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Volume III of IV

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

Robert E. Hood, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

LORENZO BERNARD YOUNG,

APPELLANT

APPELLATE CASE NO. 2014-002548

RECORD ON APPEAL

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

1 MS. GARFIELD: That's the target number, the
2 number that is associated with the phone that was
3 found in Mr. Young's possession.

4 THE COURT: All right. You need to cut off case
5 number or project number. Just cut it off completely.
6 Leave it as target number.

7 MR. KRZYSTON: Thank you, Judge.

8 THE COURT: I mean, the testimony from
9 Ms. Coleman, that was the phone that --- somebody
10 else's name?

11 MR. KRZYSTON: Occasionally.

12 THE COURT: In her mother, grandmother ---
13 somebody else's name and that Mr. Young used it. I
14 find it is admissible, but I don't --- the way that's
15 set up, it makes it look like the phone was subscribed
16 in his name, which it was not.

17 MR. KRZYSTON: Thank you, Judge.

18 MR. SCHNEE: Judge, I would also add the same
19 thing. My client's name was listed, but there's no
20 testimony that my client actually had a phone listed
21 for him. I believe it was his mother's cell phone.

22 THE COURT: I don't know what you're talking
23 about now.

24 MR. SCHNEE: On the exact opposite side of that,
25 the number that was called, my client's name is listed

1 as one of the directed calls to ---

2 THE COURT: Okay.

3 MR. SCHNEE: They have phone records that they
4 associate with my client, but it's not actually my
5 client's phone. I would make a similar argument that
6 --- I would ask that just a target number be listed.

7 MS. GARFIELD: That's fine. Just give me a
8 moment to let them know.

9 MR. SCHNEE: Thank you, Your Honor.

10 MS. CAMPBELL: Your Honor, finally on the
11 redacted 392, we actually cut out the thing they
12 claimed was a gang sign. So they asked us to copy it
13 over so it doesn't make it so apparent, so we have
14 dope that.

15 THE COURT: Let me see it. You can hold it up.
16 I can see it from there.

17 MS. CAMPBELL: The quality is not as good.

18 THE COURT: That's fine.

19 MS. CAMPBELL: Is that okay?

20 MS. BAMBACH: Your Honor, I just wanted to --- I
21 wasn't sure if I voiced my objection about
22 Investigator Eunice with the ID being extremely
23 prejudicial having an investigator try to identify
24 Lorenzo Young.

25 THE COURT: How is that prejudicial?

1 MS. BAMBACH: Because why else would an
2 investigator know who he was?

3 THE COURT: Half the investigators in town know
4 who I am.

5 MS. BAMBACH: But you're a judge.

6 THE COURT: They knew who I was before I became a
7 judge.

8 MS. BAMBACH: You're not on trial for murder.

9 THE COURT: It's just not prejudicial. I mean,
10 the fact that police officers are supposed to be in
11 the community and they're supposed know people. I
12 mean, that doesn't mean he's had prior interactions.
13 That's multiple speculation down the road. That means
14 the jury would have to say, well based upon that, then
15 he must have had same incident. For all we know, he
16 has been a victim of a crime before. It's just
17 speculation, so your objection is overruled.

18 MS. BAMBACH: How would they lay the foundation
19 for him knowing Lorenzo Young?

20 THE COURT: Well, they're going to have to lay it
21 outside of saying because I've arrested him before.

22 MS. GARFIELD: Do you have personal knowledge?

23 MS. BAMBACH: I just wanted to ---

24 MS. CAMPBELL: And I have marked the redacted one
25 392-A. We can just mark it as a Court's Exhibit.

1 That might be easier.

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

4 THE COURT: All right. Ready?

5 MS. SIMPSON: The State is ready, Your Honor.

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

8 MR. SCHNEE: Nothing from Trenton Barnes.

9 THE COURT: Bring in the jury.

10 (WHEREUPON, the jury entered the courtroom at
11 9:47 A.M.)

12 THE BAILIFF: The jury is seated.

13 THE COURT: Welcome back. I hope you had a nice
14 weekend and stayed warm but for the cold weekend.
15 Just be thankful we didn't have a polar vortex. I
16 actually had that happen last year and it was a little
17 bit of a mess. Thank you for coming back and being
18 ready to go and being on time. We will now continue.

19 The State may call their next witness.

20 MS. SIMPSON: The State calls Dr. Amy Durso.

21 DR. AMY DURSO,

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: Amy Durso, D-U-R-S-O.

DIRECT EXAMINATION:

BY MS. SIMPSON:

Q Dr. Durso, where are you employed?

A I'm employed at Professional Pathologies Services as a forensic pathologist.

Q Okay. What exactly is a forensic pathologist?

A So a forensics pathologist is a medical doctor that specializes in looking at bodies and examining bodies after death, so we do what's called an autopsy which is a thorough examination of the body after someone has died.

Q Can you tell the jury about your training and educational background?

A Sure. So I received a bachelors degree in psychology at Emery University. After that I got my four year medical degree at the University of North Carolina in Chapel Hill, and after that I went to Wake Forest University, where I spent four years of doing general training in anatomic and clinical pathology and then I stayed there for an additional year to do a fellowship specifically in the field of forensic pathology.

Q How long have you been at --- I'm sorry, where do you work?

A Professional Pathology Services.

1 Q How long have you been there?

2 A I've been there for a little over four years now.

3 Q In your practice, how many autopsies would you
4 say you have performed?

5 A I've performed over 1400 autopsies.

6 Q And in your practice, do you also participate in
7 any kind of continuing educational requirements or
8 training?

9 A Right. It's required, so I'm board certified by
10 the American Board of Pathology in anatomical
11 pathology, clinical pathology, and forensic pathology
12 and to maintain any certification, I have to meet a
13 certain number of education credits every year.

14 Q And have you ever testified as an expert before?

15 A I have.

16 MS. SIMPSON: Your Honor, at this time, I would
17 like to offer Dr. Amy Durso as an expert in the field
18 of forensic pathology, specifically forensic
19 pathology.

20 MR. KRZYSTON: No objection.

21 MR. SCHNEE: No objection.

22 THE COURT: All right. Ladies and gentlemen,
23 normally a person is not allowed to give opinion
24 testimony. However, because when a person testifies,
25 they have to testify as to what they either saw,

1 heard, sensed by smell or something of the nature.
2 However, there is an exception when someone is
3 qualified because of education or experience. That
4 person will be permitted to give opinion in certain
5 areas if I qualify them in that way.

6 Dr. Durso will be qualified as an expert in the
7 area of forensic pathology. She will be allowed to
8 give opinion testimony in that area. That does not
9 mean that you must accept her opinion, but it is
10 evidence for you to use in any way that you see fit
11 and give it the weight and the credibility that you
12 believe is appropriate as you are required to do with
13 each and every witness that appears in front of you.

14 Ms. Simpson, continue.

15 MS. SIMPSON: Thank you, Your Honor.

16 BY MS. SIMPSON:

17 Q Dr. Durso, how exactly do you become involved in
18 a case? Are there various types of ways?

19 A There are. The main way I become involved in a
20 case is to be contacted by the Richland County
21 coroner's office, so when they have a death that's
22 suspicion in any way or unexpected, if they're
23 involved in an accident, homicide, suicide, usually
24 they would refer it to us to do an autopsy, and so in
25 this case, in particular it was a Richland County

1 coroner's case, and they asked me to do an autopsy on
2 Ms. Hunnewell.

3 Q Okay. So you work very closely with the
4 coroner's office?

5 A I do, yes.

6 Q And in performing an autopsy, what are you trying
7 to do?

8 A So it's just a way of documenting all of the
9 findings on the body. We start out just looking at
10 the outside of the body. We do a full external
11 examination, and we're not just looking for injuries,
12 we're also looking for identifying marks, tattoos, we
13 document hair color, eye color, post mortem changes,
14 such as rigor where you become stiff after death.
15 Also the length of the body, the weight, and
16 afterwards we do an internal examination, which
17 involves making some large incisions. We make an
18 incision that comes from the shoulders down to the
19 sternum here and it comes down. We're actually able
20 to reflect all of that skin and tissue back. We move
21 the front of the rib cage and we're then able to see
22 all of the internal organs, and then after we look at
23 the organs, any questions of fluid, blood, we then
24 remove them one by one. We weigh them and examine
25 them. The purpose is to document any abnormal

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

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

5 A I did.

6 Q And who was that on?

7 A Kelly Hunnewell.

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

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

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

13 A I was.

14 Q And what was that cause of death?

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

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

19 A Yes.

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

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

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

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

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

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

9 MR. KRZYSTON: Objection, Judge. Approach?

10 THE COURT: What?

11 MR. KRZYSTON: Approach?

12 THE COURT: All right.

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

16 BY MS. SIMPSON:

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

19 A I do.

20 Q And what is this?

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

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

25 A Yes.

1 Q And show the jury?

2 A Yes, it would.

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

5 MR. KRZYSTON: Based on our previous objections.

6 THE COURT: All right.

7 MR. SCHNEE: One second, Your Honor.

8 (Pause.)

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

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

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

14 BY MS. SIMPSON:

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

17 THE COURT: 346 and 347?

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

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

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

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

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

. 1 were admitted into evidence.)

2 BY MS. SIMPSON:

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

5 A Yes.

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

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

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

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

18 THE WITNESS: Yes.

19 THE COURT: Okay.

20 BY MS. SIMPSON:

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

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

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

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

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

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

19 A Yes.

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

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

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

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

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

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

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

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

22 A No, there were no marks.

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

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

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

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

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

1 the skin on her left back.

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

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

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

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

1 so she has already inhaled quite a bit of blood into
2 her airways and it's really hard to undo that.

3 Q I want to note, I want to show you this first.
4 You mentioned the projectile and the pathway. Again,
5 what was this trajectory of that bullet?

6 A The trajectory, it was going from right to left
7 and front to back and it was also going slightly
8 upwards.

9 Q So kind of an angle through here and then you
10 felt it in her back?

11 A Only from right --- going up that way.

12 Q Sorry. Did you actually remove that projectile?

13 A I did. At the time of autopsy I removed the
14 projectile.

15 Q Is that what we're seeing in State's exhibit 7?

16 A Yes.

17 Q When items such as projectiles and things of that
18 nature are removed from a body, what is done with
19 them?

20 A It's put into a chain of custody and usually it's
21 handed over to law enforcement.

22 Q I want to note one more thing regarding your
23 findings. You stated that it was an intermediate
24 range non-existing (sic) gunshot wound to the chest?

25 A Non exiting, yes.

1 Q Explain what that means exactly to the jury?

2 A So when we look at the entrance wounds, we are
3 looking for things to tell us how far away the gun
4 was. So some of those things we look for are soot,
5 which a gun has to be pretty close for soot to imprint
6 the skin, usually within around six inches. After
7 that, up to around two feet or, so you can get what's
8 called stippling. Stippling is actually from the gun
9 powder that comes from the gun and actually abraids
10 the skin, so it actually scratches the skin. So
11 between --- if I don't see soot but I see stippling, I
12 know it's roughly between six and 24 inches. The
13 further you get away, the more the stippling, those
14 little tiny abrasions are going to be spread out. I
15 was able to find stippling on her face which tells me
16 the gun was within around roughly 24 inches from her
17 when the bullet was fired.

18 MS. SIMPSON: Your Honor, permission for the
19 witness to step down one more time?

20 THE COURT: Okay.

21 BY MS. SIMPSON:

22 Q I'm going to show you State's Exhibit 4. Is the
23 stippling what your documenting in this photograph?

24 A Yes. If you can --- can I ---

25 Q Yes.

1 A You can see the imprint. See all these little
2 tiny red marks on her face. They're kind of
3 scattered. So that's stippling. That's when the gun
4 powder is actually scratching her face. And you can
5 see if it's closer, it's very concentrated around the
6 wound, but you can see how spread out this is, so that
7 tells me it was probably closer to around the 18 to 24
8 inch distance, but I can't tell for sure because of
9 the different kind of gun or different kind of gun
10 powder that is used. It can vary a little bit, so I
11 can't say exactly, but I can say, you know, an
12 estimate of around, you know, closer to 18 to 24
13 inches with that stippling pattern.

14 Q But within two feet essentially?

15 A Yes.

16 Q Thank you. Did you also perform some additional
17 things with respect to taking any type of blood?

18 A Right. So all of our autopsies it's our protocol
19 for forensic cases that we always take samples for
20 toxicology testing, and we did in this case. We took
21 blood and urine from her and sent it to SLED for
22 testing. It came back negative for alcohol or any
23 other substances. She had nothing in her system as
24 far as the drugs and alcohol that they test for.

25 Q Subsequent --- is that the extent of your

1 findings and cause of death?

2 A Yes.

3 Q Subsequent to this and after the autopsy, did you
4 actually have the opportunity to review the crime
5 scene video in this case?

6 A Yes.

7 Q And in that video, was it consistent --- was what
8 you saw consistent with what you documented in your
9 findings in your autopsy?

10 A Yes, it was, very much.

11 MS. SIMPSON: Beg the Court's indulgence.

12 BY MS. SIMPSON:

13 Q Again, could she have survived this wound and
14 this injury?

15 A No.

16 Q And I believe you stated earlier terminal
17 aspiration of blood, I guess that's ---

18 A Right. It's like you're drowning in your own
19 blood.

20 MS. SIMPSON: All right. Thank you, Dr. Durso.

21 THE COURT: Mr. Krzyston.

22 MR. KRZYSTON: No questions for this witness,
23 Judge.

24 THE COURT: Mr. Schnee.

25 MR. SCHNEE: May it please the Court.

CROSS-EXAMINATION:

BY MR. SCHNEE:

Q Doctor, if I'm understanding correctly, your job is to review the body and look for scientific evidence?

A Yes.

Q Is there any scientific evidence that would tell you as a doctor performing the autopsy who shot her in any way?

A No.

MR. SCHNEE: All right. No further questions.

THE COURT: All right. Have a good day.

Thank you. All right.

Call your next witness.

MS. GARFIELD: Thank you, Your Honor. The State calls Deputy Chief Melron Kelly.

MS. PINNOCK: Your Honor, may we approach?

THE COURT: Yes, ma'am.

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

THE COURT: All right. Ladies and gentlemen, step back to your jury room. Do not discuss the case. Keep an open mind. We'll be right back with you.

(WHEREUPON, the jury left the courtroom at 10:10

1 A.M.)

2 THE COURT: All right. What do you expect him to
3 testify to?

4 MS. GARFIELD: Your Honor, at the time Chief
5 Kelly gets involved in this case, Mr. Young is wanted
6 for an unrelated arrest.

7 THE COURT: Right.

8 MS. GARFIELD: He hears it over the radio. He
9 goes to assist. After apprehending Mr. Young, he can
10 testify to the circumstances surrounding the actual
11 apprehension. He's not going to go into why he was
12 wanted or anything of that nature, just the fact that
13 he was apprehended, where he was apprehended and
14 beside him was found his cell phone.

15 THE COURT: All right.

16 MS. PINNOCK: And, Judge, the concern I have with
17 that is he was being sought for an unrelated burglary
18 warrant. That's the only pending arrest warrant he
19 had at that point. There was use of a K-9 and, you
20 know, they searched an apartment. He was arrested in
21 the apartment, but the only reason they were there
22 executing --- to do anything was to execute this
23 arrest warrant. I think it's an improper inference
24 that will be provided to the jury saying that he was
25 trying to evade arrest for this charge when he was not

1 charged with this. That is our concern with
2 testimony. Everybody acknowledged that he was
3 incarcerated. I don't think the fact that he was
4 arrested is at issue.

5 THE COURT: Right.

6 MS. PINNOCK: It doesn't go to prove anything.
7 Yes, he was charged, he was arrested later on for
8 murder, but at this point when Chief Kelly and a
9 number of other officers get involved in this case,
10 but he is not being arrested for the murder. He is
11 not being arrested on this case for an outstanding
12 warrant on something that's unrelated. It would be an
13 improper inference to suggest that he was trying to
14 evade being arrested for this when he was not charged
15 with it at that point.

16 THE COURT: What is ---

17 MS. GARFIELD: We're not going into any anything
18 any evidence of evasion, just the fact that he was
19 wanted and Chief Kelly had information he was in a
20 particular apartment. They made entry. He was hiding
21 in a closet. They did send a K-9 in, basically for
22 officer safety. They could hear someone upstairs.
23 They asked him to come out. He wouldn't. They go in,
24 they find him in the closet. He is taken into custody
25 and the cell phone is found on the floor.

1 THE COURT: How are you going to get around this
2 idea that he was wanted?

3 MS. GARFIELD: I was going to say that --- I was
4 going to stay away from any mention of burglary or any
5 other charge. At this point in time in the
6 investigation, the search warrant at his home had
7 already been conducted. My understanding he had made
8 numerous phone calls to the home. They asked him to
9 come talk to him, turn himself in. He refused to do
10 so and Donald Moore had already been interviewed, as
11 well up to this point.

12 MS. PINNOCK: And, Judge, if I may, the phone
13 calls about Mr. Young turning himself in were on the
14 burglary. There was conversation about them being at
15 the house executing a search warrant. There were
16 actually two search warrants being executed at the
17 same time, one for the burglary and then one for the
18 active investigation, but the ---

19 THE COURT: So what's the point of his testimony?
20 That's what I don't understand.

21 MS. GARFIELD: To get it in the cell phone.

22 THE COURT: Why can't you stipulate that they
23 found the cell phone that day and took it off his
24 person?

25 MS. PINNOCK: Yes, sir, on the day of his arrest,

1 we will stipulate that the cell phone was in his
2 possession.

3 THE COURT: Yes.

4 MS. GARFIELD: Judge, we know from previous
5 pretrial that they're going to attack the phone
6 records. I think we have the duty to establish this
7 that this phone was found in his position. It's
8 already established that the phone is not registered
9 to Mr. Young; it's registered to his girlfriend, his
10 grandmother.

11 THE COURT: Right.

12 MS. GARFIELD: So we need to show it's in his
13 possession.

14 THE COURT: All right.

15 MS. PINNOCK: Again, Judge, we're willing to
16 stipulate on July 5th, 2013, he was in possession of
17 that phone. If that's their concern, that's the date
18 they took it into custody at Columbia headquarters, we
19 will stipulate that on July 5th, 2013, he was in
20 possession of that phone. If that's the only reason
21 they're calling this witness to testify, I don't think
22 it's worth putting a possible issue coming up with the
23 testimony about an unrelated charge. We're willing
24 to --- we will do that. He was in possession of the
25 cell phone on his day.

1 MS. CAMPBELL: Judge, my only concern at this
2 point --- I was thinking about this last night and I
3 don't know how to address it. Basically they do take
4 him into custody because they have a legal right to at
5 that point.

