves. I would have taken a
8 sample from the palm and back of the glove and they
9 would have been two separate samples.

10 Q I want to show your what's being marked as
11 State's Exhibit 389. To you recognize that?

12 A Yes, ma'am, I do. These are the particle lifts
13 or the double sided sticky tape that I took from each
14 of the gloves.

15 MS. CAMPBELL: Your Honor, at this time we would
16 offer State's Exhibit 389 into evidence.

17 THE COURT: What number?

18 MS. CAMPBELL: 389.

19 MS. BAMBACH: We would renew our previous
20 objection.

21 THE COURT: Is that what she tested?

22 MS. CAMPBELL: This is the actual particle that
23 she took from each glove.

24 MR. SCHNEE: No objection.

25 THE COURT: All right. Over defense objection.

1 (WHEREUPON, State's Exhibit Number 389 was
2 admitted into evidence.)

3 BY MS. CAMPBELL:

4 Q You mentioned you would take a lift, one from the
5 front and one from the back?

6 A Yes, ma'am.

7 Q Taking the gloves in whatever order you think is
8 appropriate what were your findings when you did the
9 testing as far as gunshot residue?

10 A I found that gunshot residue was found on the
11 gloves.

12 Q On each and every glove?

13 A Yes, ma'am, particles of gunshot residue was
14 found.

15 Q And in your experience, what does that indicate
16 to you as far as where these gloves were in proximity
17 when a gun was perhaps fired?

18 A They were within three feet of the gun when it
19 was discharged.

20 Q And you can't tell the jury how long it had been
21 since they had been within three feet of when a gun
22 was discharged?

23 A No, ma'am.

24 Q Because it can, as you mentioned, stay on there
25 for a long time?

1 A Yes, ma'am.

2 Q But each of these gloves had gunshot residue on
3 them?

4 A Yes, ma'am.

5 Q And being packaged together, you could not
6 eliminate the fact that gunshot residue may have been
7 on one and then transferred to another?

8 A That is a possibility.

9 Q Or each of them may have been in proximity within
10 three feet of when a gun was fired?

11 A That's correct.

12 Q Or one or more?

13 A Yes, ma'am.

14 Q But there's no question that each of them tested
15 positive for gunshot residue?

16 A Yes, ma'am, that's correct.

17 MS. CAMPBELL: Thank you, ma'am. I don't have
18 anything further.

19 THE COURT: Cross?

20 MS. BAMBACH: Thank you, Your Honor.

21 CROSS EXAMINATION:

22 BY MS. BAMBACH:

23 Q Ms. Simmons, your involvement with this case
24 began when you received the gloves to test, right?

25 A Yes, ma'am.

1 Q So you haven't seen the surveillance video of the
2 shooting?

3 A No, ma'am.

4 Q Do you have your report with you?

5 A I do.

6 Q So there were five gloves in the report, right?

7 A Yes, ma'am.

8 Q And that's 40, 41, 42, 43, 44, correct?

9 A (There was no response.)

10 Q I'm on page two of your report.

11 A Yes, ma'am.

12 Q So that's two black leather gloves, two gray and
13 black cloth gloves and one neon yellow and black cloth
14 glove?

15 A That's correct.

16 THE COURT: Those numbers that you just read out,
17 Ms. Bambach, those are numbers given to it by SLED in
18 your SLED report?

19 THE WITNESS: That's correct.

20 THE COURT: Those are not evidence numbers.
21 Those are just numbers that SLED assigns when it comes
22 in to keep track of what's what.

23 THE WITNESS: Yes, sir.

24 THE COURT: Okay.

25 BY MS. BAMBACH:

1 Q I just have a few general questions about gunshot
2 residue. So you said it has a flour-like consistency,
3 right?

4 A Yes, ma'am.

5 Q Something kind of like powder?

6 A Yes, ma'am.

7 Q Because of that, you said it is easily
8 transferable, right?

9 A Yes.

10 Q And when you got all the gloves, they were
11 packaged together, right?

12 A That's correct.

13 Q So they were all touching each other when you got
14 them?

15 A Yes, they could have all touched each other.

16 Q And gunshot residue can come from firing a
17 weapon, right?

18 A Yes, ma'am.

19 Q It can also come from being in the vicinity of
20 the discharge of a firearm, correct?

21 A That's correct.

22 Q It can also come from being in contact with a
23 surface that has gunshot residue on it?

24 A Yes, ma'am.

25 Q Gunshot residue can't tell you what gun produced

1 the residue, right?

2 A No, ma'am, it cannot.

3 Q It can't tell you where the gun was fired?

4 A Just within a three feet proximity, yes.

5 Q But it could also come from coming in contact
6 with something that has discharged a firearm?

7 A That is possibility, yes.

8 Q It can't tell you when a gun was fired, right?

9 A No.

10 Q If you found gunshot residue on one of the
11 gloves, it could have been from a shooting one day
12 before, right?

13 A Yes, ma'am.

14 Q It could have been from a year ago?

15 A That is a possibility.

16 Q It could have even been from 100 years ago?

17 A It's a possibility if it hadn't been washed or
18 laundered.

19 MS. BAMBACH: I have nothing further.

20 MR. SCHNEE: May it please the Court.

21 THE COURT: Yes, sir.

22 CROSS-EXAMINATION:

23 BY MR. SCHNEE:

24 Q You tested all five gloves?

25 A Yes, sir.

1 Q Okay. So your tests --- your tests are only on
2 the outside of the gloves, right?

3 A Yes, sir.

4 Q You don't do anything with the insides?

5 A No, sir.

6 Q Would your test prevent the DNA lab from
7 analyzing the inside of the gloves?

8 A No, sir.

9 Q Do you know if these have ever been sent to the
10 DNA lab?

11 A I'm not certain, sir.

12 Q Okay.

13 A I believe they were processed by the DNA
14 laboratory because I saw the DNA analyst's initials
15 on the outside of the bag.

16 Q Okay, so before you got them.

17 A No, after, after. I would have processed them
18 first and they would have gone to DNA because DNA can
19 disturb the gunshot residue. However, my gunshot
20 residue would not interfere with the DNA at all.

21 Q After you did your test, based on what you see on
22 those records, they were sent to DNA?

23 A Possibly, yes, sir.

24 MR. SCHNEE: Okay. Thank you.

25 THE COURT: Ms. Campbell?

1 MS. CAMPBELL: Nothing.

2 THE COURT: Have a nice day, ma'am.

3 THE WITNESS: Yes, sir.

4 Does the next witness deal with the gloves?

5 MS. SIMPSON: No, Your Honor.

6 THE COURT: Can we get those gloves back in that
7 box so we can keep track of what's what.

8 MS. CAMPBELL: I apologize, Your Honor.

9 THE COURT: That's okay. You can call your next
10 witness.

11 MS. SIMPSON: Your Honor, may we approach briefly
12 with regard to the next witness?

13 THE COURT: Yes, ma'am.

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

17 THE COURT: All right. Ladies and gentlemen,
18 we're going to take a quick break. It won't be too
19 long. Just return to your jury room. Don't discuss
20 the case. Keep an open mind. It shouldn't be too
21 long at all. Thank you very much.

22 (WHEREUPON, the jury left the courtroom at 11:32
23 A.M.)

24 THE COURT: Okay. What's the record?

25 MS. SIMPSON: Yes, Your Honor. From 2007 he

1 has --- and this is what I believe would be
2 impeachable, assault and battery of a high and
3 aggravated nature and then with respect to 2000, he
4 did receive seven years. Looks like that may fall
5 within the timeframe or a percentage for burglary non
6 violent second degree and commonlaw strong armed
7 robbery.

8 THE COURT: Okay. Anything else, Ms. Pinnock?
9 Does he have any pending charges?

10 MS. SIMPSON: He does, Your Honor. He is
11 currently charge with murder, 30 to life, as well as -
12 -- I believe, it's just murder.

13 MS. PINNOCK: He's got murder and kidnapping,
14 Your Honor.

15 MS. SIMPSON: Kidnapping.
16 Anything else, Ms. Pinnock?

17 MS. PINNOCK: Yeah, the way I see it, he has a
18 few burglary convictions or a few different
19 convictions for strong armed robbery that were all
20 from the same sentence and then he also has a criminal
21 domestic violence, high and aggravated.

22 THE COURT: When was that?

23 MS. PINNOCK: That was a conviction in 2002 and
24 he served --- he got a three year sentence.

25 MS. SIMPSON: I believe that falls outside of the

1 timeframe.

2 THE COURT: I mean, you have to know when he was
3 released to make that decision.

4 MS. PINNOCK: I'm not aware of his release date,
5 but it was --- a CDV/HAN, the first year is day for
6 day and is not ---

7 MS. CAMPBELL: Even if he maxed out that
8 sentence, it would be less than 18 months.

9 THE COURT: Sixty-six.

10 MS. CAMPBELL: Sixty-five or 66 percent would be
11 18 to 20 months.

12 MR. SCHNEE: Well, the first year of CDV/HAN is
13 day for day.

14 MS. CAMPBELL: Day for day.

15 MR. SCHNEE: And then the next year would be 65
16 percent.

17 MS. CAMPBELL: I'll go check his release date.

18 THE COURT: I don't think that was law in 2002.

19 MR. SCHNEE: I'm not positive.

20 THE COURT: I'm thinking the law changed later,
21 but that's me thinking. I'm not ---

22 MS. CAMPBELL: Do you want me to go check real
23 quick?

24 THE COURT: --- I'm not real positive,

25 MR. SCHNEE: Judge, I think I can solve this.

1 I'm looking at the record. It seems he was arrested
2 for kidnapping and a few other things, and for CSC
3 first. That was in 2005, so obviously he would have
4 been out by 2005, so I think that kind of should
5 settle that closely.

6 THE COURT: That settles it for me. It's up to
7 you if you want to settle it for you.

8 MR. SCHNEE: From the release date, I would
9 anticipate that it would not be within the ten years.

10 THE COURT: Okay. So the 2007 AB/HAN and
11 the 2002 burglary and strong armed robbery and the
12 pending charge are in. The only issue is the CDV/HAN.

13 THE COURT: Do you agree that, Ms. Pinnock?

14 MS. PINNOCK: Yes, Your Honor.

15 THE COURT: Mr. Schnee?

16 MR. SCHNEE: Yes, sir, and pending charges.

17 THE COURT: Oh, and I said pending.

18 MR. SCHNEE: I'm sorry.

19 MS. SIMPSON: So we agree the 87 assault and
20 battery of a high and aggravated nature, one burglary
21 second non-violent, and strong armed robbery.

22 THE COURT: Right.

23 MS. SIMPSON: And the pending charges.

24 THE COURT: And the pending charges.

25 MS. SIMPSON: And, Your Honor, this is the

1 witness to the --- and we probably want to go ahead
2 and bring him in. I spoke with Mr. Li, his attorney
3 who is present here. He has advised him regarding the
4 defense counsel's issue with the representation,
5 however, he needs to be advised again I think by Your
6 Honor.

7 THE COURT: Okay. Go ahead and bring him in.
8 Remind me of the issue. You represented him for just
9 like ---

10 MR. KRZYSTON: A very brief time. A number of
11 hours, I think.

12 MR. LI: I'll advise him one more time.

13 THE COURT: Thank you, Mr. Li.

14 MS. SIMPSON: And also, Your Honor, he doesn't
15 really reference gang activity within his letter.
16 However, I have not spoken with him directly, so you
17 may want to advise him ---

18 THE COURT: Okay.

19 MS. SIMPSON: --- about no gang stuff or mention
20 that Mr. Young was actually out on bond as a
21 precautionary measure.

22 THE COURT: All right. Mr. Peterson.

23 THE WITNESS: Yes, sir.

24 THE COURT: How are you doing?

25 THE WITNESS: I'm doing all right, sir.

1 THE COURT: Where are you coming in from?

2 THE WITNESS: The jail, Alvin S. Glenn Center.

3 THE COURT: All right. Is Mr. Li your attorney?

4 THE WITNESS: Yes, sir.

5 THE COURT: And you have some pending charges; is
6 that right?

7 THE WITNESS: Yes, sir.

8 THE COURT: Okay. Now, first thing and I'm just
9 telling you out of an abundance of caution, I don't
10 even know what you're supposed to testify to, okay.

11 THE WITNESS: Yes, sir.

12 THE COURT: So this is just me warning you out of
13 an abundance of caution. I don't want any information
14 out in front of this jury about any kind of gang
15 activity. Do you understand that?

16 THE WITNESS: Yes, sir.

17 THE COURT: I don't even know that you possess
18 that information. That's just me being overly
19 cautious. I don't want you saying anybody is in a
20 gang or this case has anything to do with a gang or
21 anything like that.

22 THE WITNESS: Yes, sir.

23 THE COURT: Can you follow that instruction?

24 THE WITNESS: Yes, sir.

25 THE COURT: Now, apparently there was some point

1 in time where Mr. Krzyston may have represented you
2 for a very brief moment. You informed them that you
3 were a witness in this case and he removed himself
4 from your case; is that correct?

5 THE WITNESS: Correct.

6 THE COURT: And none of that needs to be brought
7 up in front of the jury either. That doesn't have
8 anything to do with anything. He should have relieved
9 himself when made aware of that information. That's
10 appropriate.

11 THE WITNESS: Yes, sir.

12 THE COURT: Do you have any questions about that?

13 THE WITNESS: No, sir.

14 THE COURT: Do you believe you're able to follow
15 those instructions?

16 THE WITNESS: Yes, sir.

17 THE COURT: Mr. Li, do you have any doubt in his
18 ability to understand?

19 MR. LI: No, sir.

20 THE COURT: Just grab seat, Mr. Peterson. We're
21 checking on one thing and we'll be right with you.

22 (Pause.)

23 MS. SIMPSON: Beg the Court's indulgence one
24 moment.

25 MS. GARFIELD: Judge, just one more thing to make

1 sure the record is clean. I don't know what the
2 answer to this is, but I don't know if the defendant
3 spoke to Mr. Peterson about his other pending charges.
4 I want to make sure that's not brought up in front of
5 the jury, as well.

6 THE COURT: Okay.

7 MS. GARFIELD: He has other pending charges other
8 than these. I just didn't want ---

9 THE COURT: Don't --- I don't want you to say
10 anything that Mr. Young may have some other pending
11 charges or he was out on bond or anything like that.

12 THE WITNESS: Yes, sir.

13 THE COURT: Does that make sense?

14 THE WITNESS: Yes, sir.

15 THE COURT: Okay. What did your find out,
16 Ms. Campbell?

17 MS. CAMPBELL: It looks like it was combined with
18 maybe a probation violation, but no matter what, he
19 got out by April of 04.

20 THE COURT: All right. So the CDV/HAN is out.
21 Okay. Go ahead and bring them in.

22 (WHEREUPON, the jury entered the courtroom at
23 11:40 A.M.)

24 THE BAILIFF: The jury panel is present.

25 THE COURT: Thank you, Ms. Simpson, call your

1 next witness.

2 MS. SIMPSON: The State calls Michael Peterson.

3 THE COURT: All right. Mr. Peterson, come
4 forward and be sworn.

5 MICHAEL PETERSON,
6 after being duly sworn, testified as follows:

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

9 THE WITNESS: Have a seat?

10 THE BAILIFF: Right here. Watch your step.

11 DIRECT EXAMINATION:

12 BY MS. SIMPSON:

13 Q Mr. Peterson, can you state your full name for
14 the record so the court reporter can take it down?

15 A Michael Peterson.

16 Q How old are you, Mr. Peterson?

17 A Forty-seven.

18 Q Are you from Columbia?

19 A Yes, ma'am.

20 Q Born and raised?

21 A Yes, ma'am.

22 Q Did you go to school here?

23 A Yes, ma'am.

24 Q Where did you go to school?

25 A C.A. Johnson High School.

1 Q Did you actually finish school?

2 A Yes, I graduated.

3 Q I want to talk to you about how you know some of
4 the people involved in this case. Do you know the
5 defendant Lorenzo Young?

6 A Yes, ma'am.

7 Q Do you also know the codefendant Trenton Barnes?

8 A Yes, ma'am.

9 Q And do you know Troy Stevenson?

10 A I met him, yes.

11 Q And how do you know --- we'll start first with
12 Mr. Young?

13 A We was in the same unit and I drew a portrait of
14 his daughter for him.

15 Q So you actually do artwork and things of that
16 nature?

17 A Yes.

18 Q And you say you were in the same unit. What do
19 you mean by that?

20 A We was in the Juliette unit.

21 Q So you were incarcerated together?

22 A Yes, we was incarcerated together at Alvin S.
23 Glenn.

24 Q And at some point during your time with
25 Mr. Young, did you all have a conversation about the

1 murder case?

2 A Yes, ma'am.

3 Q Can you tell the jury how that was initiated and
4 how that occurred?

5 A Mr. Young --- somebody must have told him I do a
6 little law work because I go to the law library all
7 the time. He asked me, he said that he heard I knew a
8 lot about the law. I said, "Not really," so I said,
9 "What you need to know?" He said, "Well, we went on
10 this lick." I said that, yeah ---

11 MR. SCHNEE: Objection, Your Honor, as to the
12 same hearsay.

13 THE COURT: Overruled.

14 MR. SCHNEE: Thank you.

15 THE COURT: You may continue, Mr. Peterson.

16 BY MS. SIMPSON:

17 Q And so ---

18 A He said, "We went on this lick." I said, "Oh,
19 the bakery job on Beltline?" He says --- he
20 hesitated. I said, "Yeah, it was all over the news."
21 He said, "Yeah." He said, "We went up in the bakery.
22 It was an in and out job. They --- uh--- we --- I
23 asked the lady to give me the money, and she said the
24 money was in the back. So I said --- I said, "In the
25 back?" He said, "Yeah, in the back." He said, "We

1 went back in the back and she acted like she was using
2 her cell phone. She acted like she was using her cell
3 phone, so I thought she was trying to call the police,
4 so I started shooting." I said, "You started
5 shooting?" He said, "Yeah, I started shooting." He
6 said, "I must have got scared. I got a little scared,
7 so I started shooting," so I said --- I just shook my
8 head. He said, "Yeah, my homies must have seen the
9 blood and started running, so I turned around and
10 started running, too." I said, "Man, you didn't have
11 to kill the lady." He said, "I panicked." He said,
12 "The police don't have nothing. We had on mask and
13 gloves."

14 I said, "Man, I that's kind of bad, man. That's
15 kind of bad." He said, "Well, they don't have
16 nothing. I said, "Well, they must have had something
17 because they came and got y'all." He said, "I think
18 some people in the neighborhood told them what we had
19 on. I just kept shaking my head. I said, "Well,
20 that's pretty bad." I said, "That's kind of messed up
21 because she had small kids." I said, "With a case
22 like this here you're going to get somebody like Luck
23 Campbell. That's not good at all."

24 Q Let me back you up just a minute. He indicated
25 "we" set up this lick. At that point did he say who

1 was with him or did he just indicate "we"?

2 A Actually, he said his little homey.

3 Q His little homey?

4 A Yeah, his little homey.

5 Q One of the things he said is that the police
6 don't have anything?

7 A He said, "The police don't have anything because
8 we had on masks and gloves."

9 Q And that all they found were shell casings?

10 A Shell casings.

11 Q And so they couldn't prove anything?

12 A He said, "They can't prove nothing."

13 Q And what --- I apologize. What was his demeanor
14 like when he was telling you what was happening or
15 about this case?

16 A I mean, he was just --- acted like he was ---
17 like nothing happened really.

18 Q So he was just kind of matter of fact and
19 indifferent?

20 A Yeah, I just did that, you know. Didn't really
21 mean too much to him I don't think at the time.

22 Q And he also indicated to you that some of the
23 people in the hood or on the streets must have told
24 them about the clothes?

25 A Yes, just told him about the clothes he had on

1 that day.

2 Q Did he seem too concerned to you about what
3 evidence the police had on him?

4 A He just made it seem like they didn't really have
5 nothing but by saying they didn't have nothing but
6 shell casings.

7 Q And was that the extent of your conversation with
8 Mr. Young at that point about his case?

9 A No.

10 Q Okay. You talked further about it?

11 A Yeah, we are talked a little bit further.

12 Q Was that on the same day or a different day?

13 A Same day.

14 Q What else did he tell you?

15 A He said --- no, I had told him. I said, "Yeah,
16 you're going to get Luck Campbell." I said, "If you
17 get Luck Campbell, that's going to be real bad." I
18 said, "You're going to have to wait to see what they
19 really got because you said they didn't have nothing.
20 You're going to have to wait and see what they got.
21 He said, "Okay, thanks, Big Unc."

22 Q And you said Big Unc; is that a nickname?

23 A Yeah, that's what they call me, Big Unc or Big
24 Mike or something like that.

25 Q So you've being around there for a little while,

1 right?

2 A Yes.

3 Q And continue, what was your response or his
4 response?

5 A Went, his --- he said, "Thanks, Big Unc." I
6 said, "Yeah, man, that was messed up. The lady had
7 small kids." I said, "That was just messed up."

8 Q A few days later, did you actually go to lock up?

9 A Yes.

10 Q And how is lock up different from being, I guess,
11 in the ---

12 A The unit?

13 Q The regular units or the general population?

14 A Well, I was in the SHU, in lock up. The SHU has
15 got like bars at the door. They brought Lorenzo down
16 there for --- they call it cool down period when you
17 start trouble in the dorm.

18 MS. PINNOCK: Objection, Your Honor. Can we ---

19 THE COURT: Yes, stop talking. Approach. Talk
20 amongst yourselves. Stand up.

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

24 THE COURT: All right. Ladies and gentlemen, we
25 are back on the record. You will disregard

1 Mr. Peterson's last statement and go ahead, Ms.
2 Simpson.

3 BY MS. SIMPSON:

4 Q Okay. Without telling me why, were y'all
5 together, I guess, in lock-up for a period? Was
6 someone else involved in this case there, as well?

7 A Yes. Troy.

8 Q Troy?

9 A That's the name I knew at the time, Troy.

10 Q Troy, and you later learned his last name?

11 A Yes.

12 Q And tell us what occurred down there?

13 A We.

14 MS. PINNOCK: Your Honor, at this time, I would
15 object to hearsay.

16 MR. SCHNEE: I would also object to hearsay from
17 Troy, as well.

18 THE COURT: Well, he can't say what Troy said.

19 MS. SIMPSON: Your Honor, with respect to that,
20 we would argue that ---

21 MS. PINNOCK: We could object.

22 MS. SIMPSON: It's a matter of law.

23 THE COURT: All right. Step back to your jury
24 room. Do not discuss the case. Keep an open mind.

25 (WHEREUPON, the jury left the courtroom at 11:50

1 A.M.)

2 THE COURT: All right. Tell me what you
3 overheard.

4 THE WITNESS: Well, Troy --- he hollered out. He
5 said, "Lorenzo," you know, he was like in a room. He
6 was about 70 feet away from us. He said, "Lorenzo,
7 why did you and my brother go down to that bakery and
8 did that?" He said, "Man, they don't have nothing but
9 shell casings." Troy said, "Man, my mama got messed
10 up with that, too. My little brother told everything
11 and my mother got messed up, too. The only way my
12 mother got out of it is when she said that --- she
13 sent me down there to get y'all."

14 THE COURT: All right. Did you hear anything
15 else?

16 THE WITNESS: That was it.

17 THE COURT: Okay.

18 THE WITNESS: Lorenzo said, "Man, they don't have
19 nothing." Troy later stated that --- he later stated
20 that when he got to the bakery that they was running
21 out. His brother was running out first and Lorenzo
22 was coming out behind him with a gun.

23 THE COURT: Who said that?

24 THE WITNESS: Troy.

25 THE COURT: When did he say that to you?

1 THE WITNESS: He said that to me right --- while
2 Lorenzo was still in the cell and we was at the
3 shower.

4 THE COURT: Okay.

5 MS. SIMPSON: And, Your Honor, there is
6 additional testimony with respect to Mr. Peterson that
7 he has acknowledged --- how in going to certain
8 notations that you made about this, when Troy made
9 those statements, what was Lorenzo's response and
10 reaction?

11 THE WITNESS: Well, Lorenzo's reaction was that
12 they don't have nothing but shell casings. I looked
13 over there where he was. He was over there at the
14 door biting his fingernails.

15 MS. SIMPSON: Okay. He also --- did he indicate
16 Mr. Young further to you why he shot or anything about
17 a knife?

18 THE WITNESS: No, he didn't say nothing about why
19 he shot and all.

20 MS. SIMPSON: Your Honor, we would --- if you're
21 ready for our argument.

22 THE COURT: I am.

23 MS. SIMPSON: Essentially, we're offering this as
24 an admission by a party opponent under 801(d)(2) with
25 respect to Troy's statements. Your Honor, these were

1 not hearsay. We would be offering it for purposes to
2 show Lorenzo's response to those, and he essentially
3 manifested a belief in those statements based on the
4 testimony of Mr. Peterson.

5 THE COURT: All right. Anything that Troy said
6 is out.

7 MS. SIMPSON: But he can say what Lorenzo said,
8 correct?

9 THE COURT: Yes. All right. Bring in the jury.
10 You can't say what Troy said, do you understand
11 that?

12 THE WITNESS: Yes, sir.

13 (WHEREUPON, the jury entered the courtroom at
14 11:53 A.M.)

15 THE COURT: All right. Welcome back. You may
16 continue.

17 MS. SIMPSON: Thank you, Your Honor.

18 BY MS. SIMPSON:

19 Q Mr. Peterson, backing up, this second
20 conversation that you overheard between Troy and
21 Lorenzo, were y'all separated by bars so that you kind
22 of had to holler if you wanted to communicate with one
23 another?

24 A Yes, we was in the shower and Lorenzo was in the
25 room.

1 Q And without telling me what Troy said, did they
2 begin hollering back and forth at one another?

3 A Yes, ma'am.

4 Q And what was Lorenzo's response to what Troy
5 initiated as far as what Lorenzo said?

6 A Like he got real nervous and started biting his
7 fingernails.

8 Q Okay. And did he also indicate something about
9 the evidence that police had to Troy?

10 A Yeah, he said they don't have nothing but --- the
11 police ain't found nothing but shell casings.

12 Q Again, without telling me what else Troy said,
13 did he continue to talk to Lorenzo? I guess, holler
14 at Lorenzo about the case?

15 A Yeah, he kept hollering.

16 Q And what was Lorenzo's kind of continued reaction
17 during this conversation?

18 A Just like he was nervous.

19 Q Just nervous?

20 A Yeah.

21 Q And again he talked about what evidence the
22 police had?

23 A Yeah.

24 Q Or didn't have?

25 A Just shell casings.

1 Q Did he mention, Lorenzo mention, anything else at
2 time about the case?

3 A Not at that time.

4 Q Okay. And did Troy ever talk to you about the
5 case other than just ---

6 MS. PINNOCK: Objection, Your Honor.

7 MS. SIMPSON: I apologize, Your Honor.

8 BY MS. SIMPSON:

9 Q I apologize, did Trenton Barnes ever talk to you
10 about the case?

11 A No Trenton Barnes never did.

12 Q So the only person you ever really had contact
13 with directly was Mr. Young?

14 A Mr. Young.

15 Q And overhearing ---

16 A Right.

17 Q --- Young and Troy. The person who spoke to you
18 and indicated he shot the lady at the bakery and that
19 the police essentially had nothing but shell casings
20 because they had masks and gloves on, do you see him
21 here in the courtroom today?

22 A Lorenzo Young, yes, ma'am.

23 Q Where is he seated?

24 A Right there with the blue shirt on.

25 MS. SIMPSON: Your Honor, let the record reflect

1 he has identified the defendant.

2 THE COURT: So reflected.

3 BY MS. SIMPSON:

4 Q Now, you've been in the Alvin S. Glenn Detention
5 Center or incarcerated before, right?

6 A Yes, ma'am.

7 Q You've actually had a prior conviction from 2007
8 for assault and battery of a high and aggravated
9 nature?

10 A Yes, ma'am.

11 Q And you also had, I believe from 2000, a burglary
12 second degree nonviolent, as well as strong armed
13 robbery?

14 A Yes, ma'am.

15 Q And you currently have pending charges in our
16 office, as well?

17 A Yes, ma'am.

18 Q And that would be for murder, correct?

19 A Yes, ma'am.

20 Q And do you know the penalty you're facing for
21 murder?

22 A Yes, ma'am.

23 Q What is that?

24 A Life in prison.

25 Q Life. And you're facing a minimum of 30 years,

1 correct?

2 A Thirty years.

3 Q So 30 years up life?

4 A To life.

5 Q And you also have a kidnapping?

6 A Yes, ma'am.

7 Q And what are you facing on that?

8 A 30 years.

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

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

12 Q You know the maximum is 30?

13 A Yeah, I know the max is 30.

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

17 A Yes.

18 Q Is that Mr. Victor Li?

19 A Yes, ma'am.

20 Q Is he present here in the courtroom today?

21 A Yes, ma'am.

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

24 A Yes, ma'am.

25 Q Was I present for that conversation?

1 A No.

2 Q Or Ms. Campbell or Ms. Garfield?

3 A No, ma'am.

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

6 A No, ma'am.

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

9 A The information that I'm speaking on?

10 Q Yes.

11 A Yes, ma'am.

12 Q And you did that voluntarily?

13 A Yes, ma'am.

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

16 A No, ma'am.

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

18 A No, ma'am.

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

22 A Not necessarily.

23 Q Not necessarily?

24 A Yes.

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

1 MS. PINNOCK: May it please the court.

2 CROSS-EXAMINATION:

3 BY MS. PINNOCK:

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

6 A Ma'am.

7 Q You knew this case was on the news?

8 A Yes, ma'am.

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

11 A Yes.

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

14 A Yes, ma'am.

15 Q And you watched TV at the jail?

16 A Not too much.

17 Q Are there TVs in the jail?

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

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

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

23 Q So you knew?

24 A Yeah.

25 Q You were watching TV on that day?

1 A Yeah.

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

4 A Yes.

5 Q You said Lorenzo was there?

6 A Yes.

7 Q You said Troy was there?

8 A Yes.

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

10 A Right.

11 Q And you were in the shower?

12 A Yes.

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

15 A Okay.

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

18 A Right.

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

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

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

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

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

25 A It would be further up probably about 30,

1 40 feet.

2 Q Would you say about right there?

3 A Yeah.

4 Q And where are the showers?

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

7 Q In this area?

8 A Right there.

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

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

12 Q And that's right beside ---

13 A The offices, right.

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

16 A Yeah.

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

19 A Three at the bottom.

20 Q Three at the bottom?

21 A There's three.

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

23 A Yes.

24 Q How many upstairs?

25 A One, two, three.

1 Q Three upstairs?

2 A Yes.

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

6 A I was in the middle.

7 Q In the middle. Where are the cells?

8 A Okay. From the office ---

9 Q Uh-huh.

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

12 Q The cells are about here?

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

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

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

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

19 A The stairwell.

20 Q And the ---

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

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

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

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

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

5 Q Okay.

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

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

11 A Right there.

12 Q Okay.

13 A Coming from my left to right.

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

15 A Right.

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

17 A Yeah, I think it's 18.

18 Q Okay.

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

21 Q On this side?

22 A Yeah, it's 18.

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

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

1 like two right there in the middle.

2 Q Okay.

3 A And they turn.

4 Q They turn and come back this way?

5 A Yeah, right.

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

8 A Yes.

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

11 A Okay.

12 Q Right.

13 A They start up about this direction.

14 Q Okay, so we'll say this is outside, right.

15 That's a stairwell coming right here?

16 A Yeah.

17 Q Okay.

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

21 Q Right. Underneath those stairs?

22 A Right.

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

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

1 Q Okay. So where was Troy?

2 A Troy was.

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

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

6 Q Which one was he in?

7 A That first shower.

8 Q This one?

9 A Yeah.

10 Q Okay. And you're here?

11 A Yeah.

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

14 A Right.

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

18 A Right.

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

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

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

24 A Yeah.

25 Q But then he still proceeded to ask you legal

1 questions?

2 A Right.

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

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

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

8 A Right.

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

10 A Right.

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

12 A Right.

13 Q "We go in the back."

14 A Right.

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

17 A Right, a phone.

18 Q Trying to use a phone?

19 A Right.

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

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

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

24 A Excuse me?

25 Q And the only information that you had about this

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

3 A Uh-huh.

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

5 A No.

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

7 A No.

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

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

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

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

16 Q Did you know there was a video?

17 A Yeah, I seen the video.

18 Q Okay. The whole video?

19 A No.

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

22 A Correct.

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

25 A That's true.

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

3 A Right.

4 Q It's a long time.

5 A Right.

6 Q Waiting to go to court?

7 A I don't know what ---

8 Q You're not trying go to court?

9 A You're asking me ---

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

11 A Yes, waiting to go to court.

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

14 A No.

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

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

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

20 A Correct.

21 Q Okay.

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

23 (Pause.)

24 BY MS. PINNOCK:

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

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

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

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

6 A Correct.

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

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

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

13 A Right.

14 Q That's not sitting open?

15 A Right.

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

17 A Right.

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

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

22 Q I'm sorry?

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

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

1 A Okay.

2 Q But Lorenzo wasn't in the shower?

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

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

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

6 day.

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

8 A Yeah, the door are shut.

9 Q And you want us to believe you don't want

10 anything out of this?

11 A No, not really.

12 Q Have you been to prison before?

13 A Yes.

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

15 A Huh.

16 Q It's not that great?

17 A No.

18 Q You're in a tiny cell?

19 A I'm in who?

20 Q A tiny cell?

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

22 Q You have at least one roommate?

23 A Yes.

24 Q Sometimes more?

25 A No, just one.

1 Q Is it bunk bed or single beds?

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

4 A Correct.

5 Q There is one sink?

6 A One sink.

7 Q There is one toilet?

8 A One toilet.

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

11 A No.

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

14 A No.

15 Q No, it's not?

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

18 Q And somebody tells you when you can eat?

19 A Yeah.

20 Q They tell you when you have to sleep?

21 A Yeah.

22 Q Your can't walk around freely?

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

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

1 for day; right?

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

3 Q Minimum. Minimum.

4 A Oh, okay.

5 Q Thirty years day for day?

6 A Yeah.

7 Q You don't get good time?

8 A That's right.

9 Q You don't get parole?

10 A No, not on a life sentence.

11 Q When you serve ---

12 A Yeah, when you get you get a regular life
13 sentence you get parole in like 20 years, I'm sure.

14 Thirty --- they got 20 year lives and 30 lives.

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

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

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

20 (Pause.)

21 I have nothing further, Judge. Thank you.

22 MR. SCHNEE: May it please the Court.

23 THE COURT: Yes, sir.

24 CROSS-EXAMINATION:

25 BY MR. SCHNEE:

1 Q You never talked to Trenton Barnes?

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

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

6 A No, not about the case.

7 Q Okay.

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

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

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

12 Q And you said you were 47 years old?

13 A Yes, sir.

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

16 A Yes, sir.

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

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

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

22 A Yes.

23 Q You're 47 now?

24 A Yes, sir.

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

1 A Right.

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

4 A Correct.

5 Q Absolute minimum?

6 A Correct.

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

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

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

11 A Yes, sir.

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

13 A That's right.

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

16 A Yes, sir.

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

19 MS. SIMPSON: Objection, Your Honor.

20 THE COURT: Sustained. Move on.

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

22 BY MR. SCHNEE:

23 Q Okay. Seventy-four is past that?

24 MS. SIMPSON: Objection, Your Honor.

25 THE COURT: Sustained. Move on.

1 BY MR. SCHNEE:

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

3 A Yes, sir.

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

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

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

9 A That's correct.

10 Q You served for a burglary before, right?

11 A Yes, sir.

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

14 A Correct.

15 Q Those can be served consecutively, right?

16 A Of course, they can.

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

19 A Correct.

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

22 A Yeah, plus 30.

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

25 A Correct.

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

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

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

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

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

11 A Yes.

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

14 A Yes, sir.

15 Q Went up to Ms. Hunnewell ---

16 A Right.

17 Q --- and demanded money?

18 A Yes, sir.

19 Q She said the money is in the back?

20 A Right.

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

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

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

1 A That's what he said.

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

3 A Yeah.

4 Q Okay.

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

6 Q Trying to use a phone?

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

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

10 A Right.

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

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

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

15 A That's exactly what he said.

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

17 THE COURT: Redirect?

18 MS. SIMPSON: Nothing further, Your Honor.

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

21 THE WITNESS: Thank you.

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

25 Thank you, Mr. Peterson.

1 THE WITNESS: You're welcome, sir.

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

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

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

12 THE COURT: Everyone remain seated.

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

16 MR. SCHNEE: But ---

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

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

24 THE COURT: But you asked the question.

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

1 believe, also.

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

15 MS. SIMPSON: Thank you, Your Honor.

16 (WHEREUPON, a lunch break was taken.)

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

19 (WHEREUPON, Court was called to order.)

20 THE COURT: Okay.

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

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

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

17 MS. SIMPSON: Yes, Your Honor.

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

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

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

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

15 What we're actually ---

16 MR. KRZYSTON: Where is that?

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

19 THE COURT: It's in their notes.

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

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

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

10 THE COURT: Okay.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 MR. KRZYSTON: Yes, everything he said.

2 THE COURT: Everything he said?

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

9 THE COURT: Okay.

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

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

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

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

24 THE COURT: Go ahead.

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

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

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

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

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

23 THE COURT: Hold on. Hold on.

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

1 situation."

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

7 THE COURT: Okay.

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

14 THE COURT: Okay.

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

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

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

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

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

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

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

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

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

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

1 right now.

2 MR. KRZYSTON: Okay.

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

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

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

9 MR. KRZYSTON: Okay.

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

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

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

16 MR. KRZYSTON: Okay.

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

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

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

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

10 MR. KRZYSTON: Okay.

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

16 MR. KRZYSTON: Okay.

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

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

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

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

9 THE COURT: Yes.

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

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

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

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

17 MR. KRZYSTON: Sorry.

18 (Pause.)

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

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

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

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

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

13 THE COURT: Yeah..

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

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

21 MR. SCHNEE: I join in with that.

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

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

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

9 THE COURT: Okay.

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

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

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

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

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

25 THE COURT: Okay.

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

4 THE COURT: Okay. Even better.

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

8 THE COURT: Okay.

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

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

15 THE COURT: Where are you on DJJ?

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

20 THE COURT: Right, not Mr. Barnes.

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

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

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

2 MS. CAMPBELL: Okay, thank you.

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

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

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

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

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

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

14 THE WITNESS: Good.

15 THE COURT: How old are you?

16 THE WITNESS: Forty-six.

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

18 THE WITNESS: Twelve.

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

21 THE WITNESS: No.,

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

1 THE WITNESS: Uh-huh.

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

7 THE WITNESS: Yes.

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

11 THE WITNESS: Oh yes, sir.

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

22 THE WITNESS: Yes, sir.

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

25 (WHEREUPON, the jury entered the courtroom at

1 1:27 P.M.)