6 THE COURT: Right.

7 MS. CAMPBELL: But he is not under arrest for
8 this murder at this point, unlike what they said in
9 their opening argument, which I'll get to in a minute
10 on another witness. At that point they haven't done
11 this rush to judgment, which is their whole opening
12 statement on both of them, that we rushed to judgment
13 and we quote-unquote arrested Lorenzo Young based on
14 one witness's testimony. That is untrue, inaccurate
15 and obviously misleading to the jury. So at this
16 point we do have the burden because they put us there.
17 I've seen in State vs. Dunlap they opened the door to
18 some of this, which I was somewhat surprised about and
19 I'm going into what we need do before I put the
20 investigating officer up. They have opened the door
21 that are we didn't rush to judgment. Basically they
22 kept collecting evidence before they placed him under
23 arrest for this charge. The only way I know to do
24 that because then the inference is going to be we just
25 willy nilly, we're taking him into custody because we

1 thought they might have done it. In fact, they don't
2 arrest any of those young men until all three are in
3 custody and talked to and other evidence has been
4 collected, which I can enumerate if you would like me
5 to. I don't know how we get around the thing because
6 the timing of this, when he is taken into custody, is
7 that afternoon, but he is not under arrest for this.
8 Otherwise to stipulate that we just took him into
9 custody for no apparent reason, means it looks like
10 we're doing unlawful acts, where in fact they have
11 done the exact opposite of what they argued in their
12 opening. They waited to make sure they had all the
13 evidence they need or they can before they arrested
14 him. I don't know to get around it. I thought about
15 it last night and I even looked at the timing to see
16 if perhaps they had already interviewed the other two
17 and it was prior to him being taken into custody, but
18 that's not the truth. So to say that he was lawfully
19 taken into custody on an unrelated matter, is the only
20 way I know to address that. I don't know how to get
21 out of --- based on primarily because this is their
22 defense. The Columbia Police Department was acting,
23 you know just willie nilly going out arresting anybody
24 they heard the name of. That's both of their entire
25 opening statements. I requested --- and I got a copy

1 where Ms. --- the defense attorney for Lorenzo Young
2 in opening statements says specifically they just
3 arrested him based on what Donald Moore said. That
4 was from their opening statements. I don't know how
5 to unring that bell. We've got a lot of bells to
6 unring in this case, based on their opening statement,
7 but they're the ones that put it out there. Both of
8 them. So it's not like prejudice to one or the other.
9 I think it's important for this jury to know that they
10 had --- that he was wanted on an unrelated matter. It
11 have doesn't need to say that it was a burglary first
12 or another violent offense or any of the home
13 invasions, but just stick to the fact that he was
14 legally taken into custody in an unrelated matter
15 would cure that somewhat for the state. I just don't
16 know how we can get around that based on what they're
17 arguing.

18 Now, if they hadn't gone there, that might be
19 another thing, Judge, but under the State versus
20 Dunlap, you know, opening arguments can open the door
21 to what may be otherwise inadmissible evidence, and I
22 do have --- I and opening arguments can open the door
23 to what may be otherwise inadmissible. I did ask Ms.
24 Tracy to email the paragraph that refers specifically
25 to Mr. Young and then you recall Mr. Schnee's opening.

1 There was a lot of pressure from the press, pressure
2 from the community and they just scooped up the first
3 three names they come upon, which is untrue and I can
4 get you that case, Judge.

5 MS. PINNOCK: And, Judge, just for the record,
6 nothing --- it's our opinion that nothing Ms. Bambach
7 said during opening opens the door to his prior --- or
8 his other pending charges.

9 MS. CAMPBELL: We aren't trying to get into any
10 other pending charges --- just trying to say that he
11 was lawfully taken into custody in an unrelated
12 matter.

13 MS. PINNOCK: If I may, Judge, talking about an
14 unrelated matter, infers that he has other pending
15 charges. Him being charged with the murder and
16 attempted armed robbery have nothing to do with him
17 being arrested on the other warrant. That is two
18 separate cases. They're not intertwined. Nothing
19 that was said in opening --- you said it yourself
20 during this trial, but openings are not evidence.
21 When it was mentioned that there was a rush to make an
22 arrest or pressure to make arrest, that has nothing do
23 you with him being arrested for a burglary. They
24 elected to charge him while he was at headquarters
25 after being questioned about the charge he was ---

1 that he actually had a pending arrest warrant for, but
2 they had talked to everybody involved in this case.
3 Mr. Barnes, Stevenson and Mr. Young at that point, and
4 then they still made the choice to arrest him. That
5 in no way opens the door to him talking about him
6 having other pending warrants or having --- being
7 arrested on an unrelated matter. That's the State
8 attempting to back door his character in. We have not
9 opened the door to that. Nothing that we have said to
10 this point points to anything that Mr. Young has
11 pending.

12 THE COURT: I've also said in this trial that
13 defense attorneys need to stop talking about the facts
14 in opening statements.

15 All right. So. Here is what he is going to be
16 able --- your in here deputy chief Kelly. You hear
17 her.

18 THE WITNESS: Yes, sir.

19 THE COURT: Here is what you're going to be
20 allowed to say. You're in here, Deputy Chief, so you
21 can hear me, okay. Here's what you're going to be
22 allowed to say. You're going to be allowed to say
23 this, that you were --- you were in the process of
24 taking Mr. Young into custody. Hold on. I'm working
25 through it in my mind.

1 (Pause.)

2 Say again what you said, Ms. Campbell.

3 MS. CAMPBELL: Your Honor, I think what we have
4 to prove --- and it's not going be in dispute. They
5 don't get arrested until the next day on these
6 charges.

7 THE COURT: Right.

8 MS. CAMBELL: So on this evening, he was taken
9 into lawful custody --- would be the language that ---
10 on an unrelated matter.

11 THE COURT: Okay. You could say you were taking
12 him into lawful custody. You can't say unrelated
13 matter. I don't want this idea that there is some
14 other matter out there and ---

15 MS. CAMPBELL: I understand.

16 THE COURT: They were there for the purposes of
17 effectuating lawful custody. Whatever happened
18 happened. That's a different part. I don't want you
19 saying you were there to arrest him on something else
20 or some other matter or anything else. You were there
21 to effectuate lawful custody because you were and
22 that's the facts. Part of what we can't do is, you
23 know, create this untrue atmosphere to the jury of
24 something that just has no factual basis at all, so
25 you were there for the purposes of taking him into

1 lawful custody, or at that time you had a warrant for
2 burglary; is that correct?

3 THE WITNESS: Yes, sir.

4 THE COURT: That had been signed by a judge and
5 you had permission to effectuate, right?

6 THE WITNESS: Yes, sir.

7 THE COURT: So you'll be allowed --- don't say on
8 an unrelated matter or on a burglary or anything else
9 about anything else. The defense --- I mean, the
10 defense is still arguing that's not even his phone. I
11 mean y'all argued that to me this morning. All that
12 is coming in. Don't say anything about any unrelated
13 matter or it was for a burglary or he had other
14 pending charges or anything like that. Do you
15 understand?

16 THE WITNESS: Yes, sir.

17 THE COURT: All right. Bring them in.

18 MS. PINNOCK: Your Honor, regarding the K-9 use,
19 because that was an attempt to arrest him on the
20 burglary. They deployed K-9.

21 THE COURT: The only thing he can't say is that
22 it had anything to do with any other charge. He was
23 there for the purpose of taking him into lawful
24 custody. How they decided to do that is admissible.
25 All right. Bring them back in.

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

2 THE COURT: Thank you very much. Call your next
3 witness.

4 MS. GARFIELD: Thank you very much, Your Honor.
5 The State calls Deputy Chief Melron Kelly.

6 MELRON KELLY,
7 after being duly sworn, testified as follows:

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

10 THE WITNESS: My name is Melron Kelly.

11 DIRECT EXAMINATION:

12 BY MS. GARFIELD:

13 Q Chief Kelly, where are you employed?

14 A Columbia Police Department.

15 Q Where are you from?

16 A Columbia, South Carolina.

17 Q And you've lived here all your life?

18 A I have lived here all my life.

19 Q Where did you graduate high school?

20 A I graduated high school at Colombia High School
21 in 1995. I went to South Carolina State University
22 and the University of Louisville, the masters program.

23 Q What area of study did you pursue?

24 A Criminal justice, political science.

25 Q Can you share with the jury your law enforcement

1 background?

2 A I started as a Police Explorer at the age of 13
3 at the Columbia Police Department. I spent my teenage
4 years pretty much in and around the police department.
5 I got hired as a desk clerk while in college. Upon
6 graduating from college, I was hired as a police
7 officer in 1999.

8 Q And are you still a police officer?

9 A I am still a police officer.

10 Q And what is your current rank?

11 A I'm the Deputy Chief of police.

12 Q Is that essentially saying you're number two in
13 the department?

14 A I am the number two person, yes, ma'am.

15 Q Is it safe to you worked your way up?

16 A I worked my way through the patrol division,
17 criminal investigations and I was a regional commander
18 in the Eau Claire area in North Columbia and now I'm
19 Deputy Chief of Police.

20 Q Chief Kelly, I want to direct your attention back
21 to around July of last year, 2013. Was your rank the
22 same at that time?

23 A No, ma'am, at that time I was the regional
24 commander of North Columbia, what we refer to as Eau
25 Claire.

1 Q Will your explain to the jury what being a
2 regional commander entails?

3 A Yes, ma'am, as regional commander of a division,
4 I direct all police services for the north end of
5 Columbia. That includes patrol services, manpower
6 allocation and a lot of administrative duties,
7 particular to that side of town.

8 Q Chief Kelly, is there a housing area known as
9 Lattimore Manor in the north region?

10 A Yes, there is.

11 Q That would have been under you patrol back in
12 July 2013?

13 A Yes.

14 Q And specifically related to Lattimore Manor, did
15 you get any sort of occasion to assist in the case
16 that we're here in court today?

17 A Yes, I did.

18 Q And just explain to the jury how that came about?

19 MS. PINNOCK: Your Honor, we would at this time
20 renew our objection.

21 THE COURT: Yes, ma'am. Overruled.

22 BY MS. GARFIELD:

23 Q Please continue.

24 A I received a radio call to respond to
25 Circle to take someone into custody and I will

1 responded to assist the officers.

2 Q At that time did you know who you were responding
3 to?

4 A I did not.

5 Q Did you choose, since it was in your region ---

6 A I did.

7 Q Is that law enforcement agency also the City of
8 Columbia?

9 A Yes, it was.

10 Q When you got there, who did you tell them you
11 were in the process of taking into custody for a
12 lawful arrest?

13 A At that time, I learned from one of the
14 investigators on the scene that they were attempting
15 to locate a Mr. Lorenzo Tucker.

16 Q You have your notes before you, Chief?

17 A Yes.

18 (Pause.)

19 Lorenzo Young, I'm sorry.

20 Q That's okay. What did you do at that time,
21 Chief?

22 A At that time, again I feel spoke with the
23 investigators on the scene. They said they could not
24 make a location determination at that point. I then
25 turned to walk back to my vehicle and a young lady

1 approached me and kind of subtly pointed towards an
2 apartment in the 24 building.

3 Q Were your familiar with who this woman was?

4 A I was not.

5 Q And can you just demonstrate to the jury what you
6 observed her doing?

7 A Yes, as I turned to walk back to my vehicle, she
8 pointed. like this, to a door that I was walking past.
9 I continued to walk. I did not make contact with her
10 at all and I got back inside my vehicle and got on the
11 radio and advised the officers to develop a perimeter
12 around that apartment.

13 Q When you say develop a perimeter, explain to the
14 jury what you mean by that.

15 A In developing a perimeter, I stationed officers
16 around the front door, around the back door of the
17 apartment. I stationed officers across from the
18 apartment to get a good eye level on the upstairs of
19 the apartment.

20 Q Right at that time did you attempt make contact
21 with the resident of that apartment?

22 A I did. Myself and Sergeant Calby knocked on the
23 front door of the apartment. It was 24-5 Lattimore
24 Manor. After some knocking on the door, a young lady
25 came to the door. She was somewhat hesitant and I

1 asked was she in the apartment alone. At first she
2 said she was ---

3 MS. PINNOCK: Objection, Your Honor. Hearsay.

4 THE COURT: It's not offered for the truth of the
5 matter asserted.

6 BY MS. GARFIELD:

7 Q Please continue?

8 A At first she was she was and then she said she
9 wasn't. She looked real nervous, so we asked her to
10 step from the apartment. I continued to engage her in
11 conversation and asked we could search her apartment
12 to see if anyone was hiding inside, and for which she
13 gave verbal consent to so.

14 Q At that time, did you enter the apartment?

15 A I did.

16 Q Were other law enforcement assisting you?

17 A Yes, ma'am, myself and approximately four to five
18 other officers entered the front door of the
19 apartment. We radioed around to the other officers in
20 the back to let them know that we were in the process
21 of searching the apartment.

22 At that time, we heard some moving around, some
23 movement upstairs. For officers' safety reasons, I
24 radioed to any available K-9 unit that was working to
25 make an apprehension if need be.

1 Q Why did you do that?

2 A For officer safety purposes. We didn't know what
3 we had. Just for an abundance of caution, being the
4 commanding officer on the scene, I wanted to make sure
5 our officers were safe, so we called for a K-9 unit
6 that may be working in the city.

7 Q Did a K-9 unit in fact arrive at this location?

8 A Yes, ma'am, approximately three minutes later K-9
9 Officer Newman arrived at the scene.

10 Q Then what happened?

11 A Well, challenged to anyone that may be upstairs.
12 We did hear noise, but didn't see anyone. We made
13 several challenges to anyone that may be upstairs.
14 That was loud repetitive commands: police K-9, come
15 out with your hands up. We got no response, so at
16 that time Agent Keith Thrower, Officer Lance Reeves,
17 and K-9 Officer Newman went upstairs.

18 Q And was anyone found in the upstairs area?

19 A They did find Mr. Young upstairs in a bedroom
20 closet after a K-9 search. The K-9 locate him.

21 Q And was Mr. Young taken into custody at that
22 time?

23 A Yes, ma'am, he was taken into custody and brought
24 down the stairs and placed into the police vehicle,
25 Officer Jordan's police vehicle.

1 Q Chief Kelly, was there anything found near
2 Mr. Young when he was taken into custody?

3 A Underneath Mr. Young was a cell phone that was
4 located.

5 Q I'm going to hand you what has been marked as
6 State's Exhibit Number 380. Do you recognize what's
7 in that envelope?

8 A This is same phone call that we found on that
9 day.

10 MS. GARFIELD: Your Honor, at this time we'd like
11 to introduce State's Exhibit Number 380 into evidence.

12 MS. PINNOCK: No objection, Your Honor.

13 MR. SCHNEE: No objection.

14 THE COURT: All right.

15 (WHEREUPON, State's Exhibit Number 380 was
16 admitted into evidence.)

17 THE COURT: Admitted without objection.

18 BY MS. GARFIELD:

19 Q Chief Kelly, is that the extent of your
20 involvement in this investigation?

21 A It was. I did take down the name of the young
22 lady whose apartment it belonged to and I gave it to
23 one of the investigators on the scene.

24 Q Were you able to determine any relationship
25 between that young lady and the defendant, Lorenzo

1 Young?

2 A At that time she told us she was Mr. Young's
3 cousin. We were able to substantiate that.

4 MS. GARFIELD: Beg the Court's indulgence.

5 (Pause.)

6 BY MS. GARFIELD:

7 Q Chief Kelly, can you please share with the jury
8 date that Mr. Young was taken into lawful custody?

9 A Yes, this was July 5th at approximately 18:24,
10 that's 6:24.

11 Q Of 2013?

12 A Of 2013.

13 MS. GARFIELD: Thank you, Chief. Please answer
14 any questions defense counsel may have.

15 THE WITNESS: Thank you.

16 THE COURT: Ms. Pinnock.

17 MS. PINNOCK: May it please the Court, Your
18 Honor.

19 CROSS-EXAMINATION:

20 BY MS. PINNOCK:

21 Q Chief Kelly, if I could, could I make take a look
22 at the notes you referred to?

23 A Yes, ma'am.

24 MS. PINNOCK: Your Honor, may I approach?

25 BY MS. PINNOCK:

1 Q This is what you referred to during your
2 testimony?

3 A Yes, ma'am.

4 MS. PINNOCK: One second, Your Honor.

5 (Pause.)

6 Thank you, Judge.

7 BY MS. PINNOCK:

8 Q Just very briefly, you said after July 5th you
9 were not involved in this case whatsoever.

10 A I was not.

11 Q Okay. Thank you.

12 THE WITNESS: Thank you.

13 MR. SCHNEE: No questions.

14 THE COURT: Have a good day.

15 THE WITNESS: Thank you.

16 THE COURT: Call your next witness.

17 MS. GARFIELD: The State calls Sergeant William
18 Pegram.

19 MR. SCHNEE: Judge, may we approach briefly?

20 THE COURT: Yes, sir.

21 SERGEANT WILLIAM PEGRAM,

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: William Pegram.

1 THE COURT: All right, ladies and gentlemen,
2 apparently Investigator Pegram was left off the
3 witness list inadvertently. Does anybody know him or
4 have any relationship with him in any way, shape, or
5 form? If so, please raise your hand. (There was no
6 response.)

7 DIRECT EXAMINATION:

8 THE COURT: Okay. Thank you. Go ahead.

9 BY MS. GARFIELD:

10 Q Thank you, Your Honor. Sergeant Pegram, where
11 are you employed?

12 A The Columbia Police Department.

13 Q Are you working today?

14 A I'm not.

15 Q Are you on vacation?

16 A I am.

17 Q Sergeant Pegram, thank you for being here. What
18 are your duties with the Columbia Police Department?

19 A I supervise the violent crimes unit.

20 Q And the violent crimes unit investigates what
21 kind of types of crimes?

22 A Aggravated assaults and homicides.

23 Q Was this your duties also back in July of 2013?

24 A Yes, it was.

25 Q Were you the --- were you managing this

1 particular homicide on July 1st, 2013?

2 A No, I was not.

3 Q Explain to the jury why not.

4 A I was on vacation.

5 Q And did you eventually come back from vacation
6 and assist minimally with this investigation?

7 A I did.

8 Q And Sergeant Pegram, you have a prior background
9 in looking at and analyzing phone records?

10 A I do.

11 Q Particularly I want to show you what's been
12 marked as State's Exhibit 395. Explain to the jury
13 what these records are?

14 A This is data that was returned from a search
15 warrant from AT&T. It's cell phone records. Actually
16 it's land line records for a house phone.

17 Q And do you know what land line address they're
18 associated with?

19 A It's on Lucille Drive.

20 Q Do you know who resides in the home that land
21 line number corresponds to?

22 A I believe it's the Barnes family.

23 Q And that would be including Trenton Barnes that's
24 in the courtroom today?

25 A Yes, ma'am.

1 Q Okay. I'm going to also show you State's Exhibit
2 Number 402 and ask if you are familiar with what these
3 records contain?

4 A The same thing. This is a data return from
5 T-Mobile on a cell phone belonging to Lorenzo Young.

6 Q If you'll just share with the jury what the phone
7 number corresponds with?

8 A It's area code

9 Q In the course of investigation of this case,
10 whose --- that phone number correlated --- had an
11 association with who involved?

12 A Lorenzo Young.

13 Q Okay. Thank you. Using those phone records,
14 Sergeant Pegram, were you able to analyze phone calls
15 being made to certain people?

16 A Yes.

17 Q I'm going to show you what's been marked as
18 State's 378 and --- are you familiar with this blow
19 up?

20 A I am.

21 Q If you'll just explain what this is?

22 A This is a return from a cell phone company. It
23 shows data associated with a particular phone call.

24 Q Will this help you illustrate to the jury what
25 you are able to examine?

1 A It would.

2 MS. GARFIELD: Your Honor, at this time I would
3 like to introduce State's 378 --- it might be 398.

4 THE COURT REPORTER: 378 is a map and it's
5 already in.

6 MS. GARFIELD: All right, Judge. This is 398.
7 My apologies.

8 MR. KRZYSTON: I believe my prior objections were
9 addressed.

10 THE COURT: Is that an objection or no objection?

11 MR. KRZYSTON: No objection.

12 THE COURT: All right. 398 without objection.

13 (WHEREUPON, State's Exhibit Number 398 was
14 admitted into evidence.)

15 MS. GARFIELD: Sergeant Pegram, if you will
16 please step down.

17 THE COURT: Come over to the other side and keep
18 your voice up so the court reporter can hear your.

19 A Thank you, sir.

20 BY MS. GARFIELD:

21 Q Sergeant Pegram, do you see a target number on
22 this exhibit?

23 A I do.

24 Q Can you explain to the jury what a target number
25 is?

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

7 A The target number is (

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

10 A Lorenzo Young.

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

14 A I did.

15 Q Is that what this exhibit represents?

16 A It does.

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

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

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

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

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

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

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

9 Q The Barnes residence?

10 A Yes.

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

13 THE WITNESS: You're welcome.

14 THE COURT: Cross?

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

17 THE COURT: Yes, sir.

18 MR. KRZYSTON: Court's indulgence.

19 (Pause.)