2 THE BAILIFF: The jury panel is present.

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

5 THE JURORS: Yes.

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

11 MS. SIMPSON: The State calls Mary Brown.

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

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

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

17 THE WITNESS: It's Mary Brown.

18 THE COURT: Thank you.

19 THE WITNESS: Thank you.

20 DIRECT EXAMINATION:

21 BY MS. SIMPSON:

22 Q Ms. Brown, how old are you?

23 A Forty-six.

24 Q And do you have any children?

25 A Yes.

- 1 Q How many children do you have?
- 2 A Six.
- 3 Q Six?
- 4 A Uh-huh.
- 5 Q All girls, boys?
- 6 A Five girls and one boy.
- 7 Q Five girls and one boy?
- 8 A Uh-huh.
- 9 Q Are you currently working or employed?
- 10 A Yes.
- 11 Q Tell the jury about what you do.
- 12 A I do in-home care. I help elderly people.
- 13 Q So you go to their homes and assist them?
- 14 A Uh-huh.
- 15 Q And where do you currently live? Is it here?
- 16 A Richland County.
- 17 Q Here in Columbia. Let's be clear. Are you a
- 18 little nervous today?
- 19 A Yes.
- 20 Q And you don't want to be here?
- 21 A No, I don't.
- 22 Q But you're under subpoena?
- 23 A Yes.
- 24 Q And you're required to be here?
- 25 A Uh-huh.

1 Q I want to turn your attention to June 30th and
2 July 1st that time period of 2013. Do you recall
3 something that happened the night before this
4 incident? Do you recall that night?

5 A Yeah, that day, yeah.

6 Q Can you tell the jury about what you saw that day
7 and where you were?

8 A I think I saw --- I was at a --- you said what?
9 What?

10 Q I'm sorry. June 30th.

11 A Okay.

12 Q Of 2013?

13 A I was just visiting family, my family's home. I
14 just saw --- I just saw the boys there. They was at a
15 little gathering my sister had, too.

16 Q Okay. What area of town is or where she was
17 living at the time?

18 A It's off Beltline.

19 Q Off Beltline, near Bonner, Lucille, in that area?

20 MR. KRZYSTON: Objection, leading.

21 THE COURT: Sustained.

22 BY MS. SIMPSON:

23 Q And you indicated you were there for what
24 purpose?

25 A Like a little family gathering. I think they was

1 having a cookout.

2 Q About what time were you over there? Do you
3 remember? I know it's been awhile.

4 A Yeah, I got there earlier, but I stayed until
5 like one o'clock, somewhere between twelve and one
6 o'clock because my daughter's baby was sick and she
7 was in the hospital. I was planning on leaving my
8 sister's house and going to the hospital.

9 Q Did you, in fact, then leave your sister's house
10 and go to the hospital?

11 A Uh-huh.

12 Q The next day, did you see something on the news?

13 A Uh-huh.

14 THE COURT: I need you to say.

15 THE WITNESS: Oh.

16 THE COURT: You have to say, yes or no.

17 THE WITNESS: I'm sorry.

18 THE COURT: I can't take down the uh-huh.

19 THE WITNESS: I'm sorry.

20 THE COURT: I want to make sure we have your
21 correct answer, okay.

22 BY MS. SIMPSON:

23 Q Did you see something on the news?

24 A Yes.

25 Q What did you hear about on the news?

1 A I saw where there had been a shooting.

2 Q Okay. Did you actually see a clip from that?

3 A Yes.

4 Q And after you observed that, what happened? What
5 did you do?

6 A I didn't do anything. I just like laid on one of
7 my family members called me and told me, you know,
8 something had happened.

9 MR. SCHNEE: Objection, hearsay.

10 THE COURT: Sustained.

11 BY MS. SIMPSON:

12 Q Upon learning that something had happened, what
13 did you do?

14 A Well ---

15 Q Or what did you realize?

16 A That that lady had been killed. I didn't really
17 understand. I don't know. It was just like a bunch
18 of talk started.

19 Q All right. And without saying exactly what was
20 said ---

21 A Uh-huh.

22 Q There was a bunch of talking about the incident?

23 MR. KRZYSTON: Objection.

24 MR. SCHNEE: Objection. Hearsay.

25 THE COURT: Don't talk. She hasn't ask a

1 question yet.

2 MR. KRZYSTON: The basis of knowledge is hearsay
3 as the witness has indicated.

4 THE COURT: You can't say what you heard. Do you
5 understand that? Yes or no.

6 THE WITNESS: Yes, I understand.

7 THE COURT: Okay. Good.

8 THE WITNESS: I don't know how to answer that
9 question because I heard ---

10 BY MS. SIMPSON:

11 Q We'll move on from that point. On July 3rd do
12 you remember speaking to with an investigator involved
13 in this case?

14 MR. KRZYSTON: Objection, leading.

15 THE COURT: Overruled.

16 THE WITNESS: Yes, uh-huh. I'm sorry. Yes,
17 ma'am.

18 BY MS. SIMPSON:

19 Q And did you actually call police?

20 A Yes, ma'am.

21 Q And when you spoke with them what did you tell
22 them?

23 A I pretty much told them that from what I had
24 heard --- what I heard from some family members or
25 whatever, I heard a story about an incident that had

1 happened.

2 MR. KRZYSTON: Objection.

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

5 THE COURT: Sustained.

6 BY MS. SIMPSON:

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

9 A Okay.

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

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

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

22 A Uh-huh.

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

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

1 was gray and one was red.

2 Q One was gray and one was red?

3 A Uh-huh.

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

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

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

10 A Uh-huh.

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

13 A One of them did, yeah.

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

16 A Right.

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

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

22 Q You just remember seeing them.

23 A Uh-huh.

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

1 they?

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

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

6 A No.

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

9 A Yes.

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

12 MR. SCHNEE: Objection, relevance.

13 THE COURT: Overruled.

14 BY MS. SIMPSON:

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

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

19 MR. SCHNEE: Objection, hearsay.

20 THE COURT: Sustained.

21 MR. SCHNEE: Move to strike.

22 THE COURT: Stricken. Disregard that statement.

23 BY MS. SIMPSON:

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

1 A Yes, I saw it.

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

3 MR. KRZYSTON: Objection, leading.

4 THE COURT: Overruled.

5 THE WITNESS: Yeah, I think I did.

6 BY MS. SIMPSON:

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

9 MR. KRZYSTON: Objection, leading.

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

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

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

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

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

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

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

23 THE WITNESS: Uh-huh.

24 BY MS. SIMPSON:

25 Q You can't talk about ---

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

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

5 A Uh-huh.

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

8 A No, I didn't.

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

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

14 Q You don't remember a phone call?

15 A I don't remember, no.

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

18 A Yeah.

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

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

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

24 A Yes, ma'am.

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

1 A Uh-huh, uh-huh.

2 Q And so you remember that call being recorded?

3 MR.. KRZYSTON: Objection leading.

4 THE COURT: Overruled.

5 BY MS. SIMPSON:

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

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

10 THE COURT: Sure.

11 Stand up and stretch your legs.

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

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

17 THE COURT: All right.

18 BY MS. SIMPSON:

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

21 MR. KRZYSTON: Objection, leading.

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

24 BY MS. SIMPSON:

25 Q Did you tell police the same information that you

1 told them when you called?

2 A Yes, I believe so.

3 Q Was it a little more detailed?

4 A I don't recall.

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

8 (Pause.)

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

11 MR. KRZYSTON: Objection leading.

12 THE COURT: Sustained.

13 BY MS. SIMPSON:

14 Q Were you able to identify the individuals?

15 A What was the question?

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

18 A Yeah.

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

21 A Yes.

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

24 A Well, I think by hearing.

25 Q Not what you heard.

1 MR. SCHNEE: Objection.

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

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

4 BY MS. SIMPSON:

5 Q You didn't know their names?

6 A No.

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

9 A Yes.

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

12 MR. SCHNEE: Objection leading.

13 THE COURT: Sustained.

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

15 THE COURT: Stricken. Disregard that statement.

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

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

18 THE COURT: Yes.

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

22 MS. SIMPSON: Thank you, Judge.

23 MR. KRZYSTON: Thank you, Judge.

24 BY MS. SIMPSON:

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

1 the incident occurred, correct?

2 A No, no.

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

4 THE COURT: Overruled.

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

6 BY MS. SIMPSON:

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

9 A Yes.

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

12 MR. KRZYSTON: Objection leading.

13 THE COURT: Sustained.

14 BY MS. SIMPSON:

15 Q Did you recognize anyone or know their name?

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

17 Q Did you later learn their names?

18 A Uh-huh.

19 MR. KRZYSTON: Objection.

20 THE COURT: Overruled.

21 THE WITNESS: Yes.

22 BY MS. SIMPSON:

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

1 described?

2 A It was late. I'd say about one, about
3 one o'clock.

4 Q About one?

5 A Between 12 and one.

6 Q Into the next day?

7 A Uh-huh.

8 Q Early hours?

9 A Yeah.

10 Q All right. Thank you, Ms. Brown.

11 THE COURT: Cross?

12 MR. KRZYSTON: I have no questions for the
13 witness, Your Honor.

14 MR. SCHNEE: No questions, Judge.

15 THE COURT: Have a great day.

16 Call your next witness.

17 MS. CAMPBELL: May it please the Court.

18 THE COURT: Yes, ma'am.

19 MS. CAMPBELL: The State calls Paul Nelson.

20 PAUL NELSON,

21 after being duly sworn, testified as follows:

22 THE CLERK: Please have a seat. State your full
23 name for the record.

24 THE WITNESS: Officer Paul Nelson. N-E-L-S-O-N.

25 DIRECT EXAMINATION:

1 BY MS. CAMPBELL:

2 Q Officer Nelson, where are you employed?

3 A City of Columbia Police Department.

4 Q What do you do there, sir?

5 A I work for the telephone response unit.

6 Q Back in July of last year, June and July of last
7 year, what were you doing at the Columbia Police
8 Department?

9 A I worked for the City of Columbia CSI
10 investigation unit.

11 Q And as part of the CSI investigative unit, what
12 did your duties include?

13 A Evidence collection, physical evidence
14 collection, photography, fingerprints, DNA collection.

15 Q And just for the record, did you actually respond
16 to the actual crime scene where this murder took
17 place?

18 A No, I did not.

19 Q Several days later, did you --- were you asked to
20 respond to a residence here in Richland County?

21 A I was.

22 Q And what residence were you asked to go to?

23 A On a search warrant at

24 Q Where is that located here in Columbia?

25 A In the city limits of Columbia off of --- near

1 and close to Beltline Boulevard.

2 Q That is near Covenant and Two Notch?

3 A What did you say?

4 Q It's between Covenant and Two Notch, in that
5 area?

6 A Oh, yes, yes.

7 Q When you got there, were there other officers
8 already there?

9 A Officers were there and present upon my arrival.

10 Q Once you got there, what if anything did you do?

11 A They needed me to come inside to photograph some
12 evidence they had wanted to collect, as well.

13 Q Okay. Did you do that?

14 A Yes, I did.

15 Q And I want to show you what's been marked as
16 State's Exhibits 222, 261 and 264 through 322 and
17 first just ask if you recognize these?

18 MS. CAMPBELL: Your Honor, 222, 261, 264 through
19 322.

20 THE COURT: 264 through 322.

21 MS. CAMPBELL: Yes, sir, just to expedite.

22 MR. SCHNEE: And Judge, while he is looking
23 through those I'll stipulate to the admissibility of
24 those along he says their the ones he took.

25 THE COURT: Okay. Great.

1 MS. BAMBACH: No objection.

2 THE COURT: Okay. Great.

3 (WHEREUPON, State's Exhibit Numbers 222, 261 and
4 264 through 322 were admitted into evidence.)

5 THE COURT: Are you still going through photos?
6 Okay. Keep going. That's fine.

7 THE WITNESS: That's correct. These are photos
8 that I took.

9 BY MS. CAMPBELL:

10 Q And those are photographs you took at the scene
11 that day when you responded to the search warrant?

12 A That's correct.

13 MS. CAMPBELL: Your Honor, I believe I'll go over
14 the numbers again 222, 261 and 264 through 322.

15 BY MS. CAMPBELL:

16 Q And without going through some of the --- let me
17 show you 261 and State's Exhibit 222, excuse me. Do
18 you recognize that?

19 A I do. That's the front exterior of the house.

20 Q That's the exterior of the house there on Lucille
21 Street?

22 A Yes.

23 Q And that's how it appeared when you got there
24 that day?

25 A Yes.

1 Q Once you got there, you pretty much photographed
2 the entire house, did you not?

3 A That's correct.

4 Q Again, when you're there, do you know what's
5 going to be relevant or may not be relevant until a
6 later time?

7 A I do not.

8 Q I want to show you're specifically a number of
9 certain items. Were there a number of phones
10 collected and documented there?

11 A Several, yes.

12 Q Without getting into those, were there also some
13 pieces of clothing that were photographed and
14 documented?

15 A Correct.

16 Q And what was the piece of clothing at your Marker
17 number 17?

18 A A hoodie, black in color from a chair.

19 Q And what was the condition of that hoodie when
20 you collected it that day?

21 A It was wet.

22 Q Were there other hoodies that were collected by
23 you that day?

24 A There were.

25 Q And what areas were they in?

1 A In the area we marked as the addition.

2 Q Which was what number on your ---

3 A Just a second.

4 Q Sure.

5 A From bedroom number two floor, there was also a
6 blue in color hoodie.

7 Q Uh-huh, which was Marker number what?

8 A Marker number 8.

9 Q And I show you State's Exhibit Number 301 and
10 302. Do you recognize that?

11 A I do.

12 Q And is that the second hoodie you collected that
13 day?

14 A Bedroom number two, that's correct.

15 Q And finally was there a third one that you
16 actually collected?

17 A There was, a gray one in addition.

18 Q Is it number 15?

19 A That's correct.

20 Q And, in fact, I believe ---

21 A That's dark in color.

22 Q Multicolored actually.

23 Q And State's Exhibit Numbers 317 and 318, were
24 those the three hoodies that were actually collected
25 at that house?

1 A That's correct.

2 Q At any time did you collect a red hoodie in the
3 house.

4 A No.

5 Q At any time did you collect a dark gray hoodie at
6 the house?

7 A No.

8 Q Did you also collect some shoes, as well as the
9 phones?

10 A I did. Black and while the Nike tennis shoes
11 from the floor of bedroom number 1, I believe. Just a
12 second. That's correct.

13 Q State's Exhibit Number 311, I believe?

14 And a second pair of choose, I believe; is that
15 correct?. You tell me.

16 A It's from the addition.

17 Q From the addition?

18 A Yes.

19 Q And that's in here, too. Finally, did you note
20 some paperwork that you collected and photographed?

21 A I did from bedroom number 3.

22 Q From bedroom number 3?

23 A Uh-huh.

24 Q I show you State's Exhibits 307 and 308 do you
25 recognize those?

1 A I do.

2 Q Is that paperwork that you found in that third
3 bedroom?

4 A Yes.

5 Q And specifically can you tell what name is on the
6 paperwork?

7 A Troy Stevenson is on an ID card and Troy
8 Stevenson is on a letter.

9 Q Okay. I'm going to show you what's been marked
10 as State's Exhibit Numbers 366, 360 and 367. First
11 let me ask you if you recognize these?

12 A I do. These are the letters that I --- my notes.

13 Q That's your notes?

14 A Yeah, I completed those.

15 Q And that was one of the hoodies you collected and
16 was this an additional one?

17 A That's correct, another hoodie.

18 Q And then finally 367?

19 A That's correct.

20 MS. CAMPBELL: And, Your Honor, at this time we
21 would offer 365, 367 and 366.

22 THE COURT: 365, 366 and 367. Did you say 360
23 earlier?

24 MS. CAMPBELL: The five looks like a zero, and I
25 can't see very well, but I corrected myself now, Your

1 Honor.

2 THE COURT: Okay. So 365 through 367.

3 MS. CAMPBELL: Thank you.

4 MS. BAMBACH: If they all came from the Lucille
5 Drive search warrant, we have no objection.

6 MR. SCHNEE: No objection.

7 (WHEREUPON, State's Exhibit Numbers 365, 366 and
8 367 were admitted into evidence.)

9 MS. CAMPBELL: Everything he has testified to is
10 from Lucille Drive.

11 THE COURT: Without objection.

12 BY MS. CAMPBELL:

13 Q And I note on 365 that you indicated what about
14 that hoodie, that's written here?

15 A Was wet.

16 Q And did you take any measures to dry it before
17 packaging it?

18 A I do. We have drying cabinets in the office.

19 Q In addition to that, you also collected, I
20 believe, some shoes. I show you State's Exhibit 364
21 and 363?

22 A That's correct. I collected these.

23 Q You collected those, as well?

24 A Yes.

25 MS. CAMPBELL: Your Honor, at this time we'd

1 offer into evidence 363 and 364.

2 MS. BAMBACH: No objection.

3 MR. SCHNEE: No objection.

4 THE COURT: Admitted without objection.

5 (WHEREUPON, State's Exhibit Numbers 363 and 364
6 were admitted into evidence.)

7 BY MS. CAMPBELL:

8 Q And I believe you also testified you also
9 collected the paperwork?

10 A That's correct.

11 Q As well as a number of cell phones?

12 A Yes, several.

13 Q Once you had collected those items, did you
14 package them and submit them into evidence?

15 A I did.

16 Q And if they were to become relevant at any point
17 in the case they could be tested or whatever needed to
18 be done later?

19 A That's correct.

20 Q Finally, the next day I believe you made contact
21 with Investigator McCoy and the defendant named
22 Trenton Barnes?

23 A The next day or that day.

24 Q Excuse me. On July 12th.

25 A I did on July 12th. I collected a buccal swab,

1 which is an oral swab for DNA purposes.

2 Q How did you go about collecting that swab from
3 Mr. Barnes?

4 A It's medically sealed Q-Tip. We open it. Of
5 course, we're wearing gloves and then collect their
6 DNA, saliva and we package it in a box, seal that box
7 and then seal the envelope that it comes in.

8 Q I show you what's been marked as State's
9 Exhibit --- it doesn't have a number so it would be
10 hard for me to do it.

11 (WHEREUPON, State's Exhibit Numbers 422 and 423
12 were marked for identification only.)

13 BY MS. CAMPBELL:

14 Q 423, is that the buccal swab you actually
15 collected that day?

16 A That's correct, Trenton Barnes.

17 Q You collected it from him that day?

18 A Yes.

19 Q Once you collected it, what if anything did you
20 do with the swab?

21 A After properly sealing it, I placed it in the
22 evidence room.

23 MS. CAMPBELL: Your Honor, at this time we offer
24 State's Exhibit 423 into evidence.

25 MS. BAMBACH: No objection.

1 MR. SCHNEE: No objection.

2 THE COURT: Without objection.

3 (WHEREUPON, State's Exhibit Number 423 was
4 admitted into evidence.)

5 BY MS. CAMPBELL:

6 Q During the time period that 423 or any evidence
7 in this case was in your possession, did anyone alter
8 it or tamper with it in any way?

9 A I don't see anything except for that SLED put it
10 in that bag.

11 Q During the time it's in your possession, did
12 anyone alter it or tamper with it in any way?

13 A No, no.

14 MS. CAMPBELL: Thank you, sir. I don't have
15 anything further, Your Honor.

16 MS. BAMBACH: I have no questions.

17 MR. SCHNEE: Just very briefly.

18 THE COURT: Yes, sir.

19 CROSS-EXAMINATION:

20 BY MR. SCHNEE:

21 Q Sir, on your report you list an incident date for
22 the basis of why you're there; is that right?

23 A Yes, that's correct.

24 Q That's July 1st, 2013?

25 A For the search warrant?

1 Q Yes. When you were collecting all these pieces
2 of clothing, the wet sweatshirts, whatever?

3 A Repeat that to me.

4 Q You --- what day was it when you did the search?

5 A The search was conducted on July 5th.

6 Q July 5th, so four or five days later.

7 A I don't know the date of it.

8 Q The incident being the 30th to July 1st.

9 A That's correct.

10 Q So about five days later?

11 A About five, approximately.

12 Q And when you took that DNA swab, I was there,
13 too, right?

14 A The swab?

15 Q Yes?

16 A Yes, you were present during the time of the
17 swab.

18 Q No further questions.

19 THE COURT: Redirect?

20 MS. CAMPBELL: No, sir.

21 THE COURT: Have a nice day.

22 THE WITNESS: Sure.

23 THE COURT: You can stay if you want to.

24 THE WITNESS: No.

25 THE COURT: Call your next witness.

1 MS. GARFIELD: May we approach, Judge?

2 THE COURT: Yes, ma'am.

3 (WHEREUPON, a bench conference was held in the
4 presence, but not within the hearing of the
5 jury.)

6 THE COURT: All right. Ladies and gentlemen, if
7 you'll go back to your jury room. Do not discuss the
8 case. Keep an open mind. We'll be back with you just
9 momentarily. Not too long of a break.

10 (WHEREUPON, the jury left the courtroom at 2:01
11 P.M.)

12 THE COURT: Okay. Who is the next witness?

13 MS. GARFIELD: Michael Schaefer.

14 THE COURT: Okay. Can you bring him in?

15 Whose phone just went off? I'm going to start
16 searching people. If I hear it again, it's \$250.

17 What's your name, sir?

18 THE WITNESS: Michael Schaefer.

19 THE COURT: Okay.

20 MS. GARFIELD: Okay.

21 THE COURT: Have we already been through his
22 record?

23 MS. GARFIELD: We have. I've never met.

24 Mr. Schaefer. I just wanted you to advise him. He
25 has information of Mr. Young having involvement with

1 gang activity, as well as he has knowledge of the
2 other charges that are pending in our office against
3 Mr. Young. I just wanted you to advise Mr. Schaefer
4 that he is not permitted to express any of that
5 information to the jury.

6 THE COURT: All right. Stand up, Mr. Schaefer.
7 How are you?

8 THE WITNESS: Good.

9 THE COURT: Good. Okay. I don't know anything
10 about you. I've never seen you before in my life.

11 THE WITNESS: You actually sentenced me.

12 THE COURT: Oh, I sentenced you? I'm sorry.

13 When I do pleas, I can do about 150 a week. So
14 you will have to forgive me. I really do apologize
15 for that, for not remembering.

16 Okay. Now, listen. In this case I don't know
17 what you know or what you don't know about this case,
18 okay, but what I'm telling you is I don't want any
19 information out there about anybody being involved in
20 any gang. Do you understand that?

21 THE WITNESS: Yes.

22 THE COURT: And you believe you can comply with
23 that?

24 THE WITNESS: Yes.

25 THE COURT: Now, if you know anything about

1 anybody being out on bond or having other pending
2 charges unrelated to this case, you're not allowed to
3 say anything about that either. Do you understand
4 that?

5 THE WITNESS: Yes, sir.

6 THE COURT: Do you have any questions about that?

7 THE WITNESS: No, sir.

8 THE COURT: Do you believe you can comply with
9 that?

10 THE WITNESS: Yes, sir.

11 THE COURT: Okay. Is there anything else you
12 want me to advise him of, Mr. Krzyston?

13 MS. BAMBACH: No.

14 THE COURT: I'm sorry, Ms. Bambach.

15 Mr. Schnee?

16 MR. SCHNEE: No, sir.

17 THE COURT: Okay. I believe that covers it, Ms.
18 Garfield.

19 MS. GARFIELD: Yes, sir.

20 THE COURT: Can you bring them back in?

21 (WHEREUPON, the jury entered the courtroom at
22 2:04 P.M.)

23 THE BAILIFF: The jury panel is present, Judge.

24 THE COURT: Thank you, Ms. Sutton.

25 You may call your next witness.

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

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

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

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

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

10 State your full name for the record.

11 THE WITNESS: Michael Schaefer.

12 DIRECT EXAMINATION:

13 BY MS. GARFIELD:

14 Q Mr. Schaefer, where are you from?

15 A Sumter, ma'am.

16 Q South Carolina?

17 A Yes, ma'am.

18 Q And what kind of education do you have?

19 A I have some college.

20 Q Some college?

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

23 Q How long were you in the military?

24 A Almost nine years.

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

1 do?

2 A I was manager at a restaurant.

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

6 A Yes, ma'am.

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

9 A Yes.

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

12 A Yes, ma'am.

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

17 A J dorm, Juliette dorm.

18 Q Juliette dorm?

19 A Yes, ma'am.

20 Q And was Lorenzo Young also housed there?

21 A Yes.

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

25 A Several times a day.

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

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

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

6 A Yes.

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

9 A No.

10 Q Why is that?

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

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

16 Thank you.

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

19 A Yes.

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

22 A Yes.

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

1 A Yes.

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

3 A He told me that ---

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

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

7 BY MS. GARFIELD:

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

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

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

18 Q Why was he telling you about this?

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

21 Q About your case?

22 A Yes. About mine, too.

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

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

1 Q That you had robbed a bank?

2 A Uh-huh.

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

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

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

9 A Yeah.

10 Q Who was Trap?

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

12 Q A 16-year-old?

13 A Yes.

14 Q Did you understand who Trigg was?

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

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

18 A Yes, it was in April.

19 Q And that was to Investigator McCoy?

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

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

24 A I know what was said.

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

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

3 THE COURT: There is no foundation for that.

4 BY MS. GARFIELD:

5 Q Did you give a statement to Investigator McCoy?

6 A Yes.

7 Q Have you ever reviewed that statement?

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

9 Q That was when you were preparing for court?

10 A Yes.

11 Q And that was with investigators in my office?

12 A Yes.

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

14 A Say it again.

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

16 A Yes.

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

19 A Yes.

20 Q And make any changes you wanted to make?

21 A Correct.

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

24 A Yeah.

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

1 have made them, correct?

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

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

6 BY MS. GARFIELD:

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

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

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

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

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

21 A Yes.

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

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

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

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

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

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

9 A Correct.

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

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

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

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

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

20 A Correct.

21 Q And that was in preparation for your testimony?

22 A Yes.

23 Q Have you ever met with me before?

24 A No, sir.

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

1 A No, ma'am.

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

4 A No.

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

9 A Three counts of armed robbery.

10 Q Are those charges still pending?

11 A No.

12 Q Did you plead guilty to them?

13 A Yes.

14 Q When did you plead guilty?

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

16 Q And what sentence did you receive?

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

19 Q Concurrent means no additional time?

20 A No, they're all run together.

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

22 A Correct.

23 Q Where are you housed?

24 A Kershaw.

25 Q Now, you gave this information to Investigator

1 McCoy. Do you recall when?

2 A It was in April.

3 Q Of last year?

4 A Yes.

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

7 A No.

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

10 A No.

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

14 A No.

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

18 A Yeah, he is wearing blue.

19 Q Does he have a tie on?

20 A Yes.

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

23 THE COURT: So reflected.

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

1 THE WITNESS: Thank you.

2 THE COURT: Ms. Bambach.

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

5 THE COURT: Yes, ma'am.

6 CROSS-EXAMINATION:

7 BY MS. BAMBACH:

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

10 A Correct.

11 Q And you met Lorenzo in November 2013?

12 A Correct.

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

15 A Yes.

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

18 A That happens quite a bit actually.

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

21 A Yes, the juvenile.

22 Q And Trigg was Trent?

23 A Correct.

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

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

2 Q Okay.

3 A Fractured my foot.

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

6 A About nine or ten, nine.

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

9 A When --- yes.

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

12 A Uh-huh.

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

15 A Yes.

16 Q Do you know Alfred Wright?

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

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

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

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

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

- 1 A In July, yes.
- 2 Q And each pod had its own television, right?
- 3 A Uh-huh.
- 4 Q You wrote this statement on April 22, 2014?
- 5 A Yes.
- 6 Q And at that time you were also in Mike, right?
- 7 A I think so, yes. I don't know if it was Mike
- 8 but...
- 9 Q When you wrote this statement, your attorney
- 10 Mr. Hodge and Investigator McCoy were present, right?
- 11 A Yes.
- 12 Q And at that time, your armed robbery charges were
- 13 still pending?
- 14 A Correct.
- 15 Q You had three counts of armed robbery and armed
- 16 robbery carries ten to 30 years?
- 17 A Correct.
- 18 Q So you're facing 90 years in prison?
- 19 A Yes, ma'am.
- 20 Q And you wrote this statement on April 22, 2014?
- 21 A Yes.
- 22 Q And you plead guilty July 14, 2014?
- 23 A July 18th, I believe, but close enough.
- 24 Q And you got 12 years?
- 25 A Right, yes.

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

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

5 MS. BAMBACH: Thank you.

6 MR. SCHNEE: May it please the Court.

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION:

9 BY MR. SCHNEE:

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

12 A Trigg.

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

17 A No, Troy was ---

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

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

22 THE COURT: You have to establish his knowledge.

23 BY MR. SCHNEE:

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

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

3 A I know the juvenile stayed by the door.

4 Q The juvenile stayed by the door?

5 A Yeah.

6 Q So whatever ---

7 A The nicknames.

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

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

12 Q Okay.

13 A Three weeks ago.

14 Q Okay.

15 A My memory is Troy Stevens not Trent Stevens.

16 Trent is the juvenile and Troy is Troy Stevens.

17 Q Whatever the nicknames are?

18 A Yes, sir.

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

21 A Right.

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

23 THE COURT: Redirect?

24 MS. GARFIELD: Yes, sir.

25 REDIRECT EXAMINATION:

1 BY MS. GARFIELD:

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

4 A Three.

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

7 A Correct.

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

10 A Twenty years.

11 MS. GARFIELD: Thank you.

12 THE COURT: Ms. Bambach.

13 MS. BAMBACH: Nothing further.

14 THE COURT: Mr. Schnee.

15 MR. SCHNEE: Very briefly, actually.

16 RECROSS-EXAMINATION:

17 BY MR. SCHNEE:

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

21 A No.

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

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

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

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

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

7 Q So at the time of sentencing?

8 A Yes.

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

11 A No.

12 MR. SCHNEE: All right. Thank you.

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

15 Call your next witness.

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

17 BETTY BUTLER,

18 after being duly sworn, testified as follows:

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

21 THE WITNESS: Betty Walker Butler.

22 DIRECT EXAMINATION:

23 BY MS. CAMPBELL:

24 Q Agent Butler, where are you employed?

25 A I'm employed with the South Carolina Law

1 Enforcement Division, also known as SLED.

2 Q And how long have you worked at SLED, ma'am?

3 A Over 18 years.

4 Q What is your duty or your job at SLED?

5 A I'm a forensic technician in the DNA case work
6 evidence processing unit.

7 Q As a forensic technician in the DNA department,
8 what do you do?

9 A I examine evidence for presumptive tests for
10 blood, semen, biological fluid. I look for hairs,
11 skin cells, or anything that could be of value to a
12 particular case.

13 Q Can you tell this jury a little bit about your
14 education and your training to become a forensic
15 technician?

16 A As a forensic technician, I was trained under two
17 court qualified forensic technicians. I was trained
18 on hundreds of items and also our DNA analyst that was
19 a lieutenant at the time.

20 We have to --- we go through a lot of evidence.
21 Before we was able to be go on, we do a comprehensive
22 test. We have to score 100 percent and every year
23 after that we do a proficiency test to make sure we
24 still know what we're doing.

25 Q Have you testified before as a forensic

1 technician?

2 A Yes, I have.

3 Q Do you know how many times you've been qualified
4 in that area or testified in that area?

5 A Over 40 times.

6 MS. CAMPBELL: Your Honor, at this time we'd
7 offer her as an expert forensic technician for
8 processing evidence.

9 THE COURT: For processing evidence?

10 MS. CAMPBELL: Yes, sir.

11 THE COURT: Voir dire?

12 MS. PINNOCK: No, I have no voir dire at this
13 point.

14 MR. SCHNEE: May it please the Court.

15 THE COURT: Sure.

16 MR. SCHNEE: Do you perform any analysis on the
17 items that you're doing this processing on?

18 THE WITNESS: I do a presumptive test for blood
19 and semen.

20 MR. SCHNEE: Okay, but you're not trying to
21 develop DNA profiles themselves?

22 THE WITNESS: No, I transfer it for further
23 testing to the forensic scientist.

24 MR. SCHNEE: Okay. That's all I have. I have no
25 objection.

1 THE COURT: Okay. Ladies and gentlemen, this
2 witness will be qualified as an expert in the area of
3 a forensic technician for processing evidence.
4 Normally a person is not allowed to give opinion
5 testimony. Normally when a person testifies, they
6 have to testify to what they saw heard or sensed by
7 smell or something of that nature. However, there is
8 an exception under our rules when someone is qualified
9 because of education or experience. They are
10 permitted to give their opinion in certain areas if I
11 qualify them in that way. This witness will be
12 qualified in the area as a forensic technician for
13 processing evidence.

14 She will be allowed to give opinion testimony in
15 that area. That does not mean that you have to accept
16 her opinion, but it is evidence for you no use in any
17 way that you see fit and give it the weight and the
18 credibility that you believe is appropriate which you
19 are required to do with each and every witness that
20 appears before you.

21 Ms. Campbell.

22 MS. CAMPBELL: May it please the Court.

23 THE COURT: Yes, ma'am.

24 BY MS. CAMPBELL:

25 Q Agent Butler, I want to turn your attention to

1 this specific case and the evidence that you received
2 in it. Initially did you receive a number of items
3 including some shell casings, clothing and other items
4 for you to process?

5 A Yes, I did.

6 Q And typically you've already testified just a
7 little bit, but what kind of evidence do you collect
8 and/or test for?

9 A When I receive evidence, I look for --- it
10 depends on the request. Sometimes I do a presumptive
11 test for blood, for semen because if it was for blood,
12 the chemical test would turn pink. If it's possibly
13 semen, it would turn purple, and also I do biological
14 fluids. We put things underneath the light, and we
15 can --- certain areas glow underneath the light, and
16 we circle it and test those areas or swab those areas.
17 We look for hair. We look for fibers or anything that
18 could be of value to our case that we're looking for.

19 Q In this case, I'm just taking it in the way that
20 you --- you actually wrote a report in this case?

21 A That's correct.

22 Q In this case, were there a number of shell
23 casings, spent shell casings, that he was submitted
24 for you to collect DNA swabs from?

25 A Yes.

1 Q How many actual --- can you go through the actual
2 shell casings that you actually swabbed to try to
3 collect any DNA, if there was any there, to forward to
4 the DNA department?

5 A SLED item number 6 --- item 6, shell casing; SLED
6 item number 8, shell casing; SLED item number 9, shell
7 casing; SLED item number 10, shell casing; SLED item
8 number 11, shell casing; SLED item number 40, shell
9 casing.

10 Q And when you were talking about the item numbers,
11 the 40 and the 6, the 8, those numbers are that are
12 randomly assigned by SLED when those comes into your
13 possession?

14 A No, every --- it's not random. Every number,
15 every piece of evidence that comes in, they have to
16 have an item number for tracking purposes.

17 Q For tracking purposes? Say the first piece of
18 evidence submitted gets the number 1 and it then
19 proceeds?

20 A Yes. That's correct.

21 Q I shouldn't have used the word random. I'm
22 sorry. In this case, I believe you received you
23 received a total of six shell casings. Of those, how
24 many were 45 caliber GAP?

25 A Four.

1 Q And of the remaining two, what caliber were
2 those?

3 A 40.

4 Q Forty. In addition to that, did you also receive
5 a spoon that was submitted to SLED?

6 A Yes, I did.

7 Q And did you take any swabs from that spoon?

8 A Yes, I did.

9 Q And what areas of the spoon did you actually
10 swab?

11 A I swabbed the --- on the particular spoon, I
12 swabbed the back of the spoon. I swabbed the front of
13 the spoon, and I swabbed the handle of the spoon.

14 Q Once you had collected those swabs, even if
15 they're from the same item, are they all packaged
16 separately as you did with the swabs from the
17 ammunition that was forwarded to you?

18 A Everything is packaged separately into a gold
19 colored envelope.

20 Q When a number of swabs come from the same item,
21 in this case the spoon which was given the item number
22 21, does it then get a sub number to designate that
23 it's from the same item?

24 A That's correct.

25 Q And how is that done? Say if this is number 21,

1 what would those three swabs then be numbered in this
2 case?

3 A The spoon would be 21. The first swab would be
4 21.1 because it came from that particular item. The
5 next swab would be 21.3 --- .2 --- and the next one
6 would be 21.3.

7 Q And then finally did you also get a couple of ---
8 some unfired cartridges or bullets as I call them?

9 A Yes, I did.

10 Q And how many of those?

11 MS. PINNOCK: We'll renew our previous objection
12 to the search.

13 THE COURT: Overruled.

14 BY MS. CAMPBELL:

15 Q I'm sorry, ma'am. How many of those did you
16 receive?

17 A Two.

18 Q And what were the caliber of those bullets?

19 A A .40.

20 Q And again with those, what if anything did you do
21 with them to collect possible evidence on those?

22 A I swabbed the entire item on both unfired
23 cartridge.

24 Q And you collected those, again, did you package
25 them separately and package them properly?

1 A I would package them separately --- let it dry,
2 package separately, initial, date, and forward it.

3 Q Finally, I want to talk about item number 39,
4 which is a piece of clothing that was submitted for
5 testing. Thirty-nine?

6 A SLED item number 39 was a black jacket.

7 Q A black jacket?

8 A Yes.

9 Q Was there an area of that you swabbed for
10 possible DNA?

11 A Yes.

12 Q And what area was that?

13 A I swabbed --- this particular item I had to put
14 it underneath the light because I was looking for
15 possible body fluids. A lot of times if you put it
16 underneath a light and you make the room dark and you
17 put glasses on, you can see body fluids. Once you
18 turn the room out, you see an area that glows, you do
19 a circle on it. I swabbed the fluorescent area that
20 glowed, and I also swabbed a square area that
21 supposedly someone touched the back.

22 Q And you mention that you used a light and it's
23 fluorescent, that may indicate a body fluid is there.
24 Even if it shows fluorescent, that doesn't mean a body
25 fluid is there?

1 A It doesn't necessarily mean that, no.

2 Q But you always err on the side of caution and
3 collect it just in case?

4 A Yes.

5 Q And the final area you swabbed on that piece was
6 in the back area; is that correct?

7 A That's correct.

8 Q And as far as the swabs were involved those were
9 the items that you actually swabbed in an attempt to
10 collect possible DNA from those items; is that
11 correct?

12 A That's correct.

13 Q Were there also the additional items that were
14 submitted to you to test for the presence of possible
15 blood?

16 A That's correct.

17 Q And what items were those, ma'am?

18 A SLED item number 40.

19 MS. PINNOCK: Your Honor, we would renew our
20 previous objection.

21 THE COURT: Overruled. Go ahead, ma'am.

22 THE WITNESS: SLED item number 40 was black
23 gloves. SLED item number 41 was also black gloves.
24 SLED item number 42 was black and gray rubber gloves.
25 SLED item number 43 was black and gray rubber gloves.

1 SLED item number 44 was a black in lime color rubber
2 gloves.

3 Q Let me stop you there. I'm going to show you
4 what's been marked as State's Exhibit Number 368. Do
5 those indicate the item numbers you're talking about
6 40 through 44. Sorry. It's kind of a mess.

7 A Yes, it is.

8 Q And did you test each of those gloves separately
9 for the presence of blood?

10 A Yes, I did.

11 Q Tell the jury how you do that testing on an item
12 such as a glove?

13 A When I first receive evidence, I do a visual
14 test. I look on the outside and inside to see if I
15 see any visual stains. If I don't see any visual
16 stains what I do on the outside and in this particular
17 case, the outside of the glove, I swab the entire
18 outside to see if it comes up as a possible blood. I
19 put a chemical test on. If it turns pink, then I know
20 it's a possible --- that there's blood there, but if
21 it doesn't react and nothing changes, that means there
22 is no blood present.

23 Q When you did your visual inspection of these
24 gloves, did you see any evidence that was visible to
25 you or the eye for the presence of blood?

1 A No, I did not.

2 Q Did you then further go with each of these gloves
3 and do a presumptive test to see if any blood was
4 there?

5 A Yes, I did.

6 Q What were the results?

7 A Negative. It didn't show any color change.

8 Q On each of the separate gloves?

9 A On all --- on 43 or 44.

10 Q And I want to turn your attention to some final
11 items that you did some testing on, I believe, item 45
12 and 46. What were those?