20 CROSS-EXAMINATION:

21 BY MR. KRZYSTON:

22 Q Investigator or sergeant?

23 A Sergeant.

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

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

3 A No, I cannot.

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

8 A Yes, sir.

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

12 A Right.

13 Q No further questions.

14 MR. SCHNEE: No questions.

15 THE COURT: Redirect.

16 MS. GARFIELD: No, sir.

17 THE COURT: Have a good day.

18 THE WITNESS: Thank you, sir.

19 THE COURT: Next witness.

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

23 THE COURT: Okay. Let's take a morning break.
24 If you'll return to your jury room. Do not discuss
25 the case. Keep an open mind. We'll see you back in

1 about ten or 15 minutes.

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

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

6 THE COURT: Yes, ma'am.

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

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

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

21 THE COURT: All right.

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

23 THE COURT: Good.

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

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

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

17 THE COURT: Mr. Krzyston.

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

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

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

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

1 any sense.

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

4 MS. CAMPBELL: Right.

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

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

14 THE COURT: What?

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

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

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

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

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

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

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

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

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

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

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

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

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

5 THE COURT: It doesn't say that.

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

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

12 THE COURT: Are you reading Rule 106?

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

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

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

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

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

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

1 THE COURT: What are you reading?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 MR. SCHNEE: Yes.

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

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

12 Tell me what the quote is again.

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

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

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

22 MS. CAMPBELL: I think basically he is telling
23 him, Your Honor, if you take the phrase --- and I can
24 hand it up to Your Honor --- you're saying you need to
25 be honest so that --- this is a death penalty --- then

1 we get to go in front of the jury that this is a death
2 penalty eligible case and that we aren't seeking the
3 death penalty, because that's where we're going to be
4 at that point.

5 THE COURT: I mean, Lorenzo Young's statement to
6 the police isn't even admissible.

7 MS. CAMPBELL: No.

8 MR. SCHNEE: I'm not arguing that Lorenzo Young's
9 statement to police is admissible. I'm arguing that
10 the conduct of McCoy during the investigation is
11 admissible and to impeach him as a police officer
12 pursuant to Kyle v. Whitley and every other basic
13 concept of cross-examining a police officer. That's
14 the only purpose of having any of this, and yes, it
15 goes directly to his credibility in front of the
16 witness and what the jury --- if the jury believes
17 him.

18 MS. CAMPBELL: Why --- how ---

19 MR. SCHNEE: The fact that he is threatening to
20 have a suspect receive the death penalty, which would,
21 by the way, be a felony threat from a police officer,
22 I think is very relevant. It doesn't matter what the
23 context of anything else is. That goes to his conduct
24 as a police officer. It's not for the truth of the
25 matter asserted. It's not going into what

1 Lorenzo Young said or did or his response or anything
2 else. It's purely to go into what type of police
3 officer and investigator he is.

4 MS. CAMPBELL: I mean, if he phrases it in such a
5 way as, you know, did you inform the witness that this
6 was a potential death penalty case by saying that he
7 could get a needle in his arm, that's one thing, but I
8 don't think he can be specific as to that being
9 Lorenzo Young, because at that point we're in the
10 position of having to --- for him to characterize it
11 as he threatened to kill him is ridiculous, and then
12 further he has got to use the language that he used.
13 Basically, did you inform or tell one of the witnesses
14 that this was a potential death penalty case and he
15 could get a needle in his arm, and then we're still
16 stuck with what he was trying to do is say tell the
17 truth, because that's purpose of the whole statement
18 and that's in the statement. Because he says, "If you
19 aren't honest with me ..."

20 THE COURT: What else do you plan on asking
21 that's of that same vein?

22 MR. SCHNEE: I'm absolutely going to ask him
23 regarding his willingness to conceal the identity of a
24 witness and claim it be a fake informant. I'm going
25 to ask him about that, because that's what he tells

1 Donald Moore about a completely unrelated rape case.

2 THE COURT: All right.

3 MR. SCHNEE: I'm certainly going to be going into
4 information that he received as just a general concept
5 in his investigation. I'm going to ask him if he has
6 ever received certain names that may or may nit have
7 information Marquis Johnson. Sequan Williams, Darryl
8 Samuels, Anthony Nelson, Joshua Green and then I'm
9 going to ask if he ever bothered to interview those
10 people. If he says no, that's it. That's all I'm
11 going for.

12 MS. CAMPBELL: And then we have an opportunity,
13 Your Honor, to explain part of that and we tried keep
14 out of this trial, and we have tried hard, is the
15 whole gang involvement. One of the reasons --- and, I
16 mean, I'm just telling you as an officer of the court.
17 I don't want to mislead you, but one of the reasons
18 that doesn't contact them is because, in his
19 experience, because these are all gang members and
20 these are all their friends, they're staying there
21 that night asleep that in his experience they aren't
22 forthcoming to police and when police approach them,
23 they aren't. In addition to that, during this
24 interview when these names came up at least most of
25 them with Amy Zmroczek she indicated that she would

1 get back to some of them about that. I can give you a
2 transcript about what that went. He waited to hear
3 from her and she never got back and that since then,
4 he's learned they didn't want to talk to police.

5 MR. SCHNEE: Judge, the fact that an investigator
6 is given the names of seven or eight or so witnesses,
7 potential alibi witnesses, eyewitnesses to Troy
8 Stevenson, the fact that he never even bothered to try
9 to call a single one of them, I think that goes to how
10 he conducts his investigations.

11 THE COURT: I think he is also allowed to explain
12 why he didn't do it.

13 MS. CAMPBELL: Which is fine with ---

14 MR. SCHNEE: These people aren't being ignored
15 because they are alleged gang members. They are
16 people that are standing outside his house --- and if
17 he wants to say he didn't believe they would be
18 honest, then that's up to him to say, but they were at
19 his house. That doesn't open the door to say, oh
20 well, they're gang members so I can't talk to them.
21 That's ridiculous.

22 THE COURT: Well, that's not --- now, see you
23 just mischaracterized what was said. That's a
24 mischaracterization. What was said is he doesn't ---
25 his testimony allegedly would be that he doesn't want

1 to interview them because they're not forthcoming in
2 his experience because they're gang members.

3 MR. SCHNEE: Well, if that's what he wants to
4 testify, that's what he can testify to.

5 MS. CAMPBELL: Okay.

6 MR. SCHNEE: But I don't understand why we're
7 having an entire debate about what I get to cross-
8 examine a witness on before I even ask him a single
9 question.

10 THE COURT: We're having this because of your
11 opening statement. That's why we're having this
12 conversation right now.

13 MR. SCHNEE: Okay. My plan on cross-examining
14 Investigator McCoy is dealing with what he has said
15 and what he has done and that's it.

16 THE COURT: What are you standing up for?

17 MS. PINNOCK: Your Honor, I just want to put on
18 the record a concern that we have and are now having
19 regarding introducing gang testimony for an
20 explanation as to why somebody did or didn't do ---

21 THE COURT: He is not going to be allowed to say
22 your client is in a gang.

23 MS. PINNOCK: Right, Your Honor, but there have
24 been efforts made to keep out reference of any sort of
25 gang involvement or anything associated with gangs

1 throughout this trial.

2 THE COURT: In regards to your client, yes.

3 MS. PINNOCK: Yes, sir. Allowing testimony now
4 to justify why something was or was not done, we have
5 no indication of that, I think, is going to introduce
6 evidence in this trial that's going to prejudice Mr.
7 Young.

8 THE COURT: He's not going to say --- I'm not
9 going to let him say your client is in a gang or that
10 this was a gang involved shooting or that somebody
11 ordered some kind of a hit or something. If he wants
12 to get up and say --- I'm making up a name because I
13 don't really remember all the names he just said, but
14 were you told about Marquis Johnson, yes, I was. Why
15 didn't you go interview him? I think that's a fair
16 question. You were given information about a
17 potential witness in the case and you could have gone
18 to interview him. That's a fair question.

19 MS. PINNOCK: Yes, sir.

20 THE COURT: Something that was done or not done
21 in the investigation --- why didn't you go interview
22 him because of my information is that that person is
23 in a gang and people in gangs usually don't talk ---
24 whatever you're --- I'm making this up, but, I mean,
25 as long as he doesn't say your clients are in a gang

1 or this was some type of gang related shooting or this
2 was some kind of ordered hit or some kind of
3 initiation or something like that, talking about
4 extraneous witnesses that were or were not interviewed
5 being involved in gangs, I don't know how anybody is
6 prejudiced by that.

7 MS. PINNOCK: Your Honor, but then we have
8 another issue also. We have no information provided
9 to us saying that anybody whose names have been
10 provided to law enforcement are involved in gangs.
11 That's just ---

12 THE COURT: How is that exculpatory to your
13 client?

14 MS. PINNOCK: Well, Your Honor, it's --- I mean,
15 if it's going to be part of the testimony of one of
16 the lead investigators --- this material information
17 ---. If they're saying they have it, they should have
18 turned it over. Your Honor, that's just under Brady,
19 the material ---

20 THE COURT: That's not the rule. How is it ---
21 the answer to how is it exculpatory to your client.
22 The answer is, it's not, right.

23 MS. PINNOCK: Well, Judge, I don't know because I
24 don't know what that information would be.

25 THE COURT: Okay. So. Okay. Now, so the real

1 issue is this threaten to kill issue.

2 MR. SCHNEE: Would Your Honor like to hear the
3 exact quote I would play in front of the jury if
4 necessary?

5 THE COURT: I'd rather hear the question.

6 MR. SCHNEE: The question is going to be "Did you
7 threaten Lorenzo Young with the death penalty?"
8 That's going to be my question. I might follow it up
9 with, "Did you say quote..." and then read the exact
10 quote that he said.

11 MS. CAMPBELL: Why can't he ask that question?
12 Why can't that be the question, did you say this, what
13 he said?

14 THE COURT: Yeah.

15 MR. SCHNEE: Well, I ---

16 MS. CAMPBELL: Why do we have to bring the death
17 penalty into it, Your Honor. At this point I think
18 there is going to have to be an instruction of some
19 sort because this is not a death penalty case.

20 THE COURT: We're already going to have a
21 sentencing instruction.

22 MR. SCHNEE: Except the threat that he made was
23 for the death penalty so that's why I'm asking him
24 about---

25 THE COURT: Why can't you ask him the direct.

1 quote?

2 MS. CAMPBELL: The quote.

3 THE COURT: That's the same thing.

4 MS. CAMPBELL: It's the truth.

5 THE COURT: It's actually accurate.

6 MR. SCHNEE: I believe I should be able to ask it
7 both ways. I mean, if I ask that question, I can
8 certainly --- am I prohibited from following up with
9 "You're referring to the death penalty, aren't you?"

10 THE COURT: Yes, but ---

11 MR. SCHNEE: That seems like a logical point.

12 THE COURT: Well, everybody in the room, all the
13 lawyers in the room know that Investigator McCoy
14 doesn't make that decision. Number one, he doesn't
15 have the ability to make the decision. Number two, he
16 doesn't have the power to do it. Even if he wanted to
17 make it a death penalty case, he couldn't make it a
18 death penalty case. Even if did have the power to
19 make it a death penalty case, which he doesn't have
20 the power to give someone the death penalty case or
21 anything else. so it's just not accurate.

22 Now, the quote is accurate and the jury can infer
23 what the jury infers from that based upon that for the
24 purposes of Investigator McCoy's impeachment or
25 credibility or motive or bias or anything else, but I

1 mean, this idea --- I mean, that, you know, he
2 threatened to kill him, no. I mean, it's just not
3 accurate --- so, the question is --- I will allow you
4 to go into the quote that he made to Mr. Young.

5 MR. SCHNEE: Am I allowed to follow up and say
6 when you refer to a needle on the arm, you're
7 referring to the death penalty? I know everyone in
8 this room certainly understands that.

9 THE COURT: Right.

10 MR. SCHNEE: But I think it's important for the
11 jury to understand what the needle in the arm
12 references.

13 THE COURT: No. You're not going into that.
14 That's too much of a stretch.

15 MR. SCHNEE: A needle in the arm to --- to ask
16 him is your referring to a needle in the arm to the
17 death penalty; that's too much of a stretch?

18 THE COURT: Unless you want him to ask it. I'm
19 inclined to keep that part of it out.

20 MS. CAMPBELL: My concern is at that point then,
21 regardless of which way he does it ---

22 THE COURT: We create all kinds of issues.

23 MS. CAMPBELL: --- it creates issues as far as
24 the death penalty. I think we would have to have a
25 specific instruction to tell this jury this is not a

1 death penalty case, because, you know, I mean that can
2 affect how a jury views things. I mean, legally, we
3 can't even seek the death penalty because of their
4 ages.

5 THE COURT: Right.

6 MS. CAMPBELL: I mean, just if you take out all
7 the other factors.

8 THE COURT: I'll allow you to go into the direct
9 quote, but any kind of question beyond that I'm going
10 to deem as inappropriate based on what I know at this
11 point. I think the direct quote goes directly to the
12 credibility of the officer and the motive and the bias
13 and any potential prejudice that he may have. So I'm
14 going to allow you to do that, but that's it. All
15 right. Let's take about a ten minute break.

16 MS. CAMPBELL: Your Honor, can we address the
17 final issue, the hiding of evidence?

18 THE COURT: Yes, there was something about --- he
19 said something to somebody about hiding evidence?

20 MR. SCHNEE: Yes, Your Honor.

21 THE COURT: Yes, let's look at that one.

22 MR. SCHNEE: Essentially, Your Honor, there's a
23 conversation ---

24 THE COURT: It's somebody's interview.

25 MR. SCHNEE: Right. It's Donald Moore that's

1 being interviewed. It's a telephone conversation, and
2 they're talking about this particular case.

3 THE COURT: Right.

4 MR. SCHNEE: Donald Moore brings up the fact that
5 he may be able to find out the name or something about
6 a completely unrelated rape case.

7 THE COURT: Right. I remember that.

8 MR. SCHNEE: McCoy tells him that if a Donald
9 Moore get him the name or, I think, if you get it
10 meaning the name, I'll simply list it as an anonymous
11 informant and further describes, I'll never have to
12 put your name. It doesn't matter as long as the
13 victim picks the guy out of the line up. That's
14 essentially what McCoy says.

15 THE COURT: Okay.

16 MR. SCHNEE: I'll pretend that you're an
17 informant so I don't have to tell anyone to conceal
18 your identity.

19 THE COURT: All right. And what's your take on
20 that?

21 MS. CAMPBELL: Your Honor, I don't know how it's
22 related to this matter. It's commonly done. It was
23 actually done in this case because he doesn't list him
24 as an informant on the search warrant to try to
25 protect him. If he wants to go there, great, but I

1 don't think he's going to like the answer.

2 THE COURT: Okay. You heard her.

3 MS. CAMPBELL: He's on notice.

4 THE COURT: All right. Ten minutes.

5 (WHEREUPON, a short break was taken.)

6 (WHEREUPON, State's 266 and 282 were withdrawn.)

7 MS. CAMPBELL: Just for clarification, when he
8 asks that question, is he going to be allowed to say
9 that that was in reference to Lorenzo Young being
10 questioned. I just need to know whether I need to go
11 into the fact that --- you know, did you all interview
12 Lorenzo Young and then just move on, because ---

13 THE COURT: What's your position on that?

14 MR. KRZYSTON: I'm sorry, I didn't hear what the
15 question to the Court was.

16 THE COURT: The question is, am I going to allow
17 Mr. Schnee to say did you make this statement to Mr.
18 Young.

19 MS. CAMPBELL: Or maybe said it to a witness.

20 Because then you're getting into the fact that he
21 is threatening --- it's just not admissible.

22 MR. SCHNEE: Well, I think the fact that he is
23 threatening a suspect in particular is highly
24 probative of what is necessary for impeachment value.
25 I'm fine with just saying suspect.

1 THE COURT: Yeah, suspect is fine.

2 MR. KRZYSON: I don't know that we have any
3 objection.

4 THE COURT: Okay. Suspect is fine. We'll stay
5 with suspect. Okay. Let's bring in the jury.

6 (WHEREUPON, the jury entered the courtroom at
7 11:30 A.M.)

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

9 THE COURT: You may call your next witness.

10 MS. CAMPBELL: May it please the Court, Your
11 Honor. The State calls Investigator McCoy.

12 INVESTIGATOR MATTHEW MCCOY,
13 being duly sworn, testified as follows:

14 DIRECT EXAMINATION:

15 THE COURT: State your full name and spell your last
16 name, please.

17 THE WITNESS: Matthew D. McCoy, M-C-C-O-Y.

18 THE COURT: Thank you. Ms. Campbell.

19 MS. CAMPBELL: May it please the Court.

20 BY MS. CAMPBELL:

21 Q Investigator McCoy, where are you employed?

22 A I'm employed with the Columbia Police Department.

23 Q How long have you been with the police
24 department?

25 A I was hired in 2008, so I'm going on seven years.

1 Q What do your duties include at the Columbia
2 Police Department?

3 A Well, currently I'm employed in the criminal
4 investigations division under the VCAP unit, the
5 Violent Crimes Against Persons.

6 Q As part of the VCAP unit, what type of
7 investigations do you conduct?

8 A Primarily I conduct homicides, suicides,
9 kidnappings, aggravated assaults, anything along those
10 lines, any violent crime against a person.

11 Q I'm going to turn your attention back to the end
12 of June, first of July last year. Did you get called
13 in on this case involving Ms. Hunnewell?

14 A Yes, I did.

15 Q How did you become involved, sir?

16 A On the early morning hours of July 1st, I was
17 called out, which is pretty typical. I was called out
18 by sergeant. This was case of Sergeant Reese. He was
19 filling in for my normal sergeant, Sergeant Pegram.
20 He called me on the telephone and said they had a
21 possible homicide at 93 Tommy Circle and requested
22 that I respond and take over the investigation.

23 Q When you refer to Sergeant Reese is that Sergeant
24 Reese right there?

25 A Yes, that's him right there.

1 Q And he was the actual supervisor of the case?

2 A Yes, he was.

3 Q Approximately what time was it when you received
4 a call to respond to Tommy Circle?

5 A If you'll let me look at my notes, if you don't
6 mind.

7 (Pause.)

8 I received a call at 5:11 A.M. on the 1st.

9 Q What time did you actually respond at the scene
10 on Tommy Circle?

11 A I got there at 6:17 A.M.

12 Q When you got there, what did you find?

13 A Well, when I arrived at the location, crime scene
14 was already on the scene as well as the coroner's
15 office. EMS had been there, but they had left. The
16 front door was standing open. Crime scene tape was
17 around the location and I went in. Crime scene was in
18 the process of collecting shell casings and other
19 items. I believe Sergeant Reese and a few others had
20 been there for a little longer than I had and observed
21 some other items of interest.

22 While I was in the location, I observed the
23 victim who was later identified as Kelly Hunnewell at
24 the autopsy at the coroner's office's office. She was
25 wearing a blue zip up jacket and gray sweat pants,

1 black and green shoes.

2 She was lying on her side underneath a metal
3 sink. It appeared she had a single gunshot wound and
4 she was deceased.

5 Q Let me back up for a second. What was the
6 weather like when you got there that morning?

7 A It had been raining all night. It was still
8 sprinkling, and the rain was off and on, from heavy to
9 light throughout the early morning HOURS while I was
10 there. It had been raining the majority of the
11 morning.

12 Q In the area --- the victim was still there on the
13 scene when you got there?

14 A That's correct.

15 Q In the area around her, did you make any
16 observations that might have been pertinent to this
17 case as far as where the shooting actually occurred?

18 A Sure. Obviously when we go to a scene and we
19 don't know what happened, or even if a video exists at
20 this point. You're trying to figure out what's going
21 on. We got there. There were items strewn about the
22 location. It looked like a struggle had ensued or
23 some type of --- I guess a struggle is the best way to
24 describe what had occurred. Also, there were many
25 shell casings laying on the floor and by the

1 positioning of the shell casings, you were able to
2 determine where the shooters might have been standing.
3 We were able to determine there were at least two
4 firearms used. There were two different calibers of
5 ammunition that we found at the scene so we know at
6 least two firearms were used.

7 Q When you say there were two calibers of
8 ammunition at the scene, so at least two firearms were
9 used, what type of caliber ammunition did you find at
10 the scene and how were you able to determine that?