13 A SLED item number 45 was a pair of shoes and 46
14 was a pair of shoes.

15 Q And what if any testing did you do on item 45,
16 which was a pair of I think black and white shoes or
17 sneakers?

18 A Yes, I ---

19 MS. PINNOCK: Your Honor, for the record, we have
20 to renew our objection.

21 THE COURT: Overruled.

22 BY MS. CAMPBELL:

23 Q I'm sorry, go ahead.

24 A Item number 45, I did a presumptive test for
25 blood and there was no chemical reaction. SLED number

1 46, I did a presumptive test and it showed pink, so
2 there was a possibility there was blood there.

3 Q So the presumptive test was positive on item
4 number 46 and what was the description you had for
5 item number 46?

6 A Pair of Nike shoes size 12 black in color.

7 Q Once you got the presumptive test positive for
8 that item, did you then make any attempt to collect
9 swabs to then be forwarded for DNA?

10 A Yes, I did.

11 Q Did you, in fact, swab separate areas of that
12 shoe?

13 A Yes, I did.

14 Q Were those swabs forwarded to DNA?

15 A Yes, I did.

16 Q On the items that tested negative for blood, did
17 you do any further testing for DNA?

18 A No, I did not.

19 Q Is that per protocol you wouldn't collect
20 anything if the presence of blood wasn't there?

21 A It was --- it was in the notes where they were
22 looking. There was a possibility there was blood. If
23 there was no blood there, then I didn't have to do
24 ownership on the items.

25 Q Okay. And I want to show you some swabs that I

1 believe you collected, State's Exhibits 385, 386, 387
2 and 388 and first ask if you recognize those. I'll
3 move this out of your way. Thank you, ma'am. I
4 appreciate it.

5 A Yes, I do.

6 Q Once you had collected those swabs, while they
7 were in your possession, did you alter them or tamper
8 with them in anyway?

9 A No, I did not.

10 Q Were they packaged properly and then forwarded to
11 the DNA department for further testing?

12 A Yes. They were.

13 MS. CAMPBELL: Your Honor, we offer these items
14 into evidence.

15 MS. PINNOCK: Subject to our previous objection.

16 MR. SCHNEE: No objection.

17 THE COURT: Admitted over the objection.

18 (WHEREUPON, State's Exhibit Numbers 385 through
19 388 were admitted into evidence.)

20 BY MS. CAMPBELL:

21 Q Agent Butler, once you had done your testing in
22 this case and collecting the swabs that you were asked
23 to collect, did you have any further involvement?

24 A No, I did not.

25 Q And just for the record, prior to you getting

1 those gloves, had they already gone to the trace
2 didn't to be tested, do you know?

3 A Yes, they were.

4 Q And is that proper protocol to go to trace first
5 and then come to you?

6 A Yes, it is.

7 Q Thank you, ma'am.

8 MS. PINNOCK: Your Honor, I don't have anything
9 further of this witness.

10 MS. PINNOCK: May it please the Court.

11 THE COURT: Yes, ma'am.

12 CROSS-EXAMINATION:

13 BY MS. PINNOCK:

14 Q Ms. Butler, I just have a couple of questions for
15 you. Just for clarification's sake for me, the shell
16 casings that you got, I thought I heard two number
17 item 40's. Can you go back through the numbers for
18 your shell casings that you received?

19 A SLED item number 6.

20 Q Uh-huh.

21 A SLED item number 8, SLED item number 9, SLED item
22 number 10, SLED item number 11, SLED item number 12
23 was a shell casing.

24 Q Okay. Thank you, ma'am. And all the items you
25 have listed in your report, that's all you received

1 for your testing, right?

2 A That's correct.

3 Q So you only received one pair of shoes?

4 A No, I received two pairs of shoes.

5 Q Two pairs of shoes. One was a pair of Nikes.

6 What was the other one?

7 A It was a pair of Puma size 12 black and white in
8 color.

9 Q When you received these items, did you have any
10 idea where they came from originally?

11 A No, no, I did not.

12 Q And then once your finished your testing, you
13 forwarded it on for analysis, correct?

14 A That's correct.

15 MS PINNOCK: Thank you, ma'am.

16 MR. SCHNEE: May it please the Court.

17 THE COURT: Yes, sir.

18 CROSS-EXAMINATION:

19 BY MR. SCHNEE:

20 Q A couple of brief questions for your. The shell
21 casings, were you testing those for blood or were you
22 just testing them for anything in general?

23 A I was testing these for possible touch.

24 Q For touch DNA?

25 A That's correct.

1 Q Now, you also, I believe, said you tested a
2 spoon?

3 A Yes, I did..

4 Q Is that for touch DNA, as well, that you swabbed
5 it for?

6 A Yes, it was.

7 Q Okay. Now, all of the gloves that you tested,
8 you said you did a presumptive test on the outside for
9 blood?

10 A That's correct.

11 Q Okay. And you didn't find any?

12 A That's correct.

13 Q Okay. Did you do any tests on the inside for
14 touch DNA?

15 A No, I did not.

16 Q Were you asked to?

17 A No. I was asked to if there was a presumptive
18 test that was positive, I would then go and do further
19 testing for ownership, but since it was negative, I
20 stopped right there.

21 Q Okay. So to your knowledge, has anyone done a
22 touch DNA test on the inside of the gloves?

23 A Not to my knowledge.

24 MR. SCHNEE: Thank you. That's all I have,
25 Judge.

1 THE COURT: Ms. Campbell?

2 MS. CAMPBELL: Nothing further, Your Honor.

3 THE COURT: Have a nice day, Ms. Butler.

4 You all approach real quick.

5 THE COURT: You all go ahead and stand up and
6 stretch your legs.

7 (WHEREUPON, a bench conference was held in the
8 presence, but not within the hearing of the
9 jury.)

10 THE COURT: All right. Ladies and gentlemen,
11 let's go ahead and take our afternoon break at this
12 time. Do not discuss the case. Keep an open mind.
13 We'll see you back in about ten or 15 minutes. Thank
14 you very much.

15 (WHEREUPON, the jury left the courtroom at 2:43
16 P.M.)

17 THE COURT: Everyone stay seated. All right.
18 What's this with the chart?

19 MS. CAMPBELL: Your Honor, as I do in every case,
20 I summarize the DNA findings. I had a DNA analyst
21 review it. She has actually participated in the
22 making of this chart. It just basically summarizes
23 the findings and under Rule 1006, we feel like it
24 would be helpful for the jury and if she would testify
25 to explain it to the jury.

1 THE COURT: Who is your DNA analyst?

2 MS. CAMPBELL: Agent Clayton.

3 THE COURT: Are you here?

4 THE WITNESS: Yes, sir.

5 THE COURT: Okay. Tell me your name.

6 THE WITNESS: Jennifer Clayton.

7 THE COURT: Have you seen these charts?

8 THE WITNESS: Yes, sir.

9 THE COURT: Do they aid and assist you in your
10 preparation for this case?

11 THE WITNESS: Yes, sir. They summarize the
12 results in a succinct form.

13 THE COURT: Have you looked at them?

14 THE WITNESS: Yes, sir.

15 THE COURT: Are they part of your tests and
16 results ?

17 THE WITNESS: They summarize the results that are
18 in my report, Judge.

19 THE COURT: Okay.

20 MR. SCHNEE: Judge, my objection is not to a
21 summary or a chart at all. My objection is to the
22 form of that summary. It is missing substantial
23 amounts of information. The charts indicate a number
24 of items, specifically the ones in contention would be
25 for example, spoon, a few other things where it says,

1 for example, that **tread marks** cannot be excluded and
2 it just leaves it at that. In the actual report, what
3 it says on those items is a whole bunch of people
4 can't be excluded and the probability of a random
5 person is one in three.

6 THE COURT: Okay.

7 MR. SCHNEE: That's not on the chart and it's
8 misleading to the jury if that is going to be admitted
9 into evidence and go back to the jury room because
10 they're not going to have a --- any end time
11 cross-examination if they have to look at that chart
12 again.

13 THE COURT: Okay.

14 MR. SCHNEE: It presents a problem for me
15 presenting it full evidence to the jury.

16 MS. CAMPBELL: The people that are excluded is
17 accurate on here. I haven't done any probabilities on
18 anything because --- it's something I never do on my
19 charts typically because it gets too voluminous. Of
20 course, he could cross him and what he said is
21 incorrect. If he could cross her on that, the
22 testimony can come out. If he wants to present his
23 own chart, and she says it's accurate. You know, we
24 have no problem with that, Your Honor.

25 THE COURT: What's your objection?

1 MS. PINNOCK: Your Honor, my objection would be
2 the same thing. It's misleading how its summarized.
3 It does leave out the probabilities of inclusion and
4 exclusion. The ratios that we're dealing with to say
5 somebody is excluded or somebody cannot be excluded, I
6 think it is misleading. My objection would be under
7 403 because the charts themselves are misleading.

8 THE COURT: Okay.

9 MS. PINNOCK: I would not object to it being used
10 as demonstrative but I would object to it being
11 admitted into evidence.

12 THE COURT: All right.. The chart is in assuming
13 proper foundation.

14 MS. CAMPBELL: All right. Yes, sir.

15 THE COURT: Ten minutes.

16 (WHEREUPON, a short break was taken.)

17 MR. KRZYSTON: Your Honor, I'm moving for a
18 mistrial, as Ms. Brown never identified Mr. Young as
19 being the one in the neighborhood with a red hoodie.
20 On opening, Ms. Garfield specifically mentioned that
21 Ms. Brown knew Mr. Young; and that he was wearing a
22 red hoodie the night before the allegations in
23 question. Based on the fact that the State is at this
24 point unable to prove that piece of Ms. Garfield's
25 opening, we would move for a mistrial based on what

1 appears to be manifest necessity.

2 THE COURT: Your motion for a mistrial is denied.
3 What's said in opening statements is not evidence and
4 Ms. Brown did nothing to hurt your client in any way
5 during her testimony since she couldn't even identify
6 either one of them.

7 MR. SCHNEE: Just for the record and out of an
8 abundance of caution, I would also join in that
9 motion, as well.

10 THE COURT: Very well.

11 MR. SCHNEE: Thank you.

12 THE COURT: Bring them back.

13 (WHEREUPON, the jury entered the courtroom at
14 2:59 P.M.)

15 THE BAILIFF: The jury panel interpret judge.

16 THE COURT: All right. Call your next witness.

17 MS. CAMPBELL: May it please the Court. The
18 State calls agent Clayton.

19 THE COURT: All right. Ms. Clayton, come
20 forward.

21 JENNIFER CLAYTON,
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 WITNESS: Jennifer Clayton. C-L-A-Y-T-O-N.

DIRECT EXAMINATION:

BY MS. CAMPBELL:

Q Agent Clayton, where are you employed?

A I'm currently employed by the South Carolina Law Enforcement, also known as SLED.

Q What do you do there, ma'am?

A I'm currently a forensic DNA analyst.

Q As a forensic DNA analyst, what do your duties include?

A When evidence is submitted that may contain DNA evidence, I attempt to extract DNA from the item which means separate the DNA from whatever it might be on whether it's swab or piece of fabric and then develop a DNA profile from that item. I also sometimes do testing for body fluids, such as blood, semen, or saliva.

Q Can you tell the jury a little bit about your education and training in the field of DNA?

A I earned a bachelors of science in biology and from the University of North Carolina at Chapel Hill.

I've also taken classes at NC State and USC. My coursework included microbiology, biochemistry, genetics, and statistics. I completed an internship with the North Carolina State Bureau of Investigations molecular genetics department, which is the equivalent

1 of SLED's DNA department. When I originally hired on
2 with SLED, I hired on as a forensic technician in the
3 DNA department and I worked as a technician for two
4 years before I was hired as a DNA analyst. Once I was
5 hired as a DNA analyst, I completely a one year
6 training program and did casework under the
7 supervision of another qualified analyst before I was
8 able to do casework on my own.

9 Q And have you testified before as an expert in the
10 field of DNA analysis?

11 A Yes, I have.

12 Q Including the statistical probabilities as well
13 as the actual examination of DNA itself?

14 A Yes, I have.

15 MS. CAMPBELL: Your Honor, at this time, I would
16 offer her as an expert in forensic DNA analysis.

17 THE COURT: Voir dire?

18 MS. PINNOCK: No, Your Honor, no objection.

19 MR. SCHNEE: No, Judge, no objection.

20 THE COURT: All right. Ladies and gentlemen,
21 normally a person is not allowed to give opinion
22 testimony. Normally when a person testifies, they
23 have to testify to what they either saw heard or
24 sensed by smell or something of that nature. However
25 when there is an exception when someone is qualified

1 by education or experience. They are permitted to
2 give their opinion in certain areas if the court
3 qualifies them in that way. This witness will be
4 qualified in the area of forensic DNA analysis. She
5 will be allowed to give opinion testimony in that
6 area. That does not mean that you have to accept her
7 opinion, but it is evidence for you to use in any way
8 that you see fit and give it the weight and
9 credibility that you believe is appropriate, as you
10 are required to do with each and every witness.

11 Ms.. Campbell.

12 MS. CAMPBELL: May it please the Court.

13 BY MS. CAMPBELL:

14 Q Agent Clayton, I want to turn your attention to
15 the specifics of this case. Before I do that, let me
16 talk a little bit about --- when doing your testing
17 basically, how do you go about getting DNA typically
18 from an item say that may be collected at the scene or
19 evidence that is submitted to you?

20 A The evidence --- the first step I have to do is
21 look at it and determine if, based on the paperwork,
22 it needs to be tested for body fluids. If it does,
23 I'll test it for body fluids. If not I'll take it
24 straight to DNA analysis. As I said before, that
25 means that I want to separate the DNA out from

1 anything that it's on, such as a piece of cotton swab
2 or a piece of fabric and isolate just the DNA for
3 purposes of testing. I then take it through the
4 different steps of testing and develop a DNA profile
5 from the item.

6 Q And typically in getting DNA, is it typical to
7 get DNA say from body fluids, such cause, blood,
8 saliva, or semen?

9 A Yes. Typically bodily fluid as such blood,
10 semen, or saliva are very good sourced of DNA.

11 Q We've also heard reference to the term, touch
12 DNA. What does that mean to you as a forensic
13 analyst?

14 A Touch DNA, that's typically a term we use to
15 refer to DNA that's left behind when someone touches
16 or handles an item. For instance, if I were to put my
17 hand on the counter here and then take it off again
18 and someone were to swab it to see if I touched it,
19 that would be testing for touch DNA.

20 Q And if you did --- you did just what I was going
21 to show, if I put my hand up here and touched an item
22 am I going to necessarily leave my DNA there?

23 A Not necessarily. Sometimes enough DNA is left
24 behind by touching an item to develop a profile and
25 sometimes it is not.

1 Q In addition to that if someone else had touched
2 this before I touched it, could that DNA actually be
3 transferred to my hand, as well?

4 A Yes, that is possible.

5 Q And in testing for DNA, you're looking at what in
6 a cell? What are you actually looking at and making a
7 determination whether there is a match or not?

8 A The first step is to develop DNA profiles from
9 evidence, and sometimes the DNA profile is a single
10 source profile. What that means is that based on the
11 results it's determined that the DNA came from one
12 individual. Sometimes a mixture is developed. What
13 that means is that more than one individual donated
14 DNA to the item and therefore the results include
15 information from more than one individual.

16 Q And if you're actually able to get DNA. DNA was
17 left on an item of evidence in a case, can you with
18 your testing tell how long it's been there or date
19 when it actually got on that item?

20 A No, currently there is no way to determine when
21 DNA was deposited on an item.

22 Q And DNA analysis, it can be --- it can exclude
23 people from being a contributor as well as including
24 them as being a possible contributor, correct?

25 A Depending only the quality of the profile,

1 correct.

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

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

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

11 A Sometimes, that's correct.

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

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

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

24 A Yes.

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

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

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

6 Q And what were those items you tested?

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

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

13 A Yes, I did.

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

16 A Yes.

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

19 A Yes, it is.

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

22 A That's correct.

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

1 were?

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

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

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

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

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

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

12 MS. CAMPBELL: Bring anything you need.

13 BY MS. CAMPBELL:

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

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

22 A That's correct.

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

25 A Blood indication.

1 Q And what does that mean?

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

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

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

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

11 A That's correct.

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

13 A DNA extracted.

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

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

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

20 A That is listed under the results.

21 Q And then this final column is the result?

22 A The summary of the results.

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

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

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

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

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

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

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

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

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

18 A That's correct.

19 Q And in addition to those people?

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

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

1 A That's correct.

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

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

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

12 A Yes, I did.

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

14 A Correct.

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

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

19 Q I'm sorry.

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

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

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

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

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

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

19 A That's correct.

20 Q Okay. Sorry?

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

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

24 A No, I did not.

25 Q And that would have been Agent Butler that did

1 that?

2 A Forensic technician Butler, correct.

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

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

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

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

11 Q Is that unusual?

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

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

23 A That's correct.

24 Q What are the reasons for that?

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

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

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

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

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

21 A No DNA profile was developed.

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

23 A No DNA profile was developed.

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

1 there?

2 A 11.1?

3 Q Uh-huh.

4 A No DNA profile was developed from that item.

5 Q Did I skip one?

6 A I don't think so.

7 Q Okay. What he was the next item?

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

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

18 A No, I cannot.

19 Q Can you tell how it got there?

20 A No, I cannot.

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

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

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

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

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

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

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

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

22 A Yes, I did.

23 Q Did it come back positive for blood?

24 A Blood was indicated on that item, correct.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 Q What does that mean?

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

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

3 Q Is that unusual for that to happen?

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

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

10 A That's correct.

11 Q What was the result of DNA testing there?

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

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

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

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

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

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

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

19 Q Slow down a minute?

20 A Okay.

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

22 A Southwestern Hispanic.

23 Q And then Southeastern?

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

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

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

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

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

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

1 Q And the Southwestern Hispanic?

2 A Approximately 71 percent of the population.

3 Q Would be excluded?

4 A Correct.

5 Q And the Black?

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

8 Q And Caucasian?

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

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

13 A I believe it was SLED Item 21.2.

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

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

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

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

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

15 A Correct.

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

18 A Correct.

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

21 A Correct.

22 Q On each one of these.

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

1 A Yes, I was.

2 Q And what was the result there?

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

6 Q And again, what does that mean?

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

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

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

16 Q Is that unusual?

17 A No, not with touch DNA.

18 Q Item number 24?

19 A Yes.

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

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

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

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

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

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

11 A Correct.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 A No DNA profile was developed from Item 29.

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

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

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

7 A Item 30.

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

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

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

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

24 A No DNA profile was developed from Item 35.1.

25 Q And Item 37.1?

1 A No DNA profile was developed from Item 37.1.

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

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

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

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

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

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

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

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

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

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

6 A That's correct.

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

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

15 Q And you also excluded the police officers?

16 A Correct.

17 Q The next one?

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

1 are excluded as possible contributors to this item.

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

4 A I did upon request, yes.

5 Q And what were those results?

6 A Item 46.2?

7 Q Yes.

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

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

12 A That's the most conservative.

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

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

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

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

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

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

7 Q Yes, ma'am.

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

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

12 A That's the most conservative, yes.

13 Q Finally, 46.4, the swab?

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

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

22 A That's correct.

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

25 A It was done over time.

1 Q As long as an item is collected and properly
2 submitted as stored, does that affect your ability to
3 test for DNA?

4 A Yes, as long as an item is stored in a cool dry
5 environment, protected from chemicals and ultraviolet
6 light, it should last almost indefinitely. However,
7 if it's exposed to moisture or ultraviolet light or
8 chemicals, that can damage the DNA.

9 A And if certain items are recovered but they have
10 been washed or something like that, is your ability to
11 get DNA hampered by that process?