11 A Okay, well, the shell casings are headstamped.
12 They will have the manufacturer, as well as the
13 caliber on the rear of the ejected shell casing, the
14 bullet actually, resided before it was fired and was
15 ejected out of the weapon. I found a 40 caliber Smith
16 and Wesson shell casing and also 45 caliber GAP.

17 Q Once you assessed the area where Ms. Hunnewell
18 was found, did you go back into the break area?

19 A We did.

20 Q Were you able to determine anything from a time
21 card you found at the scene belonging to Ms. Hunnewell
22 when you got there that day?

23 A Yes, of course, we will look at the whole scene
24 to see if we can find to determine what led up to the
25 incident. When I walked in, I saw a time card. It

1 had Kelly Hunnewell's name on it. I believe it was
2 3:00 A.M. was the time she punched in. 0300 hours,
3 3:00 A.M. was the time punched in on the card. We
4 knew is we around that time she had arrived or at
5 least punched in for work.

6 Q Were your able to determine whether anyone else
7 was present that morning based on the time cards?

8 A We didn't see any other time cards where anyone
9 else had punched in or been there.

10 Q There at the scene, did you see any personal
11 items belonging to Ms. Hunnewell?

12 A We found a phone that we believed to be
13 Ms. Hunnewell's, as well as keys to the van that was
14 parked outside by door, which we assumed --- actually
15 through records, DMV records,

16 Q And how many vans were actually parked outside
17 the store?

18 A There were two. One belonged to the catering
19 company; it had the markings for the catering company
20 and the bakery so they could transport the items back
21 and forth from the bakery to their store and also the
22 van that belonged to Kelly Hunnewell.

23 Q And what, if anything, did you do with the van
24 that morning?

25 A With Ms. Hunnewell's van, we had it towed to

1 headquarters. The investigator, Investigator Moorer,
2 followed the vehicle, just for the whole chain of
3 custody, and followed the tow truck. That's pretty
4 standard with any investigation. If there's a vehicle
5 we think might be involved or belonged to the victim,
6 we that we can't account for or rule out, we tow it to
7 headquarters. We don't know we have at that point.

8 Q At that point, you had not seen any videos?

9 A That's correct, yes, ma'am.

10 Q While you were there in the bakery, did you
11 notice any type of cameras there in the bakery?

12 A I did. As I was surveilling the location, I
13 looked up and I saw several cameras. I think there
14 were at least four inside of the bakery.

15 So I began to look around for a camera system,
16 and we found a DVR. It wasn't hooked up to a monitor,
17 but the lights were on, so you could tell that
18 hopefully something had been recorded on this DVR.

19 Q At that point did you take any steps to have the
20 DVR collected and attempt to download the images?

21 A Yes, crime scene took it. They were going to
22 take it up to our headquarters in order to hook it up
23 to a monitor. We can't interact with the software on
24 the DVR without having a monitor to look at what
25 you're doing.

1 Q While you're still there at the scene, did you
2 also become aware of who had actually called in this
3 9-1-1 call?

4 A Yes, yes.

5 Q Who was that?

6 A It's --- I have a name here. I know that ---
7 it's Theresa Baskin.

8 Q Okay. Was anyone sent to interview her that
9 morning?

10 A Yes, I believe Investigator Hilton went over
11 there and spoke with her and put it in his notes that
12 he interviewed her.

13 Q While you were there at the bakery, did you make
14 any attempts to contact anyone associated with the
15 café and the catering service?

16 A I did. I actually located a magnetic sign that
17 was on the refrigerator in the break room. It was the
18 main number for the Carolina Cafe. I called that
19 number and I got an answer from an individual whose
20 last name was Andrew Park-Floyd. That's a hyphenated
21 last name. He identified himself as the manager. I
22 advised him that I was looking for the owner or
23 someone I could speak with about who owned the bakery
24 or who ran the bakery. He directed me to Max
25 Schleuter. And I was provided a telephone number for

1 him. I didn't make contact with that individual, and
2 left a voice mail. He called me back and I advised
3 him what was going on at his bakery.

4 Q Once you made contact with Mr. Schleuter, was he
5 able to give you any pertinent information about
6 Ms. Hunnewell?

7 A He was..

8 Q And what information was he able to give you?

9 A He basically was able to advise me of where she
10 lived currently, that she had been an employee of his
11 and that she was supposed to be at the bakery. That
12 was her normal hours where she would come in and bake
13 bagels and cook other items on the stove there.

14 Q Did he tell you any information about her family
15 situation that you followed up on?

16 A Yes, he said ---

17 MR. KRZYSTON: Objection.

18 THE COURT: Stop.

19 THE COURT: What's your objection?

20 MR. KRZYSTON: Hearsay.

21 THE COURT: Overruled.

22 BY MS. CAMPBELL:

23 Q Go on.

24 A From his information, we were able to determine
25 that she had several small children who may be home

1 alone with no one to care for them, so we are sent
2 Investigator Dowell over to that house to make contact
3 with the children and to make sure they were all
4 right.

5 Q And then other investigators, I believe, ended up
6 making the contact with family members, as well?

7 A That's correct.

8 Q Did Mr. Schleuter end up coming to the scene that
9 morning?

10 A Yes. He did. He actually provided us with a key
11 to the door. We wanted to secure the location by
12 locking it after we left. He was able to give us a
13 key. He also gave us the code for the DVR. It was
14 password protected, so we were able to get into it.

15 Q Who was actually able to obtain the video from
16 the DVR?

17 A That was Sergeant Rose.

18 Q Where did that take place?

19 A It took place at Columbia police department
20 headquarters.

21 Q At that point, the DVR had been transported
22 there?

23 A That's correct.

24 Q Were you able to review the video of what was
25 shown from the interior of the bakery at that point?

1 A Yes, when Sergeant Rose hooked up video to a
2 monitor, we were able to play the raw footage. He
3 pulled the footage first in it's raw format. It was
4 four files from the four camera angles. We also
5 observed the footage from the DVR.

6 Q Based on that, were you able to get a
7 description? Were you able to actually see shooting
8 itself on the video?

9 A Yes, we were.

10 Q Were you able to get a description of the people
11 that had come inside the bakery?

12 A Yes, when we observed the video as you saw
13 earlier, we identified three people who we believe
14 were involved. Now, obviously two of the ones that
15 entered the bakery, one had a gray sweatshirt on and
16 one had a red hooded sweatshirt, both had hooded
17 sweatshirts on. Both were carrying semiautomatic
18 handguns, from the video. We also were able to
19 determine that were black males from their hands.

20 Q Were you able to get a look at their faces from
21 the video?

22 A No.

23 Q Why not?

24 A It looked like the faces were covered. The one
25 looked like he had a mask on, with the red hoodie, he

1 looked like he had a mask on. The one with the gray
2 hoodie, he just looked like he had his hand holding
3 the hood real tight over his face to keep himself
4 concealed.

5 Q Were you able to tell from the video whether one
6 or both men actually fired their weapons?

7 A Both individuals fired their weapons. I could
8 tell the one with the gray appeared to fire twice. The
9 other one, the red hoodie, I believe it was five
10 times. It happened in rapid succession. That's what
11 I got from it.

12 Q And the shooting itself, what time did it
13 actually happen on the video as it was date stamped?

14 A I have it --- as it was date stamped on the
15 video?

16 Q Yes.

17 A It was timestamped at 2:42 A.M. However, we
18 determined later that the time was about an hour off,
19 so actually it would have been 3:42 A.M. That was
20 based upon the 911 call and the time the officers
21 actually arrived. We were able to determine it was
22 about an hour.

23 Q And once you got the video, did you --- were you
24 able to retrieve an actual copy of the video and take
25 it somewhere?

1 A Yes, I was able to take the copy of the video to
2 Lexington County Sheriff's Department to see if they
3 could aid us in either cleaning it up or getting
4 stills from the video, high quality stills, that we
5 could use to release to the media or use in our
6 investigation to see if could determine maybe a brand
7 or something like that of the clothing.

8 Q And, in fact, were you able to get a number of
9 stills that aided in your investigation?

10 A Yes, I believe there were several hundred that we
11 were able to get.

12 Q Once you were able to review the stills, were you
13 able to notice anything additional things about the
14 clothing that the men wore or anything like that?

15 A Yes, let's see here. In looking at the stills, I
16 believe when I looked at the stills, I determined that
17 possibly the shooters were wearing gloves on their
18 hands that they were holding the firearms in. You
19 could tell they were --- it was a normal hand on the
20 hand that didn't have the firearm. Also, one of our
21 investigators, Investigator Moorner, she wears the
22 Hollister brand clothing. In looking at the stills,
23 she was --- in looking at photographs of that
24 particular sweatshirt, a Hollister brand sweatshirt
25 zip up hoodie, we were able to determine that was more

1 than likely the hoodie, being Hollister brand hoodie,
2 just from the still photo and the branding on the
3 front.

4 Q That afternoon, did you all get a search warrant
5 and return back to the bakery?

6 A Yes. We did.

7 Q Why did you go back to the bakery that afternoon?

8 A Well, when you're there initial, you're not
9 100 percent sure what was touched or what had
10 happened. We hadn't observed the video. We made
11 decision to secure the location and return once we
12 watched any footage that existed to see what might
13 have been touched or brushed against and see what
14 might have occurred. That just prudent to do that.

15 Q Okay,

16 A It also would aid crime scene investigators in
17 determining what things to swab and so forth.

18 Q Were fingerprints actually dusted there at the
19 scene?

20 A No, they were not.

21 Q Why not?

22 A Well, in looking at the video, as you saw, it was
23 such a quick incident. It doesn't appear they
24 actually touch anything to the point where you would
25 get fingerprints. Also, in speaking with our crime

1 scene investigators, as is the case, you usually have
2 to pick one or the other as far as fingerprints or
3 touch DNA. If you're going to use dust to dust for
4 prints, it can affect the DNA and vice versa.

5 Q Specifically when you went back that afternoon,
6 was there a spoon that was recovered?

7 A Yes. There was. I believe it was on the ground,
8 I believe, from the photographs.

9 Q And that's when it was taken into evidence?

10 A That's correct. Yes.

11 Q And in addition they took swabs from areas they
12 thought they might have touched?

13 A That's correct. From various things, when we
14 watched the video, we saw places they might have
15 brushed against or slapped with their hands as they
16 were fleeing the location. Those were all the areas
17 we swabbed in hopes we would get some kind of touch
18 DNA.

19 Q After the crime scene, y'all went back and ---
20 during the time period when you've been there in the
21 morning to when you went back that afternoon, was the
22 crime scene still kept secure?

23 A It was, yes, ma'am.

24 Q That evening, early evening, did you and Sergeant
25 Reese and other investigators canvas certain areas

1 near there?

2 A We did. Let's see. After that, we had a brief
3 meeting at the police department, which was typical.
4 We kind of brief about what's going on. What do we
5 know so far, what evidence do we have so far, what
6 needs to be done to continue and try to develop a
7 lead. At this point we had no leads besides the
8 video. So Sergeant Reese suggested that we go to the
9 neighborhood, go to Tommy Circle, as well as some
10 other neighborhoods that surround it and canvas. It's
11 just basically walk around and knock on doors, did you
12 hear anything or see anything that looked a little
13 suspicious.

14 Q During that canvass, what areas, what streets did
15 you actually go door to door and try to develop
16 information?

17 A The areas included Bonner Avenue, Lucille Drive,
18 Dubard Street, Beach Haven Road, North Beltline
19 Boulevard, Tommy Circle, and those areas in those
20 neighborhoods specifically.

21 Q Were you able to develop any information from
22 that canvass?

23 A We did --- now, I went to 12 Tommy Circle and was
24 able to obtain additional surveillance footage.

25 Q That's what I was going to ask. What is 12 Tommy

1 Circle?

2 A That's the Original Ale House, I believe it's
3 called.

4 Q And where is that located in relation to the
5 bakery?

6 A It's directly next door.

7 Q Were you able to get video from them?

8 A Yes, I was.

9 Q And did you have an opportunity to review that
10 video?

11 A I did. Once we received it on several DVDs, it
12 was large files, we were able to come back to
13 headquarters and review it after we finished the
14 canvass.

15 Q And did they have multiple cameras in the Ale
16 House video?

17 A They did, multiple inside and outside.

18 Q But, of the ones of use, how many were actually
19 useful for you in this investigation?

20 A I believe it was just one angle that faced toward
21 the bakery. The rest were mainly interior.

22 Q Let me ask your this. The video that you got
23 from the interior of the bakery, does it have any
24 audio on it, can you hear anything?

25 A It does.

1 Q From the bakery?

2 A I'm sorry, from the bakery, no the bakery has no
3 audio. Twelve Tommy Circle has the audio.

4 Q And that would be the Ale House video?

5 A That's correct.

6 Q In the Ale House video, what are you able to
7 actually hear through the audio on that?

8 A Rain and buzzing.

9 MS. CAMPBELL: Your Honor, permission to publish
10 the videos with him at this point?

11 THE COURT: Yes, ma'am.

12 MS. CAMPBELL: You may step down.

13 THE COURT: Can you see? Front corner, can you
14 see?

15 BY MS. CAMPBELL:

16 Q First, pulling up the bakery video, if we could
17 first?

18 THE COURT: Does that help or hurt?

19 THE JUROR: Help.

20 THE COURT: Okay.

21 BY MS. CAMPBELL:

22 Q Pull up --- tell me, how do --- inside the
23 bakery, how do the cameras work? Do they run
24 continuously?

25 A Yes.

1 Q Is that different from how the Ale House one
2 works?

3 A Very different.

4 Q We'll get back to that. What area does this
5 show, sir?

6 A Well, the front door would be over here. This is
7 just entry way. That's bathroom, that's the kitchen
8 area at the top.

9 Q Can you see back there? Okay.

10 A The main entrance would have been right here.

11 Q Can you fast forward to right before the
12 entrance. Thank you. That's good. And who is that
13 that you see in the video at this point?

14 A We determined that's Kelly Hunnewell.

15 Q What was in her hand at that point?

16 A That is a large metal spoon or ladle, if you
17 will. You can see several shots that go off. The
18 individual in the red hoodie, if you watch it where
19 their hands move up.

20 Q Moving on to where they enter. Is that the
21 extent of the time they're in the actual bakery?.

22 A Yes. This will be the front door. I believe
23 that's Ms. Hunnewell's van you actually see right
24 there in the video.

25 Q Who is that in the doorway? Can you back that

1 up?

2 A That would be the individual who we would call
3 the lookout. We believe, based upon the way he is
4 dressed ---

5 MR. SCHNEE: Objection.

6 THE COURT: What is it?

7 MR. SCHNEE: Drawing a conclusion.

8 THE COURT: Overruled.

9 THE WITNESS: Based upon the way he is dressed,
10 the fact that he is covering up his face, based on my
11 experience ---

12 BY MS. CAMPBELL:

13 Q Right there?

14 A Based on my experience with these kinds of
15 crimes, a ---

16 MR. KRZYSTON: Objection.

17 THE COURT: Overruled.

18 THE WITNESS: A lookout is very common.

19 BY MS. CAMPBELL:

20 Q And specifically, what is that around his face
21 that he has drawn around his face?

22 A I know that is hoodie. Just like the other two
23 are dressed.

24 Q Is this different in color from what you can tell?

25 A It is. It's either black or dark blue, it's

1 hard because the color on the camera is not great.

2 The camera is not a high quality.

3 Q And he's holding it up covering what part of his
4 face?

5 A His mouth and his nose.

6 Q Is that the only time you actually see him on
7 camera, as far as ---

8 A That's correct, as far as this video.

9 Q Okay. Go to the angle that shows right on to the
10 stove and the sink. What area is this?

11 A This would be the kitchen. The front door is
12 over here. That's just an extended portion. There's
13 another camera on that side. That's going to be a
14 straight on shot of the kitchen, as well as the actual
15 murder itself.

16 Q And I see steam coming out of a pot on the stove.
17 Do you know what's in there?

18 A I think it was boiling potatoes, I saw it was
19 boiling potatoes, peeled potatoes, when I got there.

20 Q Who is that?

21 A That's Kelly Hunnewell. And there is the spoon
22 that she had.

23 Q Finally, can you pull up from inside bakery, the
24 four side by side, and inside, and again what is this?

25 A This is same footage you just watched. However,

1 it's being correctly timestamped and the footage or
2 the angles have been put together so it's easier to
3 see a chronological order of what actually occurred
4 from start to finish. This is when you first see them
5 entering, the incident, and then back out. It's very
6 quick seeing them.

7 Q And that's of the interior?

8 A Yes, ma'am.

9 Q Can you pull up the Ale House, please. Again,
10 there is no audio on those cameras?

11 A No, there's no audio. We tried to turn the
12 speakers up on our monitor, nothing. I don't believe
13 they were equipped with microphones.

14 Q Is that the only one that provided assistant in
15 this case, from the Ale House, that you know of that
16 showed anything?

17 A That's correct. This is only angle that showed
18 anything relevant.

19 Q From your view of this, approximately what time
20 is it that the people from the Ale House actually
21 leave?

22 A Let's see. Employees begin to leave about 3:09.
23 The final vehicle that we determined was an employee
24 vehicle leaves about 3:12.

25 Q 3:12?

1 A They come out here. They speak and they talk.

2 Q And that's all on this video?

3 A You'll hear them talking. You'll hear the
4 buzzing, and that's about all you hear. You do hear
5 them talking about the night or something.

6 Q On this video, how is it activated?

7 A Well, from my understanding, when we received the
8 video, we were advised that it was motion activated.
9 There was some motion detector on the camera at least
10 for this angle.

11 Q This angle?

12 A They're able to vary it depending on where the
13 camera is located, whether continuously or...

14 Q Can you fast forward to about 3:12 when they
15 leave?

16 A That would be the final ---

17 Q Can you see anything after everyone actually
18 leaves from the Ale House?

19 A See anything after they leave?

20 Q No, before that, as far as anything involving the
21 bakery?

22 A No, I didn't observe anything involving the
23 bakery until after they were all gone.

24 Q And what time do you actually observe information
25 from the bakery?

1 A According to the time stamp, it would be
2 3:14 A.M. is the time I initially saw --- he will come
3 from here, the individual in the hooded sweatshirt.

4 Q And again this distance is much further away and
5 outside and in the rain?

6 A Yes, you can see the light. You can see the
7 catering van and the light from the open door, so it's
8 a good distance away --- the front door is over here.

9 Q And the bar that's running up at the top, what is
10 this?

11 A This was an awning. The awning wasn't attached
12 to it, but it's similar. The awning sits here. That
13 would be the support bar.

14 Q What do you see there?

15 A That's a --- the first individual in a hooded
16 sweatshirt and then second individual comes into view.

17 Q And then ---

18 A It's motion activated so it's going to skip
19 every few seconds once motion ceases. There is ---

20 Q At this point, can you see the second individual?

21 A Yes --- the second individual was seen, I believe
22 you saw an individual walking --- you may have to
23 rewind it. There is another individual that walks up
24 through there ---

25 Q From the left side?

1 A Correct, that would be the third individual who
2 walks up. And it looks like they're having a
3 conversation. You obviously can't hear what's being
4 said, but it appears there's some back and forth.
5 That window there, that's a bathroom window. This
6 individual stays pretty much where he is looking
7 towards the door. You can also get behind the
8 building. There is a little walkway, called an alley
9 way.

10 Q That's end of the clip on this?

11 A Yes, ma'am.

12 Q Is there a second clip that picks up where that
13 one left off?

14 A Yes, the files were so large, they had to be
15 broken to you know separate clips, four in total.
16 That's where we picked up. The guy is walking --- the
17 hooded sweatshirt individual is walking to the back.
18 That individual remained there. I don't know if there
19 were any effects of the motion sensor at all. That
20 may be why it keeps picking up motion. You can see
21 the rain falling as well as their motion.

22 Q And how many individuals do you see at this point
23 at the corner?

24 A I only see two individuals at the corner at this
25 point. Earlier you saw an individual walk around the

1 front of the vans and go around to the other side. I
2 don't know if he's going to come back in the frame.

3 Q Okay.

4 A At this point there's one here and one closer to
5 that side of the wall. You can see his shadow outline
6 there where he is.

7 Q And, again, as far as what's on the other side of
8 the vans or the front side, far side of the baker, can
9 you see can you see any of that in this video?

10 A No, you can't. There's no camera directed there.

11 Q Okay.

12 A You see those two individuals here, they would be
13 in the walk towards the front here, circling the van
14 there, that's at 3:21, 3:22, correct.

15 Q And at this point can you see anyone from this
16 angle?

17 A No, you won't see anything until 3:36.

18 Q This one is timestamped separately from what's
19 inside?

20 A That's correct. Whatever they set their DVR
21 timestamped to is what you see. I'm just referring
22 the notes with the timestamps.

23 Q Good. Fast forward. Do you see anything between
24 in now and 3:36?

25 A No, I didn't observe anything when I watched it

1 several times. Nothing happens between 3:31 and
2 3:36 except somebody walking.

3 Q You can fast forward to 3:36.

4 A You have to watch carefully, keep your eye on
5 this area right here because it will happen quick.
6 The motion, it's not a continuous stream.

7 Q So it's kind of a hesitation between actual
8 motion and ---

9 A Yes, you will miss a few seconds at a time
10 sometimes. It varies depending on what motion it picks
11 up. You see these two individuals running. You catch
12 the tail end of the one guy and the other guy you
13 catch them right there. It's so quick.

14 Q Okay. Is that the extent of what you observed?

15 A Yes, it is on this video.

16 Q You can go back to the stand.

17 MS. CAMPBELL: If I could have a brief minute,
18 Your Honor, I have one more while she has it up, just
19 because it's cumbersome.

20 BY MS. CAMPBELL:

21 Q Once you got the video, did you release certain
22 things to the media?

23 A We did. As part of an investigation, obviously
24 when we have unknown individuals and are trying to
25 develop a lead, the media is a great tool. It helps

1 them. They get information about the incident and it
2 helps us because a lot of people will see it and give
3 us information, and hopefully, call in. However, we
4 try not to release all the information. That wouldn't
5 be good for the investigation. You want to be able to
6 see if future witnesses (A) know what they're talking
7 and (B) can they be credible. We did release a copy
8 of the video to the media, but it was not in it's
9 entirety.

10 Q I'm showing you what's been marked as State's
11 Exhibit Number 439. At my request, did you review
12 this?

13 A Yes.

14 MS. CAMPBELL: Your Honor, at this time we offer
15 State's Exhibit 439 into evidence.

16 (WHEREUPON, State's Exhibit Number 439 was
17 admitted into evidence.)

18 MR. KRZYSTON: No objection.

19 MR. SCHNEE: No objection.

20 THE COURT: State's 439 without objection.

21 BY MS. CAMPBELL:

22 Q Permission to publish it?

23 THE COURT: Yes.

24 Q And that's extent of the footage that was
25 released?

1 A That's correct..

2 Q Okay.

3 A We left out the part where she struggles and uses
4 the spoon to strike the individual, and the actual
5 shooting, for obvious reasons.

6 Q Okay. Thank you. That day when you were in the
7 video (sic) and you got there that morning, what was
8 the temperature like inside video (sic)?

9 A Inside the bakery, it was quite warm inside the
10 bakery. Now, I --- my understanding that the fire
11 department had come to shut off the gas, because of
12 the heat and the fact that the burners were on with
13 boiling potatoes, but when I got there several hours
14 after the discovery, you know, it was about 6:17, but
15 it was still very hot, and I was advised it's so hot
16 take off your jacket. You're going to start sweating.

17 Q That same day did you contact a man named Cary
18 Shealey?

19 A I did. Cary Shealey, he runs Statewide Security
20 Services. The city has a contract for video cameras
21 around the city.

22 Q Was he able to give you any information as far as
23 any cameras in the area?

24 A No, I requested any cameras he had in the area
25 and any footage he had from them, but he later contact

1 me by telephone. We have a pretty good working
2 relationship. He said he had nothing, no footage in
3 that area whatsoever at the time this occurred.

4 Q That evening did you also go back and canvass
5 another area?

6 A We did. Toronto Street, which is near that
7 location, I did that Sergeant Reese and Investigator
8 Hilton. We didn't look at anyone that had any
9 information. Really, they didn't want us --- didn't
10 want to be involved. They didn't want to give their
11 names or anything.

12 Q And everything you testified to before so far is
13 what you all did on July 1st?

14 A That's correct. All that was on July 1st.

15 Q On July 1st, did you have any suspects with names
16 involved?

17 A Not at that time, no.

18 Q I want to turn your attention to the next morning
19 July 2nd. Did your investigation continue?

20 A It did.

21 Q Specifically, did you receive certain --- you
22 can't say what it is in that, but did you receive
23 certain information?

24 A I did. I received tips, which again is not under
25 common when you release footage to the media or you

1 have a story like that and you get tips.

2 Q And those are what was called Crimestoppers tips?

3 A That's correct. It's done through Crimestoppers
4 of the Midlands. We don't have access to names or
5 phone numbers. That's all kept confidential. We get
6 the substance of what they advised.

7 Q At that point --- you can't say what was in the
8 tips, but did you start trying to follow up on leads
9 that may have been in those tips?

10 A Yes, I did.

11 Q And during the course of the day, is that what
12 you did?

13 A That's what we did almost the entire day. We had
14 several meetings during the day, but we followed up on
15 those leads.

16 Q That evening did you get some information from
17 one of your regions?

18 A I did, about 5:30 in the P.M. Sergeant Shuler, he
19 was the Metro Region supervision for the street units
20 at that time, he called and said there was an
21 individual who had information for us.

22 Q And at that point did your send somebody to go
23 and get the witness --- the possible witness and bring
24 him in?

25 A Yes. We did.

1 Q And who actually went and picked them up that
2 day?

3 A I believe it was Investigator Moorner who went and
4 picked him up. Yes, Investigator Moorner.

5 Q And once the witness got to headquarters, who was
6 that witness?

7 A He was identified as Donald Moore.

8 Q And at that point was Donald Moore cooperative?

9 A He was very cooperative.

10 Q And was he able to give you information?

11 A Yes, he gave me information regarding the case.
12 It was audio recorded.

13 Q And specifically was he able to give you
14 information that had never been released to the media?

15 A Yeah. That's what gave him so much credibility
16 to us. I can't say what the information was ---

17 MR. KRZYSTON: Objection, vouching.

18 THE COURT: What?

19 MR. KRZYSTON: Bolstering.

20 THE COURT: He is not allowed to vouch for the
21 witness, but he can explain.

22 BY MS. CAMPBELL:

23 Q You can explain without --- just explain why he
24 was --- did he know information that hadn't been
25 released?

1 A He did; Moore knew information that had not been
2 released to the media.

3 Q That same evening, did you get a call from
4 Sergeant Branham?

5 A Yeah, Sergeant Amanda Branham, there's two of
6 them we have, Sergeant Amanda Branham is one who
7 called.

8 Q Based on her information, did you make contact or
9 attempt to make contact with another witness in this
10 case?

11 A Yes, I did.

12 Q And who was that witness?

13 A At the time she was just identified as Ms. Brown.
14 She wouldn't give her first name.

15 Q She wouldn't give you her first name?

16 A Not at that particular time, the first time I
17 talked to her.

18 Q That evening did you attempt to make contact with
19 her?

20 A I did and left a voice mail.

21 Q Did you have her phone call?

22 A I did. Amanda Branham, Sergeant Branham, had the
23 phone number from her and was able to provide it to
24 me.

25 Q Were you able to get in touch with her that

1 evening?

2 A I did not get touch with her that evening.

3 Q The next day did you make contact with her?

4 A About 9:00 A.M. I made contact with Ms. Brown.

5 Q And you can't say what Ms. Brown told you, but
6 was she able to give you information that was very
7 useful in this case?

8 A Yes, she did.

9 Q And the information that she gave you, did it
10 corroborate the information you had already gotten
11 from ---

12 MR. KRZYSTON: Objection, bolstering.

13 THE COURT: Sustained.

14 BY MS. CAMPBELL:

15 Q Was the information she gave you consistent or
16 inconsistent ---

17 MR. KRZYSTON: Objection, bolstering.

18 THE COURT: Let her finish the question, Mr.
19 Krzyston.

20 MR. KRZYSTON: Certainly.

21 THE COURT: Ask the question, Ms. Campbell.

22 BY MS. CAMPBELL:

23 Q Was her information consistent with information
24 you had already gotten?

25 THE COURT: Do you have any objection?

1 MR. KRZYSTON: Bolstering.

2 MR. SCHNEE: Objection.

3 THE COURT: Overruled.

4 THE WITNESS: Yes, it was consistent.

5 BY MS. CAMPBELL:

6 Q That same morning, you can't say what you ---
7 you can't say what was said to you, but did you also
8 receive additional information from another informant?

9 A I did. This was a criminal informant who worked
10 with the Richland County Sheriff's Department.

11 Q Once you had received the information from Mr.
12 Moore and Ms. Brown and the other person, what did you
13 do?

14 A Well, I began obviously working on what to do
15 with all this information. We were able to determine
16 that we could obtain search warrants for the two
17 homes, for the two individuals that had been
18 identified.

19 Q And prior to you getting the search warrants, did
20 you get a photo lineup in this case?

21 A I did.

22 Q And who was the photo lineup on?

23 A The photo lineup was for Lorenzo Young.

24 Q And why were you getting a photo lineup for
25 Lorenzo Young?

1 A It was based upon information received during the
2 investigation whose name came up.

3 Q Once you got the photo lineup of Lorenzo Young,
4 who if anyone did you show it to?

5 A I showed it to Donald Moore.

6 Q I want to show you what's been marked as State's
7 Exhibit Number 420. Do you recognize that?

8 A Yes, this is the original photo lineup I showed
9 to Donald Moore.

10 Q Again, at this point was Mr. Moore cooperative?

11 A Very cooperative.

12 Q And taking these out, I notice that there are six
13 different photographs with six different numbers; is
14 that correct?

15 A That's correct.

16 Q And when you showed him those photographs, did
17 they have any writing on any of them?

18 A No, they did not.

19 Q When you showed the photographs to Mr. Moore, how
20 did you present them?

21 A I had photographs that were numbered one through
22 six. We showed him --- it's actually an array, not a
23 lineup. We call it a photo array. The photos are on
24 a different sheet of paper. I just put them down
25 one-by-one like this until I got to number four, at

1 which point he identified Lorenzo in that lineup.

2 Q Did he hesitate?

3 A Not at all. He said, that's Lorenzo; I'm
4 paraphrasing. I don't know the exact ...

5 Q At any point did you tell him who to pick?

6 A No, I did not.

7 Q Did you tell him which number was the person you
8 wanted him to pick?

9 A No, I did not.

10 Q And when he actually picked this as State's
11 Exhibit 437, who did he indicate it was?

12 A Lorenzo.

13 Q And did he have a nickname?

14 A Shyne.

15 Q And whose writing was this on this?

16 A That's Donald Moore's.

17 Q And that's his actual handwriting?

18 A That's correct.

19 Q And who actually circled that photograph?

20 A Donald Moore.

21 Q Once he indicated to you that he recognized this
22 person, did you memorialize that in any way?

23 A Yes, I did. We have a cover sheet called a this-
24 is-what-you-handed-me. Basically, you then sign and
25 date --- sign and give his address and phone number

1 and then I'll notarize it ---I'm a notary --- that out
2 of the six photos that we showed him, he picked photo
3 number four as the individual.

4 Q That he had given you information on?

5 A That's correct.

6 Q Did you feel the need to show him the photo
7 lineups of any of the other individuals?

8 A No.

9 Q Why not?

10 A He knew them by name and sight. He called them
11 his home boys.

12 Q And at that point did you prepare search
13 warrants?

14 A Yes. At that point, I prepared the search
15 warrants.

16 Q And where did you prepare search warrants for?

17 A I prepared two search warrants. The first was
18 That's where we determined Lorenzo
19 Young resided.

20 MR. KRZYSTON: Objection, Judge. Prior to
21 argument.

22 THE COURT: All right. Overruled.

23 THE WITNESS: The second search warrant we
24 obtained was We determined that
25 was Troy Stevenson resided and also Trenton Barnes.

1 Q What day was this that it you were getting these
2 search warrants?

3 A This was on the 3rd at 10:00 P.M.

4 Q 10:00 P.M.?

5 A That I went and saw the judge.

6 Q And when you get a search warrant, what do you
7 have to do to get a search warrant?

8 A Well, you have to establish probable cause. We
9 have an affidavit form. We actually make up the
10 search warrant in it's entirety and take it down to a
11 ministerial recorder. She is just like a magistrate
12 judge, but for the City of Columbia. We take the
13 information down there. We establish probable cause
14 in the affidavit portion of the warrant, as well as
15 particularly describe what we're looking for and what
16 exactly we are searching. At this point it was a
17 residence we were searching.

18 Q In addition to what's on the actual search
19 warrant itself, can you also give them additional
20 information orally?

21 A Yes, we also orally supplanted portions of the
22 affidavit, in particular that Donald Moore had given
23 us information.

24 Q And in the search warrant you didn't list his
25 name?

1 A No, we did not.

2 Q Why not?

3 A We feared retaliation, as did he.

4 MR. KRZYSTON: Objection, Judge.

5 MS. CAMPBELL: This is what we ---

6 MR. KRZYSTON: Can we approach?

7 THE COURT: Go ahead. All right. Ladies and
8 gentlemen, just step out to your jury room. We'll
9 check on lunch and be back with you in just a few
10 minutes.

11 (WHEREUPON, the jury left the courtroom at 12:20
12 P.M.)

13 THE COURT: All right, Ms. Campbell.

14 MS. CAMPBELL: May it please the Court, Your
15 Honor. This is --- we talked about basically going
16 into the extent of this. I mean, this is just to
17 explain why he did this. Defense counsel brought it
18 up in his opening argument that he hid information.
19 We're explaining why he hid it, and I told him, you
20 know, the answer is because there's gang involvement.
21 I told --- we're staying away from the gang stuff, but
22 the fear of retaliation, I think, to protect a witness
23 is common practice.

24 MR. KRZYSTON: And, Judge ---

25 MS. CAMPBELL: It's not that he is hiding

1 evidence or witnesses as been inferred.

2 MR. KRZYSTON: Judge, we are made no such
3 assumption in our opening statement. Furthermore,
4 that statement is directly aimed at inflaming the
5 prejudice of the jury. We have bent over backwards in
6 this trial to avoid statements specifically like that
7 and specifically with regard to testimony that was
8 solicited by Ms. Simpson. Based on the fact that the
9 jury just heard that, I'm going to move for a
10 mistrial. I think manifest necessity dictates it. I
11 don't think that was proper material for the jury to
12 hear. We never opened the door to his character.
13 That goes directly to ---

14 THE COURT: He didn't say retaliation from who.

15 MS. CAMPBELL: No, he didn't.

16 THE COURT: He didn't say fear of retaliation
17 from Mr. Young or Mr. Barnes.

18 MR. KRZYSTON: Well, certainly --- there are two
19 people on trial here.

20 THE COURT: Neither of which names are mentioned,
21 so I ---

22 MR. KRZYSTON: Implicitly there would be an
23 inference there.

24 MR. SCHNEE: Judge, I would join in Mr.
25 Krzyston's motion.

1 THE COURT: Your motions for a mistrial are
2 denied. I'm going to order the jury to disregard the
3 statements about retaliation. Don't say anything else
4 about retaliation.

5 MS. CAMPBELL: Judge, how can he phrase it,
6 because he was protecting him is essentially what I
7 thought he was going to say.

8 THE COURT: You thought he was going to say he
9 was protecting him?

10 MS. CAMPBELL: Protecting his identity. I mean,
11 we just argued about this for 20 minutes with
12 Mr. Schnee.

13 THE COURT: Don't use the word retaliation.

14 MS. CAMPBELL: Yes, Your Honor.

15 MR. KRZYSTON: Your Honor, I think it leads to an
16 inference to say I wanted to protect him. The sheer
17 basis of that assertion is in itself inflammatory.

18 MR. KRZYSTON: There is no other person in this
19 room besides Trenton Barnes upon whose home a search
20 warrant is executed. The jury will necessarily ---

21 THE COURT: Do you know what Rule 43 is,
22 Mr. Krzyston?

23 MR. KRZYSTON: No, Your Honor.

24 THE COURT: It says you don't argue after I have
25 made my ruling.

1 MR. KRZYSTON: I'm sorry, Judge. I didn't ---

2 THE COURT: All right. Do not say anything about
3 retaliation. Do you understand that?

4 THE WITNESS: Yes, Your Honor.

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

6 THE WITNESS: No, Your Honor.

7 THE COURT: You can say I was --- I'm not trying
8 to put words in your mouth, but I mean my belief,
9 based on what I know, is that you were trying to keep
10 his identity unknown for the time being.

11 THE WITNESS: That's correct.

12 THE COURT: Something along those lines would be
13 appropriate.

14 THE WITNESS: Yes, Your Honor.

15 THE COURT: All right. Bring the jury back in.

16 (WHEREUPON, State's Exhibit Numbers 436 through
17 438 were marked for identification only.)

18 (WHEREUPON, the jury entered the courtroom at
19 12:25 P.M.)

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

21 THE COURT: Thank you very much. Ladies and
22 gentlemen, you will disregard any testimony from this
23 witness concerning the use of the word retaliation.

24 You may continue, Ms. Campbell.

25 BY MS. CAMPBELL:

1 Q Why did you keep his identity out of the search
2 warrant at that point?

3 A We were going to keep his identity unknown at the
4 time.

5 Q At that time?

6 A At that time, that's correct.

7 Q The two search warrants, one is at

8 ?

9 A , yes, ma'am.

10 Q What neighborhood is that in?

11 A That's in the Bellvedere community.

12 Q And who was residing at that address?

13 A Lorenzo Young and his family, including Rolanda
14 Coleman.

15 Q And the other is

16 A That's correct

17 Q And who was residing at that address?

18 A Troy Stevenson, Trenton Barnes and his family.

19 Q The next day on July 4th, did you continue to
20 work on the case?

21 A Yes, I did.

22 Q Did y'all make a determination as to when you
23 wanted to execute the search warrants?

24 A We did. Basically it was a holiday. A lot of
25 people were off, and we decided we would do it the

1 following day to make sure we had (A) enough units and
2 (B) the safety of the Officers and everybody that was
3 going to be involved, was protected.

4 Q I want to turn your attention to the morning of
5 July 5th. Which search warrant did y'all serve first?

6 A That was S13-0293. That was
7 Lorenzo Young's residence.

8 Q And by the way, just for the record, you did get
9 the judge to sign off on these?

10 A That's correct. The judge signed both search
11 warrants.

12 Q Tell the jury what you found when you got to
13 Bronx Road?

14 A Well, the --- utilized the SWAT team in this
15 search warrant. They actually made entry just for
16 safety concerns. They made entry, cleared the home,
17 got everyone that was in the home detained, which is
18 per protocol. That's pretty standard. At that point
19 we went in, crime scene arrived and went in with us.

20 Q Okay. Was Lorenzo Young there at the home when
21 y'all made entry that day?

22 A No, he was not.

23 Q Was Rolanda Coleman there?

24 A Yes, she was.

25 Q Were there other people there also in the

1 residence, as well?

2 A There were. I believe his mother was there.
3 Marcus Brown, which was his mother's boyfriend at the
4 time, I believe, and some other individuals. I can't
5 recall the names.

6 Q Once you got into the house, was a search done?

7 A It was.

8 Q And specifically were you able to determine
9 which bedroom was Lorenzo and Rolanda's?

10 A We were able to determine that, yes.

11 Q And were certain items of evidence recovered
12 there?

13 A Yes, they were.

14 Q And were you present when those items were found?

15 A I was. I was in the room when they were found.

16 Q And what evidence are we talking about?

17 A The first were the gloves. I actually found
18 those in Lorenzo's bedroom closet. It was in a Sirroc
19 box along with some other items, cords and whatnot,
20 miscellaneous items up in the box on the top shelf of
21 the closet.