12 A Certainly if someone washed an item, that would
13 inhibit the ability to develop a DNA profile.

14 Q Specifically clothing?

15 A Yes, it could, yes.

16 Q And touch DNA, while we're talking about it, how
17 does touch DNA --- does it come through the sweat or
18 how is it distributed typically?

19 A We slough off skin cells everyday throughout the
20 day. So touch DNA when you touch an item, you
21 typically leave behind some of those cells and they
22 contain --- different individuals leave behind
23 different amounts of DNA when they handle an item and
24 in fact, with testing, they found that the same
25 individual can leave different amounts of DNA behind

1 at different times of the day just depending if it's
2 hot and their hands are sweaty, if they have washed
3 their hands or whatever. There are various factors
4 that can affect it.

5 Q That's where I was going to go with this. It's
6 been found that some people don't even typically leave
7 touch DNA; is that correct?

8 A Some people leave very little, that's correct.

9 Q Just because I touch something, again, am I
10 necessarily going to leave anything that can be
11 recovered?

12 A No, it's very common for an individual to touch
13 an item and not leave enough DNA behind to develop a
14 profile. We have items that we know had to have been
15 handled by someone and yet no DNA profile is
16 developed.

17 MS. CAMPBELL: Thank you, ma'am. I don't have
18 anything further.

19 MS. PINNOCK: May it please the Court.

20 CROSS-EXAMINATION:

21 BY MS. PINNOCK:

22 Q How are you?

23 A I'm doing well. How are you going.

24 Q I'm doing all right. Do you have your report
25 with you?

1 A I do, yes.

2 Q The testing you did, that was the forensics
3 testing where you only test fifteen different
4 locations?

5 A Fifteen different locations, yes.

6 Q And then you test the one location for the sex of
7 the person?

8 A Correct.

9 Q And you were talking about it earlier --- forgive
10 me if you did mention this, but when you do your
11 testing, you are testing two different things, you
12 have the population genetics and the molecular
13 genetics; is that right?

14 A I'm not sure I understand the question. The
15 population genetics is what's used to determine a
16 statistic.

17 Q Right.

18 A Okay.

19 Q And the other test is called what?

20 A DNA. It's just called a polymerase chain
21 reaction, testing ---

22 Q PCR testing?

23 A Yes, even in population genetics it uses the
24 results from genetic testing to determine the
25 statistics.

1 Q Okay. And the PCR testing, that's really really
2 sensitive testing, right?

3 A It is very sensitive testing, correct.

4 Q That's why when you're testing it, you put gloves
5 on to make sure you don't contaminate anything?

6 A Correct.

7 Q You constantly sanitize and clean and make sure
8 your workstation is not dirty, so that you don't
9 accidentally contaminate anything?

10 A That's correct.

11 Q Right, because the slightest little touch can
12 affect your results?

13 A It can. It's possible, yes.

14 Q Now, you mentioned a mixed sample and a partial
15 profile. The mixed sample you said is a situation
16 where up multiple people showing up in a profile?

17 A Correct, a mixture sample can be complete or it
18 can be partial.

19 Q Okay. But the partial --- a complete sample
20 would be if you had a match of 15 out of 15 locations,
21 right?

22 A Right. That would mean that all of the
23 information was present at all 15 locations, correct.

24 Q So partial is anything less than 15. It could be
25 two out of the 15, two out of 15, five out of 15, ten

1 out of 15, just anything less than 15?

2 A Right, or results at all 15 locations would not
3 complete results at all 15 locations.

4 Q And your DNA testing, that doesn't indicate the
5 race of the donor?

6 A No, it does not.

7 Q It doesn't indicate the age of the donor?

8 A No, it does not.

9 Q You testified that it doesn't tell you when it
10 got there?

11 A No, it does not.

12 Q And it doesn't tell you how long it's been there?

13 A No, it does not.

14 Q So if something has been sitting in a building
15 for years and years and years and it goes undisturbed,
16 the DNA could sit there for that many years, correct?

17 A If it's good conditions. If it's a cool dry
18 environment, it could sit there for years and still
19 have a DNA profile, correct.

20 Q Now some of the things you tested, I know you
21 just went through them. I'm going to go through them
22 fairly quickly.

23 Q Okay. You said you tested several shell casings
24 and cartridges for DNA?

25 A That's correct.

- 1 Q And you weren't able to lift anything?
- 2 A A partial DNA profile ---
- 3 Q I'm sorry.
- 4 A --- was developed from one of the items.
- 5 Q You're right. I do apologize. That was an
- 6 unidentified male?
- 7 A That's correct.
- 8 Q You tested Items 18 and 19. That was, which
- 9 ones?
- 10 A Those were the swabs from the arm of Kelly
- 11 Hunnewell.
- 12 Q And the profile was that of Ms. Kelly Hunnewell?
- 13 A That's correct. It was attributable to Kelly
- 14 Hunnewell.
- 15 Q Now Item 21.1. That was the swab from the back
- 16 of a metal spoon?
- 17 A That's correct.
- 18 Q That profile was not suitable for comparison?
- 19 A Correct.
- 20 Q And 21.2, that was the front of the spoon,
- 21 correct?
- 22 A Correct.
- 23 Q On that one you said that Ms. Hunnewell,
- 24 Mr. Young and Mr. Barnes could not be excluded?
- 25 A That's correct.

1 Q Okay. And after developing those profiles, you
2 went and did the population genetics to get those
3 statistics?

4 A Yes, the population genetics was already done and
5 I utilized the results of the population genetics to
6 get the statistic.

7 Q Okay. And your results of that were you found
8 one in three people could also be included?

9 A If you chose an individual at random, there is a
10 one in three probability that that individual would
11 also be included as a possible contributor, correct.

12 Q So for example, if there's 3 million people
13 standing in a circle, 1 million of those people would
14 be included in that sample?

15 A Statistically that's a possibility, correct.

16 Q So if 12 people are sitting around a table, four
17 out of the 12 people could possibly contribute to that
18 sample?

19 A Statistically that's a possibility.

20 Q Item 21.3 is another swab from the metal spoon?

21 A That's correct.

22 Q And Lorenzo Young was excluded from that sample,
23 correct?

24 A That's correct.

25 Q Item 22 and 25 you had different swabs from the

1 push cart?

2 A That's correct.

3 Q No profiles were listed?

4 A That's correct. I was unable to develop a
5 profile.

6 Q Item 24 is another swab?

7 A Oh no, I'm sorry. Correction. Item 22 was a
8 mixture, but it was not suitable for comparison.

9 Q Okay.

10 A And number 25 was also a mixture and is not
11 suitable for comparison.

12 Q Okay. Item 24 Lorenzo Young is excluded?

13 A That's correct.

14 Q Item 30, the purple cap?

15 A Lorenzo Young is excluded as a possible
16 contributor to that item.

17 Q Okay. Item 46, you did a number of swabs off of
18 46, correct?

19 A Yes, I tested four different sets of swabs.

20 Q Okay. And 46.1 Lorenzo Young is excluded?

21 A That's correct.

22 Q And that was from the right Nike shoe?

23 A That's correct.

24 Q Do you recall --- did you have any idea where
25 this shoe came from when it came to you for testing?

1 A I don't believe so. I think something told me
2 later that it was collected from a closet or
3 something, but I don't know.

4 Q So the investigators never told you before you
5 did the testing where that item came from?

6 A No.

7 Q But on the swab 46.1 on the right shoe, Lorenzo
8 is excluded?

9 A That's correct.

10 Q 46.2 that's a swab from the right Nike shoe?

11 A That's correct.

12 Q Lorenzo Young is also excluded from that one?

13 A That's correct.

14 Q 46.3 a third swab from the right shoe?

15 A Correct.

16 Q You said that your results say that Lorenzo Young
17 could not be excluded from that sample?

18 A That's correct.

19 Q But the probability of it being anybody else is
20 one in five?

21 A Well, the probability of selecting an individual
22 at random that would be included as a possible
23 contributor is approximately one in five.

24 Q So for example if there are 3 million people in a
25 room, approximately 600,000 people could have been

1 contributed to that sample?

2 A Statistically speaking that's possible.

3 Q Item 46.4 is a swab from the left Nike shoe?

4 A That's correct.

5 Q And your reports say there is a mixture from an
6 unidentified individual not eligible for comparison.

7 A Well, the DNA profile was a mixture. The DNA
8 profile from the major contributor is an unidentified
9 individual and the DNA profile from the minor
10 contributor is not suitable for comparison.

11 Q Okay.

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

13 (Pause.)

14 MS. PINNOCK: Thank you. I have nothing further.

15 MR. SCHNEE: May it please the Court.

16 CROSS-EXAMINATION:

17 BY MR. SCHNEE:

18 Q Good afternoon.

19 A Good afternoon.

20 Q Do you have enough water or do you need some
21 more?

22 A I think I'm good for the moment. Thank you.

23 Q I want to talk to you a little bit first about
24 DNA in general and your job testing it. Now, when
25 you're doing these, what's call a PCR test, you're

1 essentially taking cells, blood, whatever mixture of
2 fluid it is and at that point you're breaking that all
3 down into group sections of DNA; is that correct,
4 before you ultimately get your conclusions, that is
5 essentially what happens chemically. You're looking
6 at certain sections of DNA?

7 A Well, we aren't looking at certain sections. We
8 don't break the DNA down into those fragments. What
9 we do is make copies of particular sections of the
10 DNA.

11 Q Okay. And these are --- out of entire DNA strand
12 you're looking at 15 different sections?

13 A That's correct.

14 Q And your chemicals are predetermined to copy just
15 those sections?

16 A That's correct.

17 Q And after you take those sections, all of them
18 are analyzed and that's how you get those numbers
19 which are called alleles.

20 A Correct. We have kits that we use from a
21 distributor that tests 15 locations and those results
22 are analyzed and used to report our results.

23 Q Okay. And these locations are specifically
24 chosen because they only apply to humans, right?

25 A Right. They are human specific.

1 Q And they are also specific that different people
2 have different profiles there?

3 A Correct.

4 Q So for example, as maybe you're aware, maybe you
5 are not, a lot of these things come from a kitchen so
6 if a person was say cutting into beef of any kind,
7 blood from that if it got on an item, you would not be
8 finding any DNA on that?

9 A Correct because the kit that we use would not
10 develop a DNA profile from animal blood such as a cow
11 or a chicken.

12 Q So the odds of any items within a kitchen cross
13 contaminating absent something like bleach or a
14 cleaner destroying evidence, you would expect any DNA
15 left somewhere to actually be there and be intact,
16 right?

17 A If it's left in a cool dry environment, then it
18 could last indefinitely.

19 Q But you wouldn't expect ordinary food items being
20 in the vicinity to cause any problems for your
21 testing?

22 A Not necessarily. Obviously if it's causing mold
23 growth or something on the item, then that could
24 affect the results, but if the item is in one
25 location, the meat is in another, then no, that would

1 not affect my results.

2 Q Now you were provided a lot of these things, I
3 have to ask you, did you do any of these swabs
4 yourself?

5 A I did swab the plastic cap, the purple plastic
6 cap.

7 Q Okay.

8 A Which would be SLED Item 30, but the other items
9 were already processed when I will received the swabs.

10 Q Okay. Now, the gloves that you tested, Items 40
11 through 44?

12 A I did not test Items 40 through 44.

13 Q Okay. The items that were submitted in general
14 for testing?

15 A Oh, they were submitted, that's correct, but I
16 did not receive them.

17 Q You never actually touched them?

18 A No, I did not.

19 Q Okay.

20 Q Did anyone ever ask you to test the inside of the
21 gloves for DNA?

22 A No, they did not.

23 Q Who tells you what to test on a particular item?

24 A Typically that request is made by the submitting
25 agency. Sometimes the solicitor's office can make a

1 request. I'm not sure who filled out the request for
2 the gloves.

3 Q Okay. So as a normal part of your job, you
4 either get, as in this case it would be the Columbia
5 Police Department, their major crimes investigators or
6 the solicitors sitting over there would have made
7 request of what to test?

8 A That would typically be the way that happen.

9 Q Do you ever decide to test things on your own?

10 A There are very rare occasions where I find
11 something that I think might be relevant and I'll call
12 and ask, but typically I don't just decide to test
13 things on my own.

14 Q In this case you didn't test anything on your
15 own?

16 A No, I did not.

17 Q Okay. Now, a lot of talk has been had about some
18 of these probabilities of inclusion or exclusion. If
19 you were to have a DNA swab from my mouth, a buccal
20 swab, and you did your serology testing and you're
21 your processing and you said it belongs to me, if you
22 did your normal probability statistics, what is a
23 typical number that you would expect to say this
24 percent is excluded or you know, one in three, one in
25 --- what's the number?

1 A Typically, as I said before, we typically report
2 probabilities of randomly selecting an individual that
3 could have contributed to that profile. If a DNA
4 profile, a single source DNA profile is developed from
5 an item, the results that we get statistically on a
6 full match to an individual is typically somewhere in
7 the one in maybe 100 billion up to as much as one in
8 the quintillion.

9 Q Okay. How many zeros are in a quintillion?

10 A It would be one with 18 zeros behind it.

11 Q Okay. That number?

12 A That's correct.

13 Q So a full normal DNA profile is a one followed by
14 18 zeros?

15 A In that range or one in six hundred billion,
16 somewhere in that range.

17 Q Okay.

18 A If it's complete profile.

19 Q Okay. The population of the United States is
20 approximately 300 something million?

21 A Correct.

22 Q So if you're saying the standard that you would
23 expect for a full profile is one in 600 billion, that
24 would be 200,000 times --- I'm sorry, 2,000 times
25 larger than the American population?

1 A No.

2 Q 300 million ---

3 A There's 300 million ---

4 Q To 600 billion.

5 A Times two, I think it would be 2,000. I think it
6 would be 2,000.

7 Q Okay. So 2,000 times the population of the
8 United States is what you would expect to randomly
9 select to have another person with that profile?

10 A The statistic would typically be in that range
11 for a single source complete profile.

12 Q Were you ever given or asked to test a sample for
13 an individual called Donald Moore?

14 A No, I was not.

15 Q Were you ever asked to test a sample for someone
16 called Marcus Johnson?

17 A No, I was not.

18 Q Were you ever given a sample to test for someone
19 called Azo?

20 A Azo, no, I was not.

21 Q Okay. I want to talk about just a couple of
22 these items.

23 Now, when you're doing your analysis or at any
24 point, do you know where any of these items actually
25 come from?

1 A Sometimes I do, sometimes I don't.

2 Q Okay.

3 A It depends on the item and, you know, sometimes
4 the description tells you where they're from.
5 Sometimes they will submit an incident report and it
6 will mention where it's collected from and sometimes I
7 don't know where they were collected from.

8 Q In this case, do you know where any of them came
9 from?

10 A Some of them are collected from a bakery.

11 Q Okay. But you're not sure which ones, or do you
12 have all that?

13 A I don't know. I believe --- the only ones I know
14 for certain are from the bakery is from the kitchen
15 items like the strainer, the fan, the silver cooker,
16 the push cart. I believe the purple cap was from the
17 bakery, and --- I'm not sure, I believe the shell
18 casings were from the bakery, but I'm not positive.

19 Q Okay. The item that you said 12.1, that is a
20 shell casing?

21 A That's correct.

22 Q Okay. You said it is --- the profile developed
23 it as an unidentified man?

24 A That's correct.

25 Q Okay. You also said it's not suitable for

1 entering into CODIS?

2 A That's correct.

3 Q Is it a partial profile or a full profile?

4 A It's a partial profile.

5 Q And you stated that Trenton Barnes is excluded
6 from that?

7 A That's correct.

8 Q Along with pretty much everyone else you tested
9 for?

10 A That's correct.

11 Q And there's no minor contributor on that?

12 A No, that was a single source profile.

13 Q You have no DNA from any of the other shell
14 casings?

15 A That's correct. I have no DNA profile was
16 developed. Some of them DNA was detected on the
17 items, but it was below the detection limits of our
18 instrument.

19 Q At that point you stopped the testing?

20 A That's the last step, to develop the DNA profile
21 and once no DNA profile is developed, there is no
22 further testing to do.

23 Q On the spoon, 21.2, you said that Kelly
24 Hunnewell, Lorenzo Young and Trenton Barnes cannot be
25 excluded?

1 A That's correct.

2 Q Because it's a --- is it a full profile or a
3 partial profile?

4 A It's actually both a mixture and there are
5 indications it's a partial profile. Again, it was low
6 level sample. It's at the limits of the instrument's
7 detection. At most of the locations there were
8 indications that there was information missing from
9 the from the profile so only three locations could
10 definitively be used to exclude people.

11 Q Is that why your statistic of randomly selecting
12 an individual is so low?

13 A That's correct.

14 Q Right. Now you're not in anyway saying that
15 Trenton Barnes contributed DNA to that, are you?

16 A What that means is, when --- I want to make sure
17 is, when profiles are developed from individuals and
18 then, based solely on the genetics or the DNA profile
19 is developed, I make a determination based on their
20 profile. Could their profile have been a contributor
21 to this mixture. It's not saying that they
22 definitively are because it is a mixture --- you can't
23 definitively say these three individuals made up a
24 mixture, you can just say this person could have
25 possibly contributed to the mixture or this person did

1 not contribute to the mixture.

2 Q Okay. Now, because there is Kelly Hunnewell and
3 Trenton Barnes and Lorenzo Young, the three of them,
4 obviously this isn't involving the Z Y chromosome or
5 gender?

6 A No, that didn't take in the X Y chromosome.

7 Q So you can't determine if the mixture is two
8 males, one female or one male and one female of
9 anything like that? You do probability exclusion
10 based on gender?

11 A I did not do it based on gender, no.

12 Q So if I were to just go around the room and
13 randomly select a third person out of say, one, two,
14 three, Ms. Campbell if you tested her, there is a,
15 according to you, out of those three one of them is
16 just as likely to contribute that DNA, statically, as
17 Trenton Barnes?

18 A Based solely on the statistics that's a
19 possibility, yes.

20 Q Do you have anything that your specific science
21 does that would say statistics, you should just should
22 throw them out, ignore them, clearly Ms. Campbell
23 can't be the contributor and Trenton Barnes has to be?

24 A Based solely on the genetics and the DNA testing,
25 I would not be able to include or exclude Luck

1 Campbell without testing her.

2 MR. SCHNEE: Okay. That's all I have.

3 MS. CAMPBELL: Just a few questions to follow up.
4 I'll be brief.

5 REDIRECT EXAMINATION:

6 BY MS. CAMPBELL:

7 Q Touch DNA we talked about. I keep using my hand,
8 but can touch DNA --- it doesn't have to be just my
9 hand that touches something, but can it come from any
10 part of your body or skin cells from anywhere?

11 A Correct, it can. It's basically any low level
12 amount of DNA so it could come from any part of your
13 skin that came in contact. In fact, if someone is
14 talking and they release a little bit of spittle and
15 it lands and you swab it, without knowing it's saliva
16 or that there meet be saliva present, it would be
17 tested as touch DNA.

18 Q And Item 21.2, the results. It's a partial
19 profile, but there were results at multiple locations
20 but there were only complete results at three
21 locations, right?

22 A That's correct.

23 Q And when you say you excluded everyone else, all
24 the known samples you had, basically that still left
25 you Kelly Hunnewell, Lorenzo Young and Trenton Barnes.

1 A Of the people that I tested, that's correct.

2 Q And in this case no projectiles were submitted to
3 you. Why do you not usually test projectiles as far
4 as for DNA?

5 A Why do I not typically test it? In most cases I
6 wouldn't expect to get a DNA result from it unless it
7 had, you know, passed through an individual.

8 Q Okay. And he asked you about these numbers with
9 single source numbers. With mixtures however, your
10 information is different, is it not?

11 A That's correct. The statistic for a mixture will
12 never be as high as the statistic for a single source
13 profile.

14 Q And he also asked you about items that were from
15 the bakery itself, and this was a bakery, not a meat
16 cutting plant; is that correct, as far as you know?