22 Q Why was that significant in your investigation?

23 A Well, like I said before, I believe that in the
24 video you can see the individuals, at least one of
25 them wearing a glove on his hand that he is holding

1 the firearm in and I wanted to see if (A) we could put
2 those clothing items at the scene and (2) would there
3 be any gunshot wound residue along those lines.

4 Q Was there other evidence found in that bedroom of
5 significance?

6 A Yes, while we were searching through the room, we
7 located a plastic cup. It had two unfired 45 GAP
8 rounds of ammunition. Also, an empty box of Magtech
9 45 GAP ammunition that was in the cup with it, which I
10 believe is the same manufacturer as the shell casings
11 found at the --- oh, I'm sorry, at the incident scene
12 where the murder occurred.

13 Q Was there also a clip or --- I don't know what
14 you call this?

15 A It's a magazine, a Glock magazine which holds
16 ammunition. It was found inside a purse under the bed.
17 It was near the ammunition that was found. The
18 magazine was inside the purse.

19 Q Was there also some ammunition found in the
20 dresser or chest?

21 A There was. I believe it was nine ---

22 MR. KRZYSTON: Objection, leading.

23 THE COURT: Overruled.

24 THE WITNESS: I believe there was a nine
25 millimeter shell casing, I'm sorry, a live round and a

1 40 caliber Smith and Wesson live round located.

2 Q During the search of that room at the time ---
3 was there a basinet in that room?

4 A There was. There was a basinet, a baby's crib.

5 Q At the time, did you understand any significance
6 that it might have had?

7 A Not at all.

8 Q I'm going to show you State's Exhibit Number 438,
9 and ask if you recognize that.

10 A That would be the basinet. That would be the
11 room identified as Lorenzo's room and Rolanda Coleman,
12 I think.

13 Q And this is basinet that's been overturned in
14 this picture?

15 A Yes.

16 Q And do you know who actually did that?

17 A I don't. I know when a SWAT team makes entry
18 into a home, they knock things over, open doors, turn
19 over mattresses, looking for people. They're more
20 concerned about safety. It's possible that happened.
21 I don't know who turned it over.

22 Q But this basinet later became significant in the
23 investigation?

24 A That's correct.

25 MS. CAMPBELL: I would offer this into evidence,

1 Your Honor. Thank you.

2 MR. SCHNEE: I'd like to look at it first.

3 No objection, Your Honor.

4 MR. KRZYSTON: None here.

5 THE COURT: All right. State's 438 without
6 objection.

7 (WHEREUPON, State's Exhibit Number 438 was
8 admitted into evidence.)

9 BY MS. CAMPBELL:

10 Q If I point right here on that, does that show the
11 basinet turned over?

12 A That's correct.

13 Q And again at that point did you know its
14 significance?

15 A No, I did not.

16 Q You mentioned that crime scene was brought in to
17 actually document what was found there?

18 A That's correct. I believe it was Gaston that was
19 the officer.

20 Q And he would have actually collected the evidence
21 itself?

22 A Yes, he is the one who would have collected it,
23 submitted to the evidence room and maintained chain of
24 custody.

25 Q While you were there and while the search warrant

1 was being executed, did you have any contact with
2 Lorenzo Young?

3 A No, I did not. Well, I take that back.
4 Physically, no.

5 Q Okay.

6 A An individual called the house several times and
7 identified himself as Lorenzo Young on the phone.

8 MR. KRZYSTON: Objection. Speculation, Judge.
9 No way of knowing that.

10 THE COURT: Overruled.

11 MS. CAMPBELL: Thank you.

12 BY MS. CAMPBELL:

13 Q At some point did Rolanda Coleman hand you the
14 phone saying Lorenzo was on it?

15 A I don't believe Rolanda Coleman did. I'll take a
16 look at my notes. I can tell you. I believe he was
17 just calling. The phone was ringing, ringing,
18 ringing, and he just answered it. He answered the
19 phone.

20 Q Was Ms. Coleman taken down to headquarters to be
21 interviewed?

22 A She was taken to headquarters to be interviewed,
23 yes.

24 Q You can't say why, but did that interview take
25 place that day or did it take place later?

1 A It did not take place that day. We actually
2 interviewed her later on, several days later.

3 Q Back at headquarters then, did you interview
4 Marcus Brown?

5 A We did.

6 Q You can't say what he --- well, what was his
7 relationship to Lorenzo Young?

8 A It would be his mother's boyfriend. I don't know
9 if it was a stepfather kind of relationship. I never
10 got that far, but he was dating the mom.

11 Q And you can't say what he said, but did you show
12 him certain evidence in the case --- and don't say
13 what he said.

14 A Yes, I did.

15 Q That afternoon, was there a second search warrant
16 served?

17 A Yes, around 4:15 P.M., we served the second
18 search warrant S13-029 at which is
19 Troy Stevenson and Trenton Barnes' residence.

20 Q And once you made entry there, who all was at the
21 house? Do you remember?

22 A Ms. Barnes was there. There were several other
23 individuals there. Trenton Barnes was there. Troy
24 Stevenson was not present.

25 Q And where did you come upon Trenton Barnes in the

1 residence that day?

2 A He was in a --- it was back bedroom. If you came
3 in through the garage area, which they converted to a
4 little walk-in laundry room area, if you walked all
5 the way in the back, he was in the back front bedroom
6 with a few other individuals.

7 Q And what was his demeanor like when you made
8 entry?

9 A Well, his demeanor --- he seemed nervous, scared.
10 I believe he had some tears coming down his face.

11 Q Did he agree to go to headquarters with you?

12 A He did. I asked him if he would come and talk to
13 us and he agreed to come.

14 Q Did anybody end up coming with him or meet him
15 there?

16 A He requested his mother be present, and we
17 obliged him, absolutely, and had her --- we actually
18 had a police officer in a marked car, and they
19 transported her, and him at his request, down to
20 headquarters to be present during the interview.

21 Q During the search of that home, did you find
22 any --- well, let me back up, too, at Bronx Street did
23 you ever find a gun, any guns?

24 A No.

25 Q Did you find a red hoodie?

1 A No.

2 Q Or the dark gray hoodie?

3 A No.

4 Q At the second search warrant, did you ever find
5 the handguns?

6 A No, we did not.

7 Q Either of the hoodies that are seen in the video?

8 A No, not the gray or red hoodie, no.

9 Q Were there a couple of hoodies that, I believe,
10 were taken into evidence?

11 A There were. There were several dark hoodies that
12 were taken into evidence. One of them was soaking
13 wet, still wet, was wet that was obtained.

14 Q Later that evening after talking --- and you
15 can't say what was said --- but, after talking with
16 Trenton Barnes, was he placed under arrest that
17 evening?

18 A Yes, he was arrested for ---

19 Q How old was Trenton Barnes at the time?

20 A He was 16 years old.

21 Q Was he charged as an adult?

22 A Yes, he was.

23 Q Why was that?

24 A When you are charged with a violent crime in this
25 state and you are 16, that's 16-1-60, I believe, it's

1 enumerated in the statute for a violent crime. At
2 sixteen you're automatically charged as an adult. You
3 will be housed in a juvenile facility until your 17th
4 birthday, but you'll be charged to stand trial as an
5 adult. That's by law.

6 Q Did you become aware during that evening that
7 Lorenzo Young had been found?

8 A Yes, during the interview, I believe, it became
9 apparent that he was located.

10 Q And specifically was an item of evidence found
11 with him that was significant?

12 A Yes. Once he was located, I was advised by one
13 of the investigators that a phone had been located.
14 It was a Galaxy S-3 or 4, I think it was a three a
15 2013 smart phone, and I remember seeing a box for a
16 Galaxy S-3 smart phone at the home there at Bronx that
17 was empty.

18 Q Who did you later determine who the phone
19 belonged to?

20 A It belonged to Rolanda Coleman. Actually I think
21 it was Rolanda Coleman's grandmother's or mother's.
22 She had the account, Rolanda Coleman, it's her phone
23 and she had allowed Lorenzo Young to possess it.

24 Q And was Lorenzo Young actually brought down to
25 headquarters that night?

1 A He was transported down there.

2 Q Did you also make contact with Troy Stevenson
3 that evening?

4 A Yes. Troy Stevenson voluntarily came in on his
5 own volition.

6 Q After gathering all that information, were there
7 three people charged in relation to this crime?

8 A Yes.

9 Q And two of them are here today?

10 A That's correct.

11 Q Was Troy Stevenson also charged?

12 A Yes, he was.

13 Q And are his charges still pending?

14 A Yes, they are.

15 Q Turning your attention to July 9th, 2013, did you
16 then have an opportunity to interview Ms. Rolanda
17 Coleman?

18 A Yes. About 10:12 in the A.M. on the 9th of
19 July 2013, we interviewed Rolanda Coleman.

20 Q Was she alone when you interviewed her?

21 A No, she was with her attorney, Drelton D.J.
22 Carson.

23 Q At that point was she more cooperative than she
24 was here in court?

25 A Yes.

1 MR. SCHNEE: Objection, Your Honor.

2 THE COURT: Objection?

3 MR. SCHNEE: First of all as to relevance and the
4 term cooperative.

5 THE COURT: Overruled.

6 THE WITNESS: She seemed cooperative. She
7 answered our questions.

8 BY MS. CAMPBELL:

9 Q And was there an interview that was recorded from
10 her?

11 A Yes, it was audio recorded.

12 Q Moving onto July 11th, 2013, did you get another
13 search warrant to get certain evidence from Lorenzo
14 Young?

15 A I did. It was S13-0302.

16 Q What were you seeking to get from Mr. Young at
17 that point?

18 A A DNA standard from Lorenzo Young.

19 Q The next day, did you also have search warrants
20 done and signed off to get the same evidence from Troy
21 Stevenson and Trenton Barnes?

22 A Yes, on the 12th we obtained DNA standards from
23 both individuals.

24 Q Did you have, I believe, Investigators Wise and
25 Nelson collect those for you?

1 A Yes, crime scene Wise collected Lorenzo Young and
2 Nelson collected Trenton Barnes then Wise again
3 collected Troy Stevenson which was just based on the
4 time and the day of who was working at that particular
5 time.

6 Q And during this time period, were you also
7 getting various lab reports and things back from SLED?

8 A Yes, we sent off numerous amounts of evidence to
9 SLED and we were getting reports back and that type of
10 thing.

11 Q I want to turn your attention to August 9th, 2013.

12 A Okay.

13 Q Are you familiar with Latoya Barnes?

14 A I am. She is Trenton and Troy's mother.

15 Q Was she the one that was actually with Trenton
16 when he was at headquarters that first day?

17 A That's correct.

18 Q Had she tried to make contact with you?

19 A Yes, I believe she was calling me and I returned
20 her phone call. She left a voice mail on my office
21 phone.

22 Q And did you actually record that conversation?

23 A I did. I recorded that telephone conversation,
24 yes.

25 Q And she testified in this case?

1 A She did, earlier.

2 Q Specifically, I want to limit it to ---

3 MR. SCHNEE: Objection. There's a matter of law
4 we need take up.

5 THE COURT: All right. Let's step back to your
6 jury room. We'll see if lunch is here. We'll be back
7 with you in a few minutes. Do not discuss the case.
8 Keep an open mind.

9 (WHEREUPON, the jury left the courtroom at 12:41
10 P.M.)

11 THE COURT: What is the issue?

12 MR. SCHNEE: May it please the Court, Your Honor.
13 I was informed during the last break that the
14 solicitors intend to introduce a portion of Latoya's
15 Barnes' recorded interview with McCoy specifically
16 dealing with a question of an identification of who
17 was wearing a gray hooded sweatshirt. When she
18 testified last week, she said that she knew her
19 children and said that she did not identify who was in
20 the gray hooded sweatshirt specifically. It's the
21 State's contention that she does say that during the
22 audio recordings.

23 Judge, my objection is twofold. First of all,
24 this would be an improper impeachment under Rule 613.
25 The fact is they want to impeach Ms. Barnes with what

1 was on that audio recording, they should have
2 questioned her about it and played it for her. Under
3 the rules, she is required to have an opportunity to
4 either explain it or later agree that it was hers or
5 go through the time and place and circumstances.

6 They simply said, did you say it. She said no,
7 that's not what I said. They never played it for her
8 or gave her an opportunity to explain it or discuss it
9 or even find out what the context was. Now, the State
10 is intending on going through this investigator to
11 play a portion of her prior recorded statement. I
12 don't believe that's proper. Additionally, I
13 certainly in the very least, if Your Honor is going to
14 do that, I need hear the portion they plan on playing.
15 I believe that audio recording is inadmissible hearsay
16 and this is not a proper impeachment. They had an
17 opportunity to use any kind of audio as a prior
18 inconsistent statement with Ms. Barnes and they never
19 did.

20 MR. KRZYSTON: Your Honor, we would be joining in
21 Mr. Schnee's objection.

22 MS. CAMPBELL: It doesn't concern your client.

23 THE COURT: What?

24 MS. CAMPBELL: It doesn't concern his client.

25 THE COURT: It doesn't concern your client.

1 MR. KRZYSTON: I'd join in any way, Your Honor.

2 THE COURT: Based on what? What's your legal
3 reasoning for joining in that?

4 MR. KRZYSTON: Rule 613.

5 THE COURT: How does it affect your client in any
6 way, shape, or form?

7 MR. KRZYSTON: I mean, I believe it would be
8 improperly admitted against Mr. Young.

9 THE COURT: It doesn't have anything to do with
10 Mr. Young.

11 MR. KRZYSTON: I understand that, but he still
12 stands to be prejudiced by the introduction of that
13 evidence.

14 THE COURT: How?

15 MR. KRZYSTON: He was at her house that night. I
16 mean, negative inferences could flow from that
17 evidence.

18 THE COURT: What?

19 MR. KRZYSTON: I mean, I can't sit here and
20 speculate as to what negative inferences might flow,
21 but I think one can see where it may.

22 THE COURT: Actually, I don't.

23 MR. KRZYSTON: Okay. Your Honor. I just wanted
24 to get it on the record.

25 THE COURT: Your objection is overruled.

1 MR. KRZYSTON: Thank you, Judge.

2 THE COURT: My memory of what she said is, "I
3 never told them that Trenton was wearing a gray
4 sweatshirt. I didn't say Trenton was wearing the gray
5 sweatshirt. I didn't tell the cops that."

6 MS. CAMPBELL: The extent, Your Honor, was limited
7 to one question and one answer.. Here is the
8 transcript. I've shown it to Mr., Schnee before.

9 MR. SCHNEE: No, I've not seen a transcript of
10 that. I want to hear the recorded clip.

11 MS. CAMPBELL: We have no problem with you
12 hearing it.

13 MR. SCHNEE: I object to it anyway.

14 MS. CAMPBELL: This is the extent what we would
15 be playing anyway, is my understanding.

16 THE COURT: Yeah.

17 MS. CAMPBELL: We'll limit it --- that is the
18 only thing that she denied, that I recall, and
19 pursuant to Rule 613, Your Honor, we did inform her of
20 what he said was given and what she told them and that
21 would be one portion that she denied.

22 MR. SCHNEE: And, Judge, I think the heart of
23 Rule 613 is the use of extrinsic evidence means you
24 use the extrinsic evidence, and using the extrinsic
25 with the witness that's making the denial, not days

1 later with someone who is not even on the stand so it
2 can't be even questioned. I had no opportunity to be
3 questioning Ms. Barnes at this point if I even wanted
4 to requestion her about it based on what the actual
5 audio says.

6 MS. CAMPBELL: That's not what the rule says.

7 MR. SCHNEE: That's a confrontation issue at that
8 point.

9 THE COURT: A witness that you've already had the
10 opportunity to cross examine?

11 MR. SCHNEE: This would be the admission of
12 different testimony and new information that I clearly
13 did not have any intention on crossing her on or need
14 to because they didn't play the audio. She just said
15 she didn't make the statement. They never even gave
16 her the opportunity to confirm or deny that's what she
17 said or anything else.

18 THE COURT: She would have multiple notice about
19 this and she continued to deny it saying that she said
20 that she said that Trenton was the one wearing the
21 gray sweatshirt and she was informed multiple times
22 about the substance of the statement, the time and
23 place it was made, and the person to whom it was made
24 and she was given an opportunity to explain or deny
25 the statement and she denied the statement and it says

1 if a witness does not admit that he has made a prior
2 consistent statement, extrinsic evidence is
3 admissible.

4 All right. You need to play the portion for him
5 that you want to play, but at this point it's
6 admissible.

7 MS. CAMPBELL: Play it.

8 (Pause.)

9 Your Honor, I don't believe it was cut properly.

10 THE COURT: Okay.

11 MS. CAMPBELL: Can we come back and do lunch and
12 then ---

13 THE COURT: Yes, unless lunch is here. Can you
14 check, Jackie? Is Jackie here?

15 THE BAILIFF: It's not here yet, Your Honor.

16 THE COURT: You can deal with that, fix it.

17 MS. CAMPBELL: I'll deal with it at the end.

18 THE COURT: All right. Bring them back in.

19 THE BAILIFF: Your Honor, it just arrived.

20 THE COURT: Okay. Perfect. Let's go ahead and
21 feed them lunch, and we'll go ahead and break for
22 lunch. Tell them they're going to have 45 minutes for
23 lunch, Mr. Dye. Tell them they're going to have 45
24 minutes for lunch, and we'll start back up at that
25 point.

1 THE BAILIFF: All right.

2 THE COURT: All right. Now, Investigator McCoy,
3 you are allowed to step down, use the facilities,
4 whatever you need to. You are not allowed to discuss
5 your testimony with anyone in any way, shape, or form.
6 Do you understand that?

7 THE WITNESS: Yes, Your Honor.

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

9 THE WITNESS: None whatsoever.

10 THE COURT: Okay. Thank you very much.
11 Forty-five minutes for lunch.

12 (WHEREUPON, a lunch break was taken.)

13 (WHEREUPON, Court's Exhibit Number 16 was
14 marked for identification only.)

15 MS. CAMPBELL: Your Honor, they did redid it over
16 the lunch period. For some reason, the person who
17 needs to play it isn't here.

18 THE COURT: Okay.

19 MS. CAMPBELL: I apologize.

20 (Pause.)

21 MS. CAMPBELL: Your Honor, I don't know that this
22 is going to be probative, but I want to hand up State
23 vs. Dunlap.

24 MR. SCHNEE: That's on the new CD?

25 MS. CAMPBELL: That's what's reflected in the

1 transcript on the new CD. That's all hopeful.

2 MR. SCHNEE: All right. Let's just confirm those
3 hopes before we find them.

4 THE COURT: Is your client okay?

5 MR. KRZYSTON: I haven't heard anything to the
6 contrary.

7 THE COURT: Okay.

8 (Pause.)

9 Is Mr. Young on his way up here?

10 THE DEPUTY: Yes.

11 THE COURT: Thank you.

12 Did you get the audio?

13 MS. CAMPBELL: I don't know where the person who
14 plays it is, but I can just play it on the computer
15 since they aren't showing up for court.

16 THE COURT: Have you heard the portions you need
17 to hear?

18 MR. SCHNEE: I have, Your Honor.

19 THE COURT: Anything else before we bring in the
20 jury?

21 MR. SCHNEE: Not in that regard other than to
22 renew my objection about improper impeachment.

23 THE COURT: Okay.

24 MR. SCHNEE: That would cover it for that audio.
25 I don't know if they plan on using Investigator McCoy

1 or the phone video they talked about from Lorenzo. If
2 so, we still need to ---

3 MS. CAMPBELL: Investigator Reese saw that, too.
4 Since it's not in yet, I'll get him to identify it
5 rather than McCoy.

6 THE COURT: Okay.

7 MS. CAMPBELL: Because I didn't think about that
8 until he got on the stand, but it's not introduced
9 yet, so I'll do that when Reese is up there.

10 MS. SIMPSON: Judge, let's just play it on the
11 big TV to make sure it is the right audio before
12 coming up.

13 THE COURT: Make sure you get where you can hear
14 it.

15 MR. SCHNEE: Absolutely.

16 (WHEREUPON, the audio was played.)

17 MS. CAMPBELL: Apparently, Your Honor, we have it
18 fixed.

19 THE COURT: Okay. Great, let's bring them back
20 in.

21 MR. KRZYSTON: Judge, we are going to have an
22 issue with him when they call him.

23 THE COURT: That's not McCoy, is it?

24 MR. KRZYSTON: No, VanHouten.

25 THE COURT: Okay.

1 (WHEREUPON, the jury entered the courtroom at
2 1:50 P.M.)

3 THE BAILIFF: Jury is seated, Your Honor.

4 THE COURT: Okay. Thank you. Welcome back,
5 ladies and gentlemen.

6 Ms. Campbell, you may continue.

7 MS. CAMPBELL: Your Honor, at this time we'd ask
8 permission to publish State's Exhibit 440.

9 THE COURT: All right.

10 MS. CAMPBELL: You can play it from over there.

11 THE COURT: Okay.

12 BY MS. CAMPBELL:

13 Q And, again, for the record, this is part of your
14 recorded conversation with Latoya Barnes?

15 A That's correct. It occurred on August 9th, 2013.

16 (WHEREUPON, the audio was played for the jury.)

17 MS. CAMPBELL: Your Honor, permission to repeat
18 that because there was some commotion.

19 THE COURT: Yes, there was talking over anything.
20 Ask whatever question you want to ask first.

21 MS. CAMPBELL: I apologize.

22 THE COURT: Okay.

23 BY MS. CAMPBELL:

24 Q And this is from which conversation?

25 A This is a recorded phone conversation that I

1 recorded on the 9th of August 2013, around 3:21 the
2 P.M. This is a return phone call to Ms. Barnes.

3 Q This is just a little bit of that conversation
4 where you're talking about the video?

5 A Correct.

6 (WHEREUPON, the audio was played for the jury.)

7 MS. CAMPBELL: Thank you, Your Honor.

8 BY MS. CAMPBELL:

9 Q At some point, did you also request some
10 telephone records in this case?

11 A Yes, I did.

12 Q Specifically, I want to show you what's already
13 in evidence as State's Exhibit 402. Do you recognize
14 those?

15 A Yes, I do.

16 Q And are those some of the phone records you
17 requested via a search warrant?

18 A Yes, they are.

19 Q And when were these requested, do you recall?

20 A It was later on in the investigation. I believe
21 it was the beginning of 2014 or the end of 2013.

22 Q And what number is this that you requested?

23 A

24 Q Whose that number associated with?

25 A That was Rolanda Coleman and associated with

1 Lorenzo Young.

2 Q I want to show you State's Exhibit Number 395.

3 Is that a cell phone or a landline?

4 A That would be a landline.

5 Q The one we just did, the 402 was that a cell
6 phone?

7 A That was the mobile phone, cellular phone.

8 Q This is a landline?

9 A Yes, that's a land service line.

10 Q What address is this associated with?

11 A

12 Q And what that number? Did I already ask you the
13 number?

14 A You didn't, it's (

15 Q And finally, for purposes here, State's
16 Exhibit 399. Again, is that a cell phone or a
17 landline?

18 A That would be a mobile cellular telephone.

19 Q You do a search warrant for these records, as
20 well? A That's correct, through Verizon
21 Wireless.

22 Q What number is that?

23 A (

24 Q What number is that associated with? Who is
25 that?

1 A That's the number for Trenton Barnes.

2 Q I want to turn your attention to August 21st, did
3 you have another conversation with Ms. Brown?

4 A I did.

5 Q At this point was she able to give you her full
6 name?

7 A She did. Mary Brown.

8 Q You can't say what she said to you, but was she
9 able to give you additional information that was
10 useful to you in your investigation?

11 A Yes, she did.

12 Q On August 22nd who did you make contact with?

13 A Angela Moore, that's Donald Moore's mother.

14 Q Why were you calling her?

15 A To corroborate information.

16 MR. KRZYSTON: Objection.

17 THE COURT: What's the objection?

18 MR. KRZYSTON: Bolstering, Your Honor.

19 THE COURT: Overruled.

20 THE WITNESS: Just to corroborate some
21 information Donald had given me.

22 BY MS. CAMPBELL:

23 Q Did you talk to her?

24 A I did. That was recorded.

25 Q You can't say what she said, but she gave you

1 information?

2 A She did give me information, yes, that's correct.

3 Q I also --- that month did you try to contact
4 people at the Taste of Jamaica on Beltline Boulevard?

5 A I did, it was the 29th of August 2013, around
6 2:18 P.M.

7 Q Were they cooperative with you?

8 A No. I did speak with someone, but they weren't
9 very forthcoming with any information.

10 Q There were a number of shoes that were collected
11 in this case?

12 A Yes.

13 Q Were you able to determine from the quality of
14 the video of this incident, which shoes were worn?

15 A No, not exactly which shoes, a general outline or
16 style, but not what actual shoes they wore.

17 Q The black gloves in this case that were tested
18 for the presence of blood and gunshot residue?

19 A That's correct.

20 Q Where were those found?

21 A The bedroom closet of Lorenzo Young.

22 Q In this case, were you ever able from the time
23 this happened up until today to recover the guns that
24 were used in this case?

25 A No, we were never able to recover any of the

1 firearms used.

2 Q Were you able to recover the clothing, the red
3 hoodie or the dark gray hoodie?

4 A No, it was not recovered.

5 Q Is that unusual?

6 A That's not unusual in this type of investigation,
7 no.

8 Q You mentioned Troy Stevenson having pending
9 charges. Was he also charged with the murder?

10 A He was.

11 Q As well as attempted armed robbery, kidnapping
12 and burglary?

13 A That's correct, he was.

14 Q Finally, I want to show you what's been marked as
15 State's Exhibits 382 and 383, do you recognize those?

16 A I do. 382 is a cellular telephone. It's a
17 Verizon, a Motorola Droid cellular phone through
18 Verizon Wireless. It was identified by Trenton
19 Barnes. He identified it as his phone.

20 Q Where was that recovered?

21 A That was recovered at Mr. Barnes' residence at
22

23 Q And then 383?

24 A This was a cell phone, Boomerang LG cell phone.
25 I believe this was Troy's.

1 MS. CAMPBELL: Okay. Your Honor, at this time,
2 we'd offer these into evidence.

3 MR. KRZYSTON: Judge, we would object based on
4 relevance for 383 and have no objection to 382. I
5 would note for the record that we haven't been given
6 any information. Oh, I'm sorry.

7 THE COURT: Mr. Schnee, any objection?

8 MS. CAMPBELL: Do you want to see them?

9 MR. SCHNEE: Yes.

10 MS. CAMPBELL: Sure.

11 (Pause.)

12 MR. SCHNEE: I have no objection either.

13 THE COURT: All right. Admitted over Defendant
14 Young's objection.

15 (WHEREUPON, State's Exhibit Numbers 382 and 383
16 were admitted into evidence.)

17 (WHEREUPON, State's Exhibit Numbers 443 and 436
18 were marked for identification only.)

19 BY MS. CAMPBELL:

20 Q Finally, I want to show you 443, 436.

21 A Right.

22 Q I want to show you these photos and ask if you
23 recognize these areas?

24 A I do recognize these, at least this area. Yes, I
25 recognize that, as well.

1 Q And do these show different areas depicting the
2 Lucille Drive, Bronx Avenue, Lorick Circle. Do you
3 recognize these different areas in town?

4 A That's correct, City of Columbia, yes.

5 MS. CAMPBELL: Your Honor, at this time I'd offer
6 these into evidence.

7 MR. KRZYSTON: No objection, Your Honor.

8 MR. SCHNEE: No objection.

9 (WHEREUPON, State's Exhibit Numbers 443, 436 were
10 admitted into evidence.)

11 MS. CAMPBELL: Your Honor, may the witness step
12 down?

13 THE COURT: Yes, ma'am.

14 BY MS. CAMPBELL:

15 Q Let me ask you this, Lucille Drive to the bakery
16 on Tommy Circle, is that walkable?

17 A Very, yes.

18 Q And you're on this side and so I'm over here.
19 What's shown on State's Exhibit --- what's the exhibit
20 number there?

21 A This is 436, exhibit number 436. Here you have
22 the addresses. Of course, 93 Tommy Circle is the
23 Carolina Café Catering & Bakery. That's the incident
24 location for the murder.

25 Q Okay. Where is Tommy Circle on here? Can you

1 actually see it?

2 A You can, it's right here. The bakery building
3 and the Ale House right here. Bakery is right here
4 and they call it Tommy Circle is the Road.

5 Q Let me get you a pointer.

6 A Okay. Great.

7 Q I apologize.

8 A That's all right.

9 Q You can't get in front of them.

10 A Thanks so much.

11 Where the pinpoint is the actual building of the
12 93 Tommy Circle address. Of course, next door would
13 be the Ale House. Then the little road here that
14 looks like a half moon, if you will, is Tommy Circle.
15 That's the actual road.

16 Q And the big road that runs through the middle
17 there, what is that road?

18 A This is north to Beltline Boulevard. Two Notch
19 is here.

20 Q And then if you cross over coming from Tommy
21 Circle and cross over, where is Lucille Drive
22 approximately?

23 A Well, when you come across ---

24 Q It's covered up here.

25 A It is. When you come across the road it's almost

1 like a diagonal, I would say. From the incident
2 location, you would run into Bonner Avenue. There's
3 several roads that offshoot off Bonner. One of them
4 is Lucille Drive. 2849 is about midway down on the
5 left side.

6 Q Okay. Can you say --- as far as how many blocks
7 away it is --- well, it's on this map, correct?

8 A Yes. I'm approximating, but I would say it's
9 probably five to six city blocks maybe, just
10 approximating.

11 Q There's also been a reference to Bronx Road where
12 Lorenzo Young lived?

13 A Yes.

14 Q Is that shown here in the Belvedere community?

15 A It is. The Belvedere community is up in this
16 general area, off of Two Notch Road here and 3054
17 Bronx would be about where the pointer is at. It's a
18 little down Bronx Road on the right hand side coming
19 from Two Notch.

20 Q And then I want to show you what's been marked as
21 State's Exhibit 443 and does this show a broader
22 overview of the Columbia area?

23 A It does. It does. This is, of course, you have
24 277 here, which runs down Farrow Road, just to give
25 you some idea where we're talking about, Beltline. Of

1 course, you have the Bronx Road address here, 3054
2 would be here and then over here, which runs off of
3 North Main Street and Lorick Avenue, North Main would
4 be up in this area where you see all the lines here.
5 You have this Lorick Circle and that's an apartment
6 complex.

7 Q And who was actually found in the apartment at
8 Lorick Circle?

9 THE WITNESS: Lorenzo Young was ---

10 MR. KRZYSTON: Objection, Your Honor, prior
11 objection.

12 THE COURT: Overruled.

13 THE WITNESS: Lorenzo Young was located inside
14 the apartment on Lorick Circle.

15 BY MS. CAMPBELL:

16 Q Okay. Thank you very much.

17 As far as the people that you testified to living
18 in the Bronx Avenue home, Lorenzo Young, do you see
19 him in the courtroom?

20 A I do see him in the courtroom today.

21 Q Can you point him out for the jury?

22 A He has the blue shirt on with a --- I'm having a
23 hard time telling the tie. He is the black male
24 sitting between his defense counsel there at the
25 center table.

1 Q And Trenton Barnes?

2 A Trenton Barnes is there with the black shirt on
3 seated at the end table with his attorney, Mr. Schnee.

4 MS. CAMPBELL: Your Honor, may the record reflect
5 he has identified both defendants.

6 THE COURT: So reflected.

7 MS. CAMPBELL: Thank you, sir. I don't have
8 anything further.

9 THE COURT: Cross?

10 MR. KRZYSTON: Thank you, Your Honor. May it
11 please the Court.

12 THE COURT: Yes, sir.

13 MR. KRZYSTON: Thank you, sir.

14 CROSS-EXAMINATION:

15 BY MR. KRZYSTON:

16 Q How are you doing today, McCoy?

17 A Doing well. How are you, sir?

18 Q Pretty good. Okay. Now, you became an
19 investigator when?

20 A I was promoted in December of 2012. I was
21 assigned to investigations, I believe, it was April or
22 May of 2012, as a patrolman, but as a patrolman
23 investigator.

24 Q And before that you were on --- you were employed
25 by CPD and you were doing what? You were a beat

1 officer?

2 A I was a patrol officer. Yes, in 2008, I was
3 hired. Of course, I went through the training that's
4 required by the department and the state and then I
5 was a patrolman, basically answering calls for
6 service.

7 Q And part of the reason you start off on beat, if
8 you will, is to kind of get the lay of the land, see
9 who all is in the neighborhood, kind of start to
10 establish a connection, if you will?

11 A Well, part of it. A lot of it is (A) you have to
12 learn the laws and you have to learn how to do
13 paperwork and how that goes together and then, of
14 course, get an idea of area that your patrolling. We
15 don't know every area. We don't patrol every area. I
16 was assigned to the North Region, which would have
17 been North Main, Farrow Road, Monticello Road --- not
18 this particular --- this was the Metro Region that
19 this occurred in.

20 Q Okay. And part of that experience that you're
21 getting is talking people, writing reports, writing
22 notes, all the kind of basic stuff that you need to
23 kind of be to build a good investigator?

24 A That's correct.

25 Q And, in fact, as an investigator one of the most

1 important things that you can do is pretty much pay
2 attention to detail, correct?

3 A That's correct.

4 Q Part of that reason is because even if your made
5 even a small mistake early on, later on down the road
6 that can create a big problem, right?

7 A Well, it can be resolved if there is a mistake
8 that's found.

9 Q Okay.

10 A That's correct.

11 Q And in making sure that you don't make a mistake
12 it's very important to pay attention to detail and
13 it's very important and becomes very important,
14 especially later on, to be able to recall the details
15 of the investigation you did?

16 A That's correct, as best you can, sure.

17 Q Because somebody's freedom is at stake here
18 ultimately?

19 A You're, right.

20 Q And when you became a police officer, you took an
21 oath, and I don't know word for word what you took?

22 A Uh-huh.

23 Q Or what you swore, but the general essence or the
24 general nature of that oath is that you're going to be
25 fair?

1 A Uh-huh.

2 Q Correct?

3 A Well, the oath yeah is to uphold the constitution
4 of the United States and of the State and to protect
5 the rights of those people that you protect and that
6 you serve.

7 Q Right. And obviously, I mean, you serve
8 everybody in Columbia. I mean, your job is to
9 investigate when things go wrong?

10 A You're correct, yes, sir.

11 Q It's very important to be fair to all the parties
12 whether they're accused or not?

13 A Yes.

14 Q And it's very important to get all the
15 information?

16 A Correct.

17 Q In fact, you could say it's four things, if you
18 were to narrow it down to four things, it would be
19 that you're fair, accurate, complete and true in
20 writing your reports and doing your investigation,
21 correct?

22 A Yes, those would be some of the good aspects,
23 yes.

24 Q That's your goal, in general, whenever you do an
25 investigation is to be fair, accurate, complete, and

1 true.

2 A Correct. I want to be fair, I want to be
3 accurate and I want the truth to come out.

4 Q Because you want to put away the right person,
5 correct?

6 A Well, I want to make sure that the proper person
7 who committed the crime is brought in before the court
8 of law and allow the jury to hear the testimony and
9 the evidence to make a decision.

10 Q Basically you want to do what justice requires?

11 A I want to do what my job and my oath requires,
12 yes, sir.

13 Q Now, when you get a big case, a case that piques
14 the interest of the media, piques the interest of the
15 public, you know in advance that there's going to be a
16 lot of information on that case, right?

17 A Well, not necessarily. I mean, as far as
18 witnesses coming forward or ...

19 Q Well, just, you know, it's going to be important
20 and there's going to be a lot of stuff to gather?

21 A Well, every case I work, especially homicides, is
22 important, especially for the victim's family. So I
23 would say every case I have is important.

24 Q Okay. And when you're doing --- I mean, you're
25 in the violent crimes against person's unit, is that

1 correct?

2 A Yes, sir.

3 Q And anytime there's a case that involves that,
4 it's going to be important?

5 A That's correct.

6 Q And anytime there's a case involving a violent
7 crime, there's going to be a lot of information?

8 A It just depends on the case really. It depends
9 on who comes forward as far as the case is concerned
10 and who is involved in the case.

11 Q Right. But generally there's going to be more
12 information than say a routine trespassing or
13 something like that?

14 A You'll have more --- sure you'll talk to more
15 people and there's more people involved than just a
16 routine trespass.

17 Q Part of being fair, accurate, complete, and true
18 in these types of cases is taking good notes.

19 A Correct.

20 Q And following up on your investigation?

21 A Yes.

22 Q And you keep --- I'm sorry to cut back and forth,
23 but whenever you start a case, you start taking notes,
24 correct?

25 A Yes, typically so we can refer back to them in

1 the meetings and whatnot, yes.

2 Q And like I said it's extremely important to get
3 your notes correct because we could have a trial like
4 in this case like 18 months down the road or it could
5 be 36 months down the road. You never know, right,
6 but it could be awhile.

7 A Correct. It's good to have notes to refer back
8 to in trial.

9 Q And it's also good that, if during the life of
10 the investigation, you have to update those notes,
11 correct?

12 A Correct.

13 Q Because again, there could be a delay in between
14 your investigation, when your investigation takes
15 place and when the matter actually comes to trial,
16 like today?

17 A Sure.

18 Q Now, let's talk a little bit about this
19 particular incident, okay. You started investigating
20 this homicide pretty much as soon as it happened?

21 A It was certainly within several hours, yes,
22 you're correct.

23 Q And a uniformed officer was on the scene probably
24 would you say half an hour, 45 minutes?

25 A I would say it was less than that. It was

1 several minutes he was on the scene.

2 Q And then by noon on the day of July 1st, which
3 was the date that these allegations occurred?

4 A Uh-huh.

5 Q By noon or one o'clock that day, you had a
6 briefing down at Columbia Police Department, correct?

7 A It was around that time. Let's see.

8 Q Maybe 1:30?

9 A I would go with probably closer to two. I was at
10 Lexington County by noon, between noon and one
11 o'clock. So it would have been about 2:30.

12 Q Okay.

13 A I'm estimating. I don't know.

14 Q While we're on Lexington County, you got some
15 stills from, is it Mike Phelps over at Lexington
16 County?

17 A I believe it was. He is a crime scene analyst
18 there. So I believe it was. Yes, Investigator Phelps
19 over at Lexington County sheriff's office.

20 Q You testified earlier that you had obtained some
21 stills from him, correct?

22 A Correct.

23 Q And I believe you had originally discussed with
24 him clarifying or enhancing the video that the jury
25 has seen a couple times of the actual incident at 93

1 Tommy Circle.

2 A Trying to clear it up, correct.

3 Q And what he told you at that point was that his
4 enhancement software or whatever stuff he used to
5 enhance that video was broken down, correct?

6 A That's correct. It was inoperable at that point
7 in time, yes.

8 Q And he told you that if you wanted the video, you
9 needed to call back and check back with him later on?

10 A Right. If it was needed later on, that we would
11 get back with them.

12 Q Okay. But getting back to the actual incident
13 that we're talking about, you started investigating
14 right away?

15 A Sure.

16 Q And then you had the briefing?

17 A Yes, sir.

18 Q And at that briefing, every investigator that was
19 present and also under the VCAP unit, the violent
20 crimes unit, was tasked or assigned to help you out
21 during the initial phases of this investigation?

22 A Right. Every one that was there. I would say
23 the entire VCAP unit was there, but there might have
24 been one or two that was on vacation. I don't recall.
25 I know some specific investigators that were involved

1 and were tasked to do things. Sometimes investigators
2 will come in and out to help us with investigations,
3 but I don't know if they were there that day or not,
4 but yes, they were tasked with certain tasks to carry
5 out.

6 Q And we won't say every single investigator, but
7 in general. --- I'd say the vast majority of
8 investigators were from that unit were in that
9 briefing, correct?