17 A This was a bakery, correct.

18 Q Was the spoon found at the bakery?

19 A To the best of my knowledge, yes.

20 Q Just to be clear, on Item 26.2 on the spoon ---

21 A 21.2?

22 Q 21.2. I don't know what's --- I'm sorry. At
23 21.2 the information you were able to rely on at those
24 three locations, the DNA profile would match Kelly
25 Hunnewell at those three locations?

1 A You can't determine a match at a mixture.

2 Q Okay.

3 A You could only determine could have contributed
4 or could not have contributed or not.

5 Q The information there could have been contributed
6 by Kelly Hunnewell.

7 A Kelly Hunnewell could have contributed to that
8 mixture.

9 Q And in examining that information it could have
10 also been contributed by Lorenzo Young?

11 A Lorenzo Young could have also contributed to the
12 mixture, correct.

13 Q And then finally Trenton Barnes?

14 A Trenton Barnes could have also contributed to
15 that mixture; that is correct.

16 Q You also mentioned that high heat and dampness or
17 wetness may determine how long DNA may stay on an
18 item?

19 A That's correct.

20 Q Stirring a pot with a spoon, with steam, could
21 that affect old DNA from being there?

22 A It could, certainly when you expose something to
23 a hot liquid it could cause the DNA to be rinsed off
24 of the item and if the heat is high enough, it can
25 damage the DNA.

1 MS. CAMPBELL: Thank you, ma'am. I don't have
2 anything further.

3 MS. PINNOCK: Very briefly, Judge.

4 RECROSS-EXAMINATION:

5 BY MS. PINNOCK:

6 Q You just --- Ms. Campbell just asked you again
7 about the points on item 21.2 that were similar.
8 That's the spoon that had the mixture of at least
9 three people?

10 A Correct.

11 Q You said that you couldn't make any determination
12 because not all the information was there, but three
13 points were very similar or were similar enough for
14 you to say that Ms. Hunnewell, Lorenzo and Mr. Barnes
15 were all included --- could not be excluded from that,
16 right?

17 A I'm not sure I understand the question. As we
18 said earlier --- as I said earlier, we test 15
19 locations and of those 15 locations three of those
20 locations I determined that all of the information
21 from all contributors was present, so if an individual
22 take for instance on item 21.2 D-8, the results are a
23 10, 12, 13 and a 14, so anybody whose profile contains
24 those numbers at D-8, would be included as a possible
25 contributor at that location, so for instance anybody

1 who has a 10-13 or a 10-14 in their DNA profile would
2 be included as a possible contributor at that
3 location. However, if they were for instance a 10-17,
4 they would be excluded as a contributor because their
5 17 is not present in that mixture. So I did that
6 comparison at those three locations that I determined
7 everyone was present in the mixture and based on that,
8 I was not able to exclude those three individuals,
9 Kelly Hunnewell, Lorenzo Young and Trenton Barnes as
10 possible contributors to the mixture.

11 Q Okay. That answered my question.

12 A Okay.

13 Q And those results are only based on the samples
14 that you were provided with to test, right?

15 A I ---

16 Q All the swabs that you were given, all the items
17 collected, those are the only items. You did not step
18 out and start doing your own analysis?

19 A Correct, I did not do collect additional samples
20 for comparison.

21 Q And you said the D-8. That's one of the sections
22 that you tested that all three of those individuals
23 had --- were present at that section?

24 A They were included as possible contributors.

25 Q Isn't it true that 99 --- pretty much 99 percent

1 of human DNA is identical, right?

2 A Correct.

3 Q So it's a very --- even the one percent that's
4 different per person still includes millions of DNA of
5 --- items, you know, you're the expert. In that
6 1 percent when you test it, there's still a lot of DNA
7 strands in that very tiny percentage, that one
8 percent?

9 A Yes, there's still a lot of variation and that's
10 why we're able to develop a DNA profile and do
11 comparisons because there is variation. When I say D-
12 8, that's basically just a location on the DNA. You
13 can kind of think of it like an address where your
14 house can be found. D-8 is kind of where this piece
15 of DNA that we tested can be found. There are
16 variations in that. That's why we are able to develop
17 unique DNA profiles. When we test an individual at
18 that location, one individual may be a 1012 at that
19 location. Another individual may be a 1014 at that
20 location. There is a limit to the variations, though.

21 For instance, it may not be possible to be a
22 1027. That may just be a variation that's not found
23 in the population.

24 Q But multiple people can have say a 1013?

25 A Correct.

1 Q And multiple ---

2 A And based on one location, multiple people can
3 and likely do have a 1013 in their DNA profile at D-8.

4 Q And multiple people can have the 1213?

5 A That's correct.

6 Q And we're talking millions of people?

7 A I would have to do the statistics on that. I
8 don't know what the calculation is, but that would
9 probably be a good guess.

10 Q So again with item 26.2, is that what we're
11 talking about, 26.1?

12 THE COURT: 21.2.

13 BY MS. PINNOCK:

14 Q Thank you. 21.2, 3 million people standing in a
15 circle. One in three chance that somebody else
16 contributed to that, so 1 million people statically
17 that could have contributed to that sample?

18 A Statistically, based solely on the DNA results,
19 that's correct.

20 MS. PINNOCK: Thank you.

21 MR. SCHNEE: May it please the Court.

22 RECROSS-EXAMINATION:

23 BY MR. SCHNEE:

24 Q We're going to quit talking soon.

25 A Okay.

1 Q Very very briefly. You said Kelly Hunnewell
2 cannot be excluded as a contributor?

3 A That's correct.

4 Q Okay. But scientifically you can't say she is
5 absolutely included as a contributor?

6 A That's correct.

7 Q You can't say that Trenton Barnes is definitely
8 included as a contributor either?

9 A No. There are possible contributors, but I
10 cannot say definitively that this mixture is made up
11 of Kelly Hunnewell, Lorenzo Young, and Trenton Barnes.

12 Q Okay. And scientifically, you as an expert can't
13 say that any of them actually contributed DNA to that
14 spoon, correct?

15 A I can't definitively say that they contributed
16 DNA. I can say that they are included as possible
17 contributors, but I can't definitively say that are
18 contributors.

19 MR. SCHNEE: Okay. Thank you.

20 THE COURT: All right. Have a good day, ma'am.
21 Thank you.

22 (WHEREUPON, a bench conference was held in the
23 presence, but not within the hearing of the
24 jury.)

25 THE COURT: All right. Thank you very much. All

1 right. Ladies and gentlemen, we're going to go ahead
2 and stop for the week. You all have been here every
3 day, but one for multiple hours and long hours, so
4 we're going to start at --- we may could get the next
5 witness in, but I don't want to push it, especially
6 since everybody has been doing such a good job of
7 paying attention, staying with us.

8 Let's see. We made it up to 29. We got through
9 about --- I don't know. I can't --- my mind can't
10 even figure it out right now, but we've done a lot of
11 work today. I'm going to go ahead and let you go home
12 for the weekend. Now, do not discuss the case with
13 anybody in any way, shape, or form. Keep an open mind
14 about the case. Even though you've heard 29
15 witnesses, you still have not heard all the witnesses.
16 The lawyers haven't had an opportunity to give their
17 closing arguments and I haven't told you what the law
18 is as it applies to this case. So in no way shape or
19 form should you have made any type of decision in your
20 mind. You're supposed to consider yourself like an
21 open book ready to receive any information that is
22 presented next week if any at all.

23 Now, I have previously instructed you in great
24 detail that you must decide this case solely on the
25 evidence that is presented in this courtroom. Because

1 we're about to take a break for the weekend, I'm
2 now reminding you of this warning. I want you to once
3 again fully commit to each other, to the parties and
4 to the court that you're not going to use any kind of
5 cell phone, smart phone, Blackberry, tablet, Facebook,
6 text message, Twitter, Google or anything else, radio,
7 television, print newspaper or anything like that to
8 get or receive any information about the case, to get
9 or to send or post any information about the case or
10 any type of messages to friends, family members,
11 coworkers, anybody. It doesn't matter. It's
12 completely off limits. If people ask, you can tell
13 them you're on a jury and I can't talk about the case
14 and judge told me that I wasn't allowed to do that.
15 You're allowed to enjoy your weekend and to enjoy your
16 time. It's going to be rather chilly this weekend I
17 think. At least it is tonight and tomorrow night, but
18 I want you to enjoy your weekend, come back Monday
19 morning refreshed and ready to go. We have will start
20 with the jury at 9:15 on Monday morning.

21 I got a question from you, I don't know when,
22 about timing, okay. Now, and I told you this before
23 and I mean this. I don't hold these lawyers to
24 things, okay because you never know what's going to
25 develop in a case and you never know how things are

1 going to proceed, but my best guess right now and
2 don't say the judge told me this was definitely going
3 to happen, okay. My best guess, and this is a guess,
4 okay, is we're looking at Tuesday of being done so
5 kind of for your planning for the week of the week, I
6 think Tuesday is probably best case scenario and
7 probably Wednesday is worst case scenario. Now, I
8 don't know that. That's not definitive. I don't have
9 a map. Nobody has timed anything out because things
10 change and things come up and strategies change and
11 everything else, so all that is perfectly normal.

12 I won't look at the lawyers and say you will be
13 done by this time, because I want everybody regardless
14 of what side they are on to have their full ability to
15 present their case and to present whatever, if
16 anything, that they want to in this matter.

17 So, of course, neither defendant has to put on
18 any evidence, doesn't have to present anything.
19 Doesn't have to say anything. Doesn't have to call
20 any witnesses because the burden of proof is on the
21 State, but I don't want anybody to be hampered in
22 feeling like I'm giving them some kind of time
23 constraint.

24 Saying that, I want you to have a good weekend, I
25 want you to enjoy your weekend. Come back Monday

1 morning refreshed and ready to go. We'll see you at
2 9:15 Monday morning. Do not discuss the case and keep
3 an open mind. Thank you. Everyone remain seated
4 while the jury is dismissed.

5 (WHEREUPON, the jury left the courtroom at 4:19
6 P.M.)

7 THE COURT: Okay. Anything from the State before
8 we break for the weekend?

9 MS. GARFIELD: No, sir.

10 THE COURT: Anything?

11 MR. KRZYSTON: Judge, we would just renew
12 objection to motions.

13 THE COURT: Okay.

14 MR. SCHNEE: Nothing from Mr. Barnes, Your Honor.

15 THE COURT: Okay. Are there any other major
16 issues that we all know we need to deal with outside
17 the presence --- I'm not talking about stuff that
18 comes up during the --- any other extended period of
19 time that you think we could handle something outside
20 the presence of the jury?

21 MS. SIMPSON: Your Honor, the only thing that's
22 still really outstanding would be the clips from the
23 video ---

24 THE COURT: Right.

25 MS. SIMPSON: --- that we intend to show and

1 Investigator VanHouten should go up on Monday, as well
2 as the witnesses who would be testifying with respect
3 to the firearms and identifying them in the video as
4 well.

5 THE COURT: And you're talking about those videos
6 that I viewed the other morning?

7 MS. SIMPSON: Correct, Your Honor.

8 THE COURT: Okay.

9 MR. KRZYSTON: Judge, I don't know what the State
10 intends to introduce through Mr. VanHouten, but there
11 are potentially some relatively major issues and
12 arguments to be stated succinctly, but it does involve
13 a potential vast amount of evidence.

14 THE COURT: Say that again.

15 MR. KRZYSTON: Depending on what they plan to
16 introduce from the phone dumps through Investigator
17 VanHouten, we do have some arguments that involve a
18 large amount of stuff, but could be stated succinctly.

19 THE COURT: Okay.

20 MS. SIMPSON: I think we essentially told the
21 defense at the very beginning what we intended to
22 introduce through Investigator VanHouten. The photos
23 you have ruled on with the red hoodie. We still have
24 the still shots from the videos that need to be ruled
25 on and the video clips with the audio portions about

1 firearms, and the search history specifically up to
2 the day of Mr. Young's --- everyone's arrest on
3 July 5th. That would be the extent of what we would
4 be offering.

5 THE COURT: Okay.

6 MR. KRZYSTON: Judge, I'm not sure that --- some
7 of that can be dealt with --- well, obviously it all
8 has to be dealt with out of the presence of the jury,
9 but some of that I think I'm going to need to object
10 to in the course of trial.

11 THE COURT: I'm not preventing you from doing
12 that. I'm just talking about the major legal stuff
13 that ---

14 MR. KRZYSTON: I think I can get the bulk of my
15 argument ---

16 THE COURT: I'm sorry.

17 MR. KRZYSTON: I think I can get bulk of my
18 argument out pretrial, but there will be some issues
19 upon his testimony.

20 THE COURT: Okay.

21 MR. SCHNEE: Judge, just along that same vein,
22 the one thing that we have never been --- that I never
23 received from the State, they say that either their
24 investigators or someone has watched these videos and
25 they are identifying either people by faces or voices.

1 I have absolutely no idea who they're claiming are on
2 any of these videos. I'd certainly ask that get
3 turned over before Monday.

4 MS. SIMPSON: Your Honor, we have turned over ---
5 I'm not sure what you're referencing, but all the
6 information with respect to Investigator VanHouten as
7 well as Suzann Cromer has been turned over and there
8 is no enhancement or changes as to the video or things
9 of that nature.

10 THE COURT: What he is saying is, who are you
11 attempting to identify on the videos.

12 MR. SCHNEE: Yeah, the actual people on the
13 videos.

14 THE COURT: Go ahead.

15 MS. SIMPSON: That Mr. Young would be identified
16 specifically by Investigator Eunice as well as
17 Investigator McCoy.

18 MR. SCHNEE: Is anyone else being identified,
19 because there are multiple other people and voices
20 that are clearly not Lorenzo Young's on those
21 recordings?

22 MS. SIMPSON: Well, we initially anticipated Troy
23 Stevenson had information so at this point, we don't
24 know. At this point, I'm going to say no.

25 THE COURT: Do you plan on saying that anybody on

1 those videos is Mr. Barnes?

2 MS. SIMPSON: Not at this moment.

3 THE COURT: Okay.

4 MR. SCHNEE: That's at least useful information.
5 The only other issue coming up is dealing with Carlos
6 Smith.

7 THE COURT: Is that one of the informants that
8 you just got the information on?

9 MR. SCHNEE: Yes, sir. That's exactly right.

10 THE COURT: About the jail and you wanted to be
11 able to look at the jail and see who was where when?

12 MR. SCHNEE: Right. I got that in terms of how
13 to deal with that in front of the jury, but we can
14 deal with that on Monday.

15 THE COURT: Okay.

16 MR. KRZYSTON: And actually, Judge, that just
17 piqued my mind. With respect to, I believe
18 Investigator Eunice is one of the individuals who you
19 told us would identify Mr. Young?

20 MS. SIMPSON: Correct.

21 MR. KRZYSTON: We would have an issue with
22 Investigator Eunice and his testimony. I believe we
23 are going to have to ask Your Honor for some type of
24 limiting instruction with regard to --- not to the
25 jury but specifically with regard to Investigator

1 Eunice and that he is specifically a gang
2 investigator.

3 THE COURT: Well, that ---

4 MR. KRZYSTON: The basis and all that...

5 THE COURT: We can deal with all of that.

6 MR. KRZYSTON: Certainly.

7 THE COURT: I mean just like major stuff without
8 having to sit there and read two hours worth of cases.

9 MR. KRZYSTON: I promise not to do that.

10 THE COURT: Okay. Anything else?

11 MS. SIMPSON: Nothing from the State.

12 THE COURT: Do I have the still shots or have I
13 seen the still shots besides the red hoodie ones?

14 MS. SIMPSON: You have them on a disc; we're
15 still working on enhancing those provided at the
16 beginning. I can always get another one. Those have
17 been provided to the defense, as well.

18 THE COURT: Yeah, yeah, I've seen that. That's
19 the one that's got like all the pictures in a row on
20 it.

21 MS. SIMPSON: Yes.

22 THE COURT: Okay.

23 MS. SIMPSON: The number of them.

24 THE COURT: And are you all attempting to
25 introduce all of those?

1 MS. SIMPSON: No, Your Honor.

2 THE COURT: Somebody just ---

3 MS. SIMPSON: Narrow them down.

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

6 MS. SIMPSON: Yes..

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

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

12 MR. SCHNEE: No, Your Honor.

13 MR. KRZYSTON: Nothing, Your Honor.

14 MS. SIMPSON: No, Your Honor.

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

16 MR. KRZYSTON: Thank you, Judge..

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

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

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

22 NOVEMBER 17, 2014

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

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

1 there anything we need take up before we bring in the
2 jury? Ms. Garfield?

3 MS. GARFIELD: The only thing I can think of,
4 Judge, is we'll need ruling from you as far as the
5 videos are concerned at some point this morning.

6 THE COURT: Did you get the still photos?

7 (WHEREUPON, State's Exhibit Numbers 425 through
8 434 were marked for identification only.)

9 MS. SIMPSON: I did, Your Honor, I've just marked
10 them 425 through 434

11 MS. BAMBACH: Your Honor, we're going to have
12 several objections regarding the ID and the videos and
13 stills so I know it's going to be kind of a ---

14 THE COURT: Well, go ahead and start.

15 MS. BAMBACH: First, I would start with the
16 pictures in the red hooded sweatshirt.

17 THE COURT: The one that I have already ruled on?

18 MS. BAMBACH: Oh. That's been already ruled on?

19 THE COURT: Yes.

20 MS. BAMBACH: So there's no --- I ordered the
21 hand sign be cut out because otherwise --- as long as
22 somebody can identify him.

23 MS. SIMPSON: And Your Honor, we actually had one
24 additional where there are no hand signs, but I
25 believe it shows the cap better.

1 MS. BAMBACH: I would argue cumulative on those.
2 It's pictures with a red hooded sweatshirt on.

3 Also, along with that, I would just again argue
4 the relevance of the photograph taken three days
5 before. Second, it's extremely prejudicial. You can
6 only see the top part of his sweatshirt. You don't
7 know if there's a logo or different color, anything on
8 the bottom part. I think the prejudice outweighs the
9 probative value of that photograph. I also don't know
10 how to --- how they're going to ID this.

11 THE COURT: Well, they'll have to have the
12 witness do it.

13 MS. BAMBACH: If that's going to be Investigator
14 Eunice, that's whole different argument.

15 THE COURT: I don't know who it is.

16 MS. SIMPSON: We have two primarily for the
17 photos and McCoy, as well.

18 MS. BAMBACH: Investigator Eunice is on the gang
19 task force. Obviously that wouldn't have to be
20 mentioned, but first of all Rule 602 states that a
21 witness must have personal knowledge of the matter. I
22 don't believe Investigator Eunice would have any
23 personal knowledge of any of these acts that would be
24 on the videos or on the photos. Also, that would ---
25 having an investigator up there saying I know this to

1 be Lorenzo Young obviously infers that Lorenzo Young
2 has had prior dealings with investigators and law
3 enforcement, I think that would go with 404(b) and
4 beyond that I don't believe that it's relevant, and I
5 do believe that it's highly prejudicial to have a law
6 enforcement officer point out a picture of Mr. Young
7 saying that's Lorenzo Young.

8 And again, he doesn't have personal knowledge of
9 anything that's going on in all these videos.

10 THE COURT: All right. Where are the still
11 shots?

12 MS. SIMPSON: I know there were numerous ones.
13 When I spoke with Ms. Cromer, which I indicated, I
14 believe during the prior hearing, these were the best
15 we could do with regard to the still shots but the
16 videos are much clearer for the purposes of
17 identifying the firearm. Specifically the video in
18 its entirety, which she did review, essentially with
19 respect to getting a still shot, that proved to be
20 difficult. I know Joe West from SLED made attempts,
21 as well as our office, to gain better clearer
22 pictures. However, due to the speed on the videos, in
23 which they're moving the guns and the firearms, these
24 photographs were the best that we could pull, the only
25 ones which Ms. Cromer can actually testify to where it

1 was clear regarding the nature of what the weapon is.

2 MS. BAMBACH: And I haven't seen the stills, but
3 regarding the video, the one video in general, you
4 don't even see Mr. Young in this video. There's at
5 least six people in the video, all holding guns.

6 Lorenzo cannot be identified in that video. It's
7 completely irrelevant. He is not seen. We do not see
8 his face at all. There is nothing identifying Lorenzo
9 Young in that video. I can tell you from those stills
10 which are from that video, but either way if you found
11 it was relevant, I would say again on that the
12 probative value would substantially outweigh --- would
13 not substantially outweigh, the prejudice here.
14 Again, it would be a confusion of the issues for the
15 jury to mislead them and inflame them when he's not
16 even in that video.

17 THE COURT: Okay. State's Exhibit 435 is in
18 pursuant to the proper foundation being laid. It is
19 directly relevant and probative. There's no gang
20 signs in it or anything of that nature, but I mean,
21 somebody it going to have to identify him, but it's
22 clearly probative to the case and there's very little
23 to no prejudicial effect.

24 THE COURT: Number 425, how do I know who is
25 holding that gun?

1 MS. SIMPSON: Your Honor, with respect to that,
2 as I stated, the videos are the best evidence with
3 respect to that specific photograph. Lorenzo Young is
4 identified and will be identified through one of our
5 witnesses as being the person who actually pulls this
6 gun out of his pocket. That's when they're discussing
7 hold the Glock, the 45, hold that up to the camera, et
8 cetera, and he --- his face, you can see a clearer
9 shot through the video. That's just up close of the
10 firearm itself for purposes of Ms. Cromer testifying.

11 THE COURT: All right. What about this?

12 MS. SIMPSON: That's State's ---

13 THE COURT: 426.

14 MS. SIMPSON: That is also ---

15 THE COURT: From the same video?

16 MS. SIMPSON: From the same video, yes, Your
17 Honor.

18 THE COURT: What about 427?

19 MS. SIMPSON: That would be from the video when
20 she is referring --- Ms. Bambach was referring to the
21 number of people in the room. I would note for the
22 record that all of these videos were obtained from the
23 phone that was ---

24 THE COURT: How do you know that Mr. Young is in
25 that video? That's my question.

1 MS. SIMPSON: We don't ever see Mr. Young in that
2 video. The only video ---

3 THE COURT: What about 428?

4 MS. SIMPSON: 428, that's the same.

5 THE COURT: What about 429?

6 MS. SIMPSON: That is the same video, as well.

7 THE COURT: What about 430?

8 MS. SIMPSON: The same video.

9 THE COURT: What about 431?

10 MS. SIMPSON: Also, the same.

11 THE COURT: 432?

12 MS. SIMPSON: That would be the video that
13 Mr. Lorenzo Young is identified holding the weapon.

14 THE COURT: Okay. 433?

15 MS. SIMPSON: That is from the video where he is
16 not identified.

17 THE COURT: Okay. 434?

18 MS. SIMPSON: The same, not identified in that
19 video.

20 THE COURT: All right. Play this video for me.

21 MS. BAMBACH: After that video is played, I'll be
22 able to make my argument.

23 THE COURT: Play the video for me.

24 MS. SIMPSON: We're pulling that out, Your Honor.

25 (WHEREUPON, the video was played for the judge.)

1 THE COURT: Okay. So who is going to be able to
2 identify what in that video?

3 MS. SIMPSON: Well, it's twofold. As far as
4 identifying Mr. Young himself, that would be
5 Investigator Eunice as well as Investigator McCoy.
6 With respect to the firearm, that would be the
7 testimony that we proffered through Ms. Cromer, our
8 firearms and tool marks expert in this case. The
9 weapon, of course, one of the weapons used, was
10 identified at the scene as being a Glock.

11 That the 45 GAP caliber ammunition was used. She
12 is going to be able to testify that is consistent with
13 what is seen in the video, of course, you can't say
14 that is the firearm itself without having it before
15 her. However, this video was played several days
16 prior. I believe on June 25th, with respect to that
17 second video, it's that same day, just an hour later.
18 This incident of course, occurred the early morning
19 hours of July 1st, so it puts the firearm in his hands
20 --- or a firearm consistent with?

21 THE COURT: You're confusing issues.

22 MS. SIMPSON: I'm sorry.

23 THE COURT: I'm talking about this video.

24 MS. SIMPSON: Yes.

25 THE COURT: Don't talk about the other video.

1 MS. SIMPSON: My apologies.

2 THE COURT: When was this video created?

3 MS. SIMPSON: On June 25th, 2013.

4 THE COURT: So six, five --- how many days are in
5 June, 30 days? So five days before the incident.

6 MS. SIMPSON: Correct, Your Honor.

7 THE COURT: Whose phone did this video come off
8 of?

9 MS. SIMPSON: This would be the phone that
10 Lorenzo ---

11 THE COURT: It's in the grandmother's name, but
12 it ---

13 MS. SIMPSON: Yes, in the grandmother's name.

14 THE COURT: --- was in Lorenzo's possession when
15 he was arrested.

16 MS. SIMPSON: Correct.

17 THE COURT: And play it for me again.

18 (WHEREUPON, the video was played for the judge.)

19 THE COURT: So who is going to testify that
20 that's Mr. Young?

21 MS. SIMPSON: That would be Investigators Eunice
22 and McCoy. There's actually more of the video, but we
23 narrowed it down due to our view that the entire video
24 would be prejudicial. They have reviewed that in its
25 entirety and it's clear that Mr. Lorenzo Young is the

1 one pulling the weapon out of his pocket and placing
2 it to the camera.

3 THE COURT: Okay. So what's your argument on
4 this video?

5 MS. BAMBACH: My argument on this video is first
6 this is outside. This is --- he's in possession of a
7 weapon or is alleged to be in possession of a weapon,
8 and I would first argue that this would be improper
9 character evidence that could be considered unlawful
10 carrying of a pistol. Secondly, this is June 25th,
11 All that is said is 45 Glock. There are actually 14
12 models of 45 Glocks that have almost identical
13 external dimensions that fire 45 caliber. He is not
14 saying GAP. He's not saying 45 anything. He's saying
15 45 Glock and there are 14 models of 45 Glocks, so I
16 don't think --- we don't have a weapon in this case.
17 There's 45 GAP bullets at the house. There's 45 GAP
18 bullets at the scene. However, again, there are no
19 identifying factors that this is a 45 GAP. It's just
20 45 Glock, and again I would say beyond that, the ---
21 it's extremely prejudicial. Again, just the Glock 45,
22 I don't think there is anything else that's ID'ing
23 that gun and again they don't have a weapon. I also
24 believe that Ms. Cromer testified she didn't see the
25 video surveillance from the bakery incident, and it's

1 not stated that --- other than that it's a Glock, I
2 don't see how it's relevant either.

3 THE COURT: And why are you standing up?

4 MR. SCHNEE: Well, Judge, I have a few problems
5 with this video. First of all, as we discussed the
6 title of the video shows up because of the viewing
7 they're using. They're not using Windows Media
8 Player. So first of all I would ask that the name be
9 changed if it's going to be played at all.

10 The problem I have with this video for Trenton
11 Barnes is I don't know how this is in any way relevant
12 against my client or even remotely admissible. It
13 would be unbelievably prejudicial, particularly since
14 there is apparently a second completely unidentified
15 person carrying other guns and other people talking,
16 all which is obviously hearsay testimony or
17 statements. If you look at the broader clip there are
18 a lot of other people involved, not my client. All
19 this is going to do is prejudice the jury, potentially
20 against my client when my client has no involvement.
21 It's five or six days before. They can't match any
22 weapons to ones actually being used.

23 The best they can say is that, yes, that's a
24 Glock and it's approximately the same size as a full
25 size Glock. I don't see how that gets to the point of

1 what point they're trying to do. I don't understand
2 what they're trying to make with that that they may or
3 may not have had gun the before the day of this
4 incident. All that is all does is impugn credibility
5 and character without actually proving facts. If they
6 had proved that Lorenzo Young was inside that bakery,
7 clearly he had a gun with him because two people went
8 in and there are two guns. I don't see how this aids
9 them in anyway, but it incredibly prejudices my client
10 and probably Lorenzo Young.

11 THE COURT: All right. Go ahead.

12 MS. SIMPSON: Your Honor, I believe Ms. Cromer's
13 testimony has been a little bit mischaracterized as to
14 what her would testify to. We did proffer that last
15 time. As far as the probative value, everything that
16 both defense counsel has said goes in furtherance of
17 the State's arguments of why this evidence is
18 probative. There is no firearm that was actually
19 recovered. However, the firearm is unique in nature
20 with respect to the shell casings and the bullets that
21 were found. The shell casings at the scene and the
22 bullets at Mr. Young's home are consistent with the
23 use of this firearm. Specifically he refers to it as
24 a Glock 4-5. Maybe he is referring to caliber. I
25 believe Ms. Cromer can testify better and add

1 additional testimony, as I am no expert on this.

2 Additionally, Your Honor, with respect to the
3 Lorenzo Young. That's exactly what we have to prove.
4 He was in the bakery. He did commit this crime. He
5 did have a firearm. In this case so far we have
6 testimony of ammunition that was found and testimony
7 by Rolanda Coleman that he came home that morning
8 after being with Troy and Trenton or at least at their
9 home. His mother picked him up.

10 At that time, he had firearm that was wrapped in
11 a shirt and placed in a crib. They subsequently go to
12 work and when they come home this gun is mysteriously
13 missing. There is an argument which she refers to
14 between Mr. Young and his mother regarding the gun.
15 Also. when this comes on the news, I believe she
16 testified that she overheard the mother say something
17 to the effect of you need to find that gun immediately
18 and dispose of it. The fact we don't have a firearm
19 is exactly why this is highly probative.

20 I believe Rule 403 states that the probative
21 value must be substantially outweighed by any unfair
22 prejudice. This is not substantially outweighed by
23 any unfair prejudice or confusion of the issues. This
24 is exactly the issue at hand. It's very close in time
25 in proximity to the crime, the murder in this case,

1 and it would be probative. As I said, if Your Honor
2 would like to view the entire video, I believe there
3 was an issue with viewing that on what we provided
4 you. We can give you the entire video to show you
5 what we narrowed down.

6 Based on what Mr. Schnee has said, it is almost
7 as if he would have preferred that we put the entire
8 video because there are a number of individuals on it
9 and his client will not be identified, to my
10 knowledge, by any of our witnesses, so this does goes
11 to Mr. Young who is identified and that identity is
12 the essence of their case. They are saying he was not
13 there. He did not do it, so I believe that goes to
14 the probative value..

15 THE COURT: All right. Play it one more time.

16 (WHEREUPON, the video was played for the judge.)

17 MS. SIMPSON: And the video in its entirety, Your
18 Honor, as I said you actually you see Mr. Lorenzo
19 Young pull out the gun that will be identified or at
20 least testified to, if you allow it, by Ms. Cromer.

21 THE COURT: One more time. Can you stop it when
22 I yell stop?

23 INVESTIGATOR: Yes, sir. Don't scare me.

24 THE COURT: When I yell stop.

25 (WHEREUPON, the video was played again for the

1 judge until told to stop..)

2 THE COURT: Okay. If I stop it there,
3 Mr. Schnee, your argument is gone, right?

4 MR. SCHNEE: In terms of other people
5 participating, yes. As to the rest of it, I would
6 still argue that --- I don't see how this is in any
7 way relevant, but yes, as to other people involved, if
8 you stop it there, that argument is gone.

9 THE COURT: Right because the other people with
10 the other gun coming in and talking going.

11 MR. SCHNEE: Can't hear him, can't see him. I
12 agree with that.

13 THE COURT: All right. Anything else you want to
14 say?

15 MS. BAMBACH: Just that I don't believe that a
16 lack of evidence is sufficient basis to bring in an
17 unreliable picture. Again, it's saying a 45 Glock.
18 They're not saying a 45 GAP. We don't have a weapon
19 in this case and again like I said, I found them all,
20 all the specs for a Glock. There are 14 different
21 model 45 Glocks.

22 THE COURT: Yeah, but this is clearly at least
23 not multiples of them. I'm probably more familiar
24 with these firearms than anybody in the room. I mean,
25 there's a whole setting of these firearms that are

1 essentially miniature in size. They're called compact
2 and sub compact. This is clearly not any of those. I
3 mean, is there going to be a firearms expert that says
4 that the bullets were fired from a Glock gun?

5 MS. SIMPSON: Yes, Your Honor.

6 THE COURT: So the firearms --- who is that?

7 MS. SIMPSON: That would be Ms. Cromer, who you
8 are referring to, from pretrial.

9 THE COURT: In addition to her testimony that she
10 gave, she is going to be able to say that she examined
11 what to determine it was fired from a Glock firearm?
12 My mind is blank right in our. What's it called?

13 MS. SIMPSON: She examined shell casings, as well
14 as projectiles, as well as the ---

15 THE COURT: Right.

16 MS. SIMPSON: As well as the unfired bullets
17 found at the defendant's home.

18 THE COURT: So she is going to be able to say
19 from the shell casings and from the projectiles that
20 those were fired from a Glock firearm?

21 MS. SIMPSON: Correct, Your Honor.

22 THE COURT: Okay.

23 MR. SCHNEE: Judge, what she is saying is the
24 rifling characteristics in a 45 GAP, it can only be a
25 Glock manufacturer.

1 THE COURT: Right. I understand that. All
2 right. This video is in. I find it goes directly to
3 probative issues in the case, that it's not unfairly
4 prejudicial, that it's not outweighed by the unfair
5 prejudice to it. It is going to stop right here
6 though.

7 MS. SIMPSON: Yes, sir.

8 THE COURT: I don't want to see the second person
9 or the second gun or anything. Can you figure out
10 where you are, investigator?

11 THE INVESTIGATOR: Nine seconds, yes, sir.

12 THE COURT: Then is there a --- the front says
13 "45 Glock A.V.I." Is there a way you can cut that
14 off?

15 THE INVESTIGATOR: No, sir.

16 THE COURT: Can you change that?

17 THE INVESTIGATOR: It's embedded in there.

18 MS. SIMPSON: What we have to do, I think, is ---
19 we have downloaded each of the individual files on a
20 separate disk. We can redact it to nine seconds.

21 THE COURT: Just rename it "video" on the ---

22 MS. SIMPSON: We can attempt to rename it ---

23 THE COURT: Do you have any objection to it being
24 named "video" or "one" or something?

25 MR. SCHNEE: Yes, that would absolutely be fine.

1 THE COURT: Just some kind of nondescript name.

2 MS. SIMPSON: Yes, sir.

3 THE COURT: Do you think you can do that,
4 Investigator Brian.

5 MS. GARFIELD: We think so, Judge.

6 THE COURT: As to the 404(b) argument, I'm not
7 sure this is 404(b), his possession of a firearm is
8 not necessarily a crime because of his age, so having
9 a firearm multiple days before, I don't know that it
10 is 404(b). I'm going to find that it's not 404(b) and
11 that it is directly relevant and its probative value
12 outweighs its prejudicial effect. It puts a brand or
13 type of firearm, that is, one of the firearms used in
14 the incident in one of the defendant's hands prior to
15 the incident so I'm going to --- it's got to stop
16 right here. I don't want to see the second person. I
17 don't want to see the second gun. I don't want to see
18 the long magazine, any of that other kind of stuff and
19 I don't want to hear anything past that point.

20 MS. SIMPSON: Yes, sir.

21 THE COURT: Of course, somebody would have to lay
22 the foundation that you know --- what they can say is
23 based upon their review of the video without going
24 into there's all the rest of this video that I have
25 watched and that's how I have been able to determine

1 who it is, based on any review of the video, I have
2 determined that person, if they can this, is Lorenzo
3 Young. Now, that being said, you get up there and say
4 you can't really tell it's him, then the rest of the
5 video may come in so be careful.

6 MS. SIMPSON: Thank you, Your Honor.

7 MS. BAMBACH: Just a question with the audio on
8 that, are you just planning to play the audio that
9 says Glock 45 on it, because there is N word and
10 expletives all over it, as well?

11 THE COURT: Can't help that.

12 MS. BAMBACH: Okay. And the identification issue
13 is going to come later?

14 THE COURT: Somebody is going to have to be able
15 to identify him, yes.

16 MS. BAMBACH: Is that Eunice?

17 THE COURT: I don't know what if Eunice can do or
18 not, but Eunice or --- somebody is going to have to be
19 able to get up on stand say based on my review of the
20 video and my personal knowledge, I believe that to be
21 Mr. Young.

22 MS. SIMPSON: Investigator Eunice, as well as
23 Investigator McCoy can testify to that. We know what
24 we would be limited to, I guess with respect to how
25 they know him. Again, if they were to open the door

1 on cross on that issue, we are --- like I said, that
2 would potentially open the door to a number of other
3 things.

4 THE COURT: All right. Now as to 432, 426 and
5 425, I deem that these three are admissible. They
6 would only be admissible through the firearms expert
7 to be able to show why she is basing her decision that
8 that firearm in the pictures is consistent with the
9 type of firearm used in the case, and I mean --- they
10 go directly to --- I mean, it's definitely a Glock
11 firearm in the case. I've seen enough of them to
12 know, but she will be able to use those for the
13 purposes of saying this is what I'm basing my decision
14 off of that that firearm is consistent to one that
15 could have been used. Whatever she testified the
16 other day.

17 Now, this other video where nobody is
18 identifiable and you can't determine anything, we're
19 not playing that video at all. That video is out and
20 the pictures from it are out. I find even though it
21 was taken only the night of the incident and the
22 pictures do match up with what could be a Glock 45, n
23 my issue with the video is there that is no way other
24 than the fact that Mr. Young possessed this phone
25 multiple days later, there is no way to determine or

1 there's nobody that can determine that Mr. Young is
2 actually in this video, so that would be --- I'm
3 calling that the second video for lack of a better
4 term. That's the one --- State's 434, 433, 431, 430,
5 429, 428, 427 are not going to be admissible because
6 there is no way to identify --- for me to know that
7 that's Mr. Young on that video or in possession of
8 that firearm. I think that would be causing the jury
9 to speculate and, you know the idea of multiple people
10 sitting around in a circle flashing firearms with
11 extremely long magazines in them and everything else
12 is too prejudicial because there is no way to connect
13 that definitively to Mr. Young. Okay.

14 What else?

15 (WHEREUPON, State's Exhibit Numbers 427 through
16 431 and Exhibits 433 and 434 were withdrawn.)

17 MS. CAMPBELL: Just one housekeeping matter, we
18 were asked to redact the lineup showing Donald Moore.
19 The only problem that I can show Your Honor, with the
20 Court's permission, if I could actually White-out on
21 the original and just make one copy and lighten the
22 copy, but every time we do a color copy the resolution
23 is worse. That would just --- I don't think the
24 defense has a problem that. I just didn't want to
25 mark on the original until I had your permission.

1 THE COURT: That's fine.

2 MR. KRZYSTON: Judge, I don't know when the --- I
3 think Pegram ---

4 MS. GARFIELD: Pegram.

5 MR. KRZYSTON: I don't know when Investigator
6 Pegram is set to testify, but I do have an objection
7 to the chart that Ms. Garfield created in connection
8 with cell phone records. It's a chart where --- here
9 it is. It's a chart right here. Under project
10 number, the State has listed Lorenzo Young's name. I
11 think that misrepresents the evidence insofar as
12 Ms. Aretha Coleman was the subscriber connected to
13 this phone. I would ask that instead of Mr. Young's
14 name there, just the actual number for the cellular
15 phone.

16 THE COURT: I can't see it that far away.
17 Somebody bring it up here so I can see it.

18 MR. KRZYSTON: Just for the record, we're
19 discussing, I think, State's 398. I think it's been
20 marked as ID. Again, I would just be asking this
21 phone number right here instead of saying project
22 number, instead of saying Lorenzo Young, would bear
23 the phone number from which the call originated and
24 other than that ---

25 THE COURT: Is that the target number on there?