10 A We had quite a few VCAP, as well as other
11 Officers that were aiding us. Yeah, it was a roomful.

12 Q So it would be fair to say that you had a pretty
13 decent amount of manpower there initially?

14 A Sure.

15 Q Okay. And in fact, it probably doesn't surprise
16 you that there are 42 police witnesses in this case,
17 42?

18 A I'd have to take your word on it. I'd have to
19 count them.

20 Q That wouldn't be ---

21 A It wouldn't surprise me, no.

22 Q Okay. Now I want to talk a little bit about what
23 you learned ---

24 A Okay.

25 Q --- when you were talking some of these people?

1 A Okay.

2 Q Now, on July 3rd, you learned the names Deandre
3 Olds and Dontrell Weathers, correct?

4 A July 3rd?

5 Q Yes.

6 A I don't recall those names.

7 Q They were in the Crimestoppers tips. Do your
8 need to take a look at them or something?

9 A Oh, do you have a the Crimestoppers tips?

10 MS. CAMPBELL: We may.

11 MS. CAMPBELL: Objection, Your Honor. This is my
12 fault. We didn't --- may I approach?

13 THE COURT: Yes.

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

17 MR. KRZYSTON: All right. We'll move on. On
18 July 5th you learned that Marquis Johnson and Sequan
19 Williams may have information regarding this crime.

20 A July 5th --- I recall the names. I don't recall
21 the interview we were doing at the time.

22 Q Right. But you recall the fact that Marquis ---
23 excuse me, Marcus Johnson and Marquis Johnson possibly
24 had information in regards to this?

25 A The names came up during a phone conversation

1 with someone, yes.

2 Q Okay. And during that conversation you were told
3 that the person you really needed to be speaking to
4 was Marcus Haley Johnson, Shorty.

5 A I was told that there was word on the street, if
6 you will, or maybe there is some type of connection,
7 but no definitive.

8 Q Actual information?

9 A That he was involved or that he knew anything
10 more than was already advised in the previous
11 interviews I had done.

12 Q And you actually had a phone conversation on
13 August 9th where you also heard the names Marquis
14 Johnson and Sequan Williams?

15 A That's the phone call I'm referring to.

16 Q Uh-huh.

17 A What I was just referring to was the names. I'm
18 not sure on the 5th --- I can't recall that unless you
19 can advise me of the ---

20 Q Also, in that phone conversation you received the
21 name Azo?

22 A The nickname, Azo came out. Not in the phone
23 call conversation I don't believe. As involved in
24 this case?

25 Q No, just has having possible involvement?

1 A Not possible information, but the name came out
2 as a place where some individuals may have been prior
3 to any involvement in the incident.

4 Q Right, so I mean, the individuals may have been
5 at this Azo's house.

6 A Sure. That would be a good way to describe it,
7 yes.

8 Q And you also learned again that Marquis Johnson,
9 Sequan Williams and Marcus Haley Johnson also had the
10 same type and nature of information that may have been
11 around these individuals?

12 A Correct. They may have been hanging around with
13 them.

14 Q Okay. Where are your notes from talking to
15 Marcus Haley Johnson?

16 A I never interviewed Marcus Haley Johnson.

17 Q Where are your notes from talking to Marquis
18 Johnson?

19 A I never interviewed Marquis Johnson.

20 Q And how about your notes for Sequan Williams?

21 A I never interviewed Sequan Williams.

22 Q Now lastly, in March of 2014, you talked to
23 somebody and you got kind of a large list of names
24 because you learned a bunch of information at that
25 time?

1 A That's correct. I had an interview with an
2 individual and some names came up, as well.

3 Q Okay. And one of those names was Azo, right?

4 A Azo was one of the names mentioned, yes.

5 Q You already said no notes, didn't end up talking
6 to him?

7 A I never identified Azo.

8 Q And you already said --- Marcus Haley Johnson was
9 one of those, but you don't have any notes from that,
10 right?

11 A As far as talking to Marcus Haley Johnson, no, I
12 don't. I never talked to him.

13 Q You never talked to him?

14 A No.

15 Q Okay. During that conversation you also learned
16 that Ashley Carter, also known as Piggy may have
17 information?

18 A Well, not information on the case. I had
19 information that Ashley Carter was Troy Stevenson's
20 girlfriend.

21 Q But she may know something ---

22 A It's hard because getting into the --- I can't get
23 into the interview of what was actually advised of me,
24 but during this interview the individual advised me of
25 information that each person may have had or any

1 involvement or knowledge that they may have what. For
2 most of these names there was no definitive --- they
3 had no information knowledge about what had taken
4 place.

5 Q Do you have your notes from Ms. Carter's
6 interview there?

7 A I did not speak to Ms. Carter.

8 Q No notes from Sequan?

9 A Correct.

10 Q Now, Darryl Samuels, you were told about his
11 name, correct?

12 A His name came up, as well, yes.

13 Q Can you turn to your notes about that?

14 A No, I didn't talk to Darryl Samuels.

15 Q Anthony Nelson, his name was dropped in that
16 interview, too?

17 A Yes, and Anthony Nelson came up as well.

18 Q How about any notes from speaking to Mr. Nelson?

19 A Didn't speak to Mr. Nelson.

20 Q Didn't speak to Mr. Nelson. All right.

21 Joshua Green and Tyreek Taylor they both came up in
22 that interview, too, didn't they?

23 A Yes, all those names came up during the same
24 interview that they were at the home after the
25 incident occurred, but not that they had any knowledge

1 or direct involvement at all in this case.

2 Q Okay. Do you have the notes from that interview?

3 A No, I never spoke to them.

4 Q Never spoke to either of them, Tyreek or Anthony?

5 A You're correct.

6 Q Joshua, I'm sorry?

7 A Joshua green, that's right.

8 Q Okay. Now some other names, Donovan and Smiley
9 and we never got a last name for them, did we?

10 A No, I never was able to identify them based on
11 the information given.

12 Q Do you have any notes for that interview?

13 A No, I couldn't identify them so I ---

14 Q Okay. Now, we've got Cornelius Williams?

15 A I believe that was Sequan Williams. I don't
16 recall a Cornelius Williams.

17 Q Okay, so no notes from him either?

18 A I don't recall his name coming up.

19 Q And lastly, Donald Moore who we heard testify
20 earlier?

21 A Yes, that was one of the final names that came up
22 was Donald Moore.

23 Q Donald, you did take some notes on that, right?

24 A As far as when I interviewed him, yes.

25 Q So of those 12 or 13 people, we got notes from

1 Donald Moore and that was it?

2 A Correct, Donald Moore was the one that was
3 interviewed, yes, prior to these names.

4 Q And it was your testimony today that you don't
5 have any knowledge as to what those other 12 people
6 know?

7 A Well, I have knowledge what those 12 people know,
8 yes, from the information that I got and how I got
9 their names.

10 Q But no notes or interviews from them?

11 A You are correct, that's right.

12 MR. KRZYSTON: No further questions, Judge.

13 THE COURT: Cross?

14 MR. SCHNEE: May it please the Court.

15 THE COURT: Yes, sir.

16 CROSS-EXAMINATION:

17 BY MR. SCHNEE:

18 Q Mr. McCoy, let's just start off right where
19 defense counsel left off. You had an interview in
20 March of 2014, with a potential witness, right?

21 A With an individual. He wasn't a witness.

22 Q Okay. You had an interview?

23 A That's correct.

24 Q With an individual?

25 A That's correct.

1 Q March 24, 2014?

2 A Yes, around that time, yes.

3 Q Okay. Lasted about two hours?

4 A It was an hour and 40 some minutes.

5 Q Okay. Can I see your hand written notes for
6 that?

7 A I didn't take any handwritten notes during that
8 time.

9 Q You didn't take any notes during that interview?

10 A No, I don't recall taking any notes during that
11 interview.

12 Q Did you say during that interview that you were
13 going to be taking notes?

14 A Yes, I did make a comment that I was writing
15 something down, is what I stated.

16 Q Did you say, "Hold on, I have to write this
17 down"?

18 A That's correct.

19 Q Did you write anything down at that point?

20 A Not that I recall, no.

21 Q So you said, "Hold on let me write this down."

22 A There are times we don't write notes down when
23 we're interviewing individuals, especially if they're
24 going quickly and we're obtaining information from
25 them. A lot of times, I'll use as kind of a stop gap

1 where I can think about other questions to come up
2 with.

3 Q Okay.

4 A I don't recall taking anyone notes during the
5 interview.

6 Q You don't recall taking any notes even though you
7 said, "Stop, I have to write this down. It's really
8 important"?

9 A Correct. There's no notes in the file and I
10 don't recall taking them.

11 Q Okay. Well, you have your typed out case notes,
12 right?

13 A That's correct. I have them here. I have a copy
14 here.

15 Q I have just want to make sure?

16 A Sure.

17 Q This is the copy I received. Does that end the
18 same place that yours end?

19 A I'll take a look.

20 (Pause.)

21 No, yours ends --- unless you have them out of
22 order, a few months prior to mine.

23 Q May I take a look at yours?

24 A Sure. You sure can. That's my last page there.
25 Yours are out of order. That's your last page.

1 MR. SCHNEE: Judge, just a brief matter of law
2 we'll need to take up.

3 THE COURT: All right. Ladies and gentlemen, if
4 you'll step to your jury room. Do not discuss the
5 case. Keep an open mind.

6 (WHEREUPON, the jury left the courtroom at 2:24
7 P.M.)

8 THE COURT: Okay.

9 MR. SCHNEE: Judge, there are two entries in his
10 typed up case notes that we have never seen. This is
11 a violation of Brady, Rule 5, Riddle along with every
12 other discovery issue we've had.

13 MR. KRZYSTON: We'd join in Mr. Schnee's motion.

14 MS. CAMPBELL: May I see what you're referring to
15 that you don't have?

16 MR. SCHNEE: It is --- I will admit it's nothing
17 earth shattering. It's the last two entries. The one
18 that starts on 1126.

19 MS. CAMPBELL: Your Honor, I can get the
20 discovery sheet where this was turned over. I know
21 that first, the original one, didn't have those
22 additional two entries. In addition to that, we
23 begged Mr. Schnee to come and meet with us and go over
24 discovery, and he didn't see fit.

25 THE COURT: Can I see it?

1 MS. CAMPBELL: Yes, sir. It starts --- I believe
2 the entries are "... we prepared search warrants, the
3 search warrants were provided ..." and then the last
4 statement on the last page.

5 MR. SCHNEE: This is the copy that we were
6 provided, Judge.

7 MR. KRZYSTON: And, Judge, just for the record,
8 we actually did meet with Ms. Simpson, I believe on
9 two occasions, and at that time all of our case --- I
10 believe these are case notes? Our case notes and
11 Ms. Simpson's case notes ended on August 29th.

12 THE COURT: Do you want to see what this says
13 before you have an objection about it?

14 MR. KRZYSTON: I'm certainly happy to read it,
15 Your Honor. May I approach?

16 THE COURT: Yes.

17 MR. KRZYSTON: Thank you.

18 (WHEREUPON, there was a bench conference.)

19 MR. KRZYSTON: Thank you, Judge.

20 MS. GARFIELD: I'm sorry, Judge. What are they
21 saying they never got?

22 THE COURT: They're saying in McCoy's case notes,
23 the entries that are dated November 26th, 2013, and
24 December 4th, 2013 were never turned over.

25 MS. GARFIELD: Judge, I met with McCoy. I made

1 copy of everything I turned over and gave him an
2 opportunity to come look at my notebook and meet with
3 McCoy himself.

4 THE COURT: What is in your notebook?

5 MS. GARFIELD: I'm getting it.

6 (Pause.)

7 MR. KRZYSTON: Judge, I would maintain my
8 objection.

9 MS. GARFIELD: The last entry in my notes on my
10 notebook is --- I'm sorry. The last entry of notes in
11 my notebook are entitled August 29th, 2013.
12 Investigator McCoy then gave me a CD of everything in
13 his file and we made duplicates of that and turned it
14 over.

15 MS. CAMPBELL: We'll go get that.

16 THE COURT: How is this exculpatory or mitigating
17 something.

18 MR. SCHNEE: Judge, my issue not the content of
19 the information.

20 THE COURT: Well, your issue has to be the
21 content of that information.

22 MR. SCHNEE: No.

23 THE COURT: Because otherwise you're not entitled
24 to it.

25 MR. SCHNEE: Judge, my issue is yet again there

1 is a delayed disclosure and I have serious concerns
2 that I actually have everything at this point.

3 THE COURT: Well, you can have serious concerns
4 all you want to, but you have to show that the
5 information that was contained that was not turned
6 over is exculpatory or mitigating toward your client.
7 This information is --- he says that he prepared in
8 four search warrants, which everybody has been on
9 notice of and we discussed the majority of the trial
10 and that on one day Mr. Young was interviewed and says
11 your client is the shooter, so I don't know how that
12 is exculpatory or mitigating toward your client.

13 MR. SCHNEE: Well, Judge, it certainly is
14 material to innocence and/or guilt which is the
15 definition of Brady. My problem ---

16 THE COURT: How is it --- I mean, that statement
17 makes no sense. It's got to be exculpatory, which
18 would mean your client didn't do it.

19 MR. SCHNEE: Judge, my ---

20 THE COURT: How is it exculpatory or mitigating
21 toward Mr. Barnes?

22 MR. SCHNEE: Judge, I'm not saying it is. My
23 issue is this delayed disclosure of this
24 investigator's actual report that we were told
25 multiple times we have absolutely everything the

1 investigators do. We've gone through this multiple
2 times and now in the middle of cross-examination he
3 has a copy of a report that I don't have. That's a
4 problem.

5 MS. CAMPBELL: I'm sorry.

6 MR. SCHNEE: Go ahead.

7 MS. CAMPBELL: I apologize. Your Honor, In
8 addition to that, the entries, one refers to the
9 search warrants which were provided. The other entry
10 refers to an interview which was provided, but it's
11 not new or different information. And I'm getting the
12 CD, as well, Your Honor, where it was turned over
13 again in August or September?

14 MS. GARFIELD: This was after.

15 MS. CAMPBELL: This has been in the last two
16 weeks. But we'll get that to you and make it a part
17 of the record.

18 THE COURT: Okay. All right. Any notion regards
19 to this anyone's side is denied.

20 MR. SCHNEE: Yes, Your Honor. I would renew my
21 Brady and Rule 5 motions to ensure that I actually
22 have everything that I am supposed to have, every
23 scrap of paper from law enforcement which clearly I
24 don't or at least still not yet despite the fact that
25 we are probably in the very last day of testimony if

1 not close to it, so I would renew that motions and
2 request a mistrial based on yet another delayed
3 disclosure.

4 THE COURT: Every scrap of paper is not the
5 standard.

6 MR. SCHNEE: It's everything that goes to ---
7 that's material for impeachment, inculpatory,
8 exculpatory.

9 THE COURT: That's actually not correct.

10 MR. SCHNEE: For Brady it's anything material to
11 guilt and/or punishment.

12 THE COURT: Mr. Schnee, you have an interesting
13 view of the discovery rules, however, this material,
14 number one, you've already been provided all of it.
15 Number two, it's not exculpatory or mitigating toward
16 your client. As to Mr. Young, they already knew about
17 it from the interview and from the search warrant, so
18 it should have been in the entire time. All right.
19 We're moving on. Bring the jury back.

20 MS. GARFIELD: Judge, since there's been prior
21 allegations brought up on Mr. Schnee's part ---

22 THE COURT: That's the cops.

23 MS. GARFIELD: --- my concern is --- I just want
24 the record to reflect that there was opportunity for
25 Mr. Schnee to come over anytime. I welcome that. I

1 prefer that. It never happened.

2 MR. SCHNEE: Before the jury comes in, could I
3 least get a copy of that final report?

4 THE COURT: Sure, I don't have a law clerk.
5 Jackie, can you make a copy of it?

6 THE BAILIFF: The jury is seated.

7 THE COURT: All right. Mr. Schnee.

8 (WHEREUPON, the jury entered the courtroom at
9 2:33 P.M.)

10 BY MR. SCHNEE:

11 Q Mr. McCoy, would you agree or disagree that
12 taking careful notes is an important part of your job?

13 A Yes, I would agree.

14 Q Would you agree or disagree that interviewing
15 witnesses that have potential information are an
16 important part of your job?

17 A Yes, I would agree.

18 Q Would you agree that when you are given the name
19 of a person who has potential information that it is
20 incumbent on you, as the investigator, to at least
21 attempt talk to them?

22 A It depends on the information given, where the
23 information is coming from, and what information they
24 would have had or might have had.

25 Q Okay. Well, for example if someone had said

1 Mr. X may have been one to dispose of the guns, just
2 as an example, would you feel it's important to
3 interview Mr. X about that issue?

4 A If we hadn't already interviewed or interviewed
5 about that topic, yes.

6 Q Okay. Now, I want to go back to a few things
7 that you said during your direct exam. You said you
8 did not try to collect fingerprints at all at the
9 bakery?

10 A Right. The crime scene investigator did not try
11 to collect fingerprints. The testimony was we did
12 not. I don't collect fingerprints.

13 Q Right, as a unit of law enforcement, you made no
14 attempt to collect fingerprints?

15 A You're correct, yes.

16 Q And do you remember testifying in this case back
17 on --- what date was this? Looks like Monday,
18 November 23rd at the preliminary hearing. Do you
19 remember that?

20 A It was a preliminary hearing for this case?

21 Q Yes.

22 A I recall testifying, yes.

23 Q Okay. Do you know what that document is?

24 A It looks like --- is it a transcript?

25 Q Yes.

1 A Okay.

2 Q And on there does it say what the case name and
3 caption is?

4 A Yes, it is the State of South Carolina v. Lorenzo
5 Young.

6 Q Okay. And this would be the date?

7 A Monday the 25th of November, 2013, approximately
8 2:22 P.M.

9 Q Okay. Turn to page nine.

10 A Nine?

11 Q Oh, I'm sorry

12 A Seven.

13 Q I'm sorry, line nine. It says, and you correct
14 me if I'm wrong, this is --- you're testifying, right?

15 A Uh-huh.

16 Q He said we went back, did DNA swabs and tried to
17 take any kind of fingerprints that we could. Right?

18 A Correct.

19 Q And then you even clarified and said dust for
20 fingerprints?

21 A Right, I did.

22 Q And that's what you said in November of 2013 that
23 you tried to go and get fingerprints?

24 A Right. I misspoke.

25 Q You misspoke?

1 A That's correct.

2 Q So you said try to get fingerprints and then
3 corrected yourself and said I'm sorry, dust for
4 fingerprints. That's what you said in here?

5 A That's what I said in here, yes, that's correct.

6 Q All right.

7 Q I've just been handed the last page of your typed
8 notes. That entry ends on December 4, 2013?

9 A You're correct.

10 Q You interviewed a witness on March 24th, 2013?

11 A 2014.

12 Q 2014.

13 A That's correct.

14 Q Can you show me where you wrote down anywhere
15 that you even interviewed that person?

16 A I did not put it in my notes. It was
17 memorialized via audio recording into the case file.

18 Q And that wasn't turned over until, I believe,
19 October of this year?

20 A Which, the case file or the audio recording?

21 Q The audio recording.

22 A I don't recall exactly when it was turned over.
23 It was turned over to the solicitor's office. I don't
24 have a date for you.

25 Q It was October 26th; isn't that right?

1 A I don't recall the date, again, but it was turned
2 over prior to trial.

3 Q Prior to trial, but you didn't put anything in
4 your written notes at all or your typed up report that
5 you even had that interview?

6 A That's correct. As I said, it was audio recorded
7 and stored in the case file.

8 Q Okay. Now, as part of your training, I believe
9 you said you're taught about the law?

10 A Correct.

11 Q Okay.

12 A Criminal aspect of society.

13 Q Okay, you're taught certain things about the law?

14 A Yes.

15 Q Okay. You're taught about what crimes are?

16 A Yes.

17 Q You're taught the elements of crimes?

18 A Yes.

19 Q Okay. You're also taught what you as an officer
20 are allowed to do, right?

21 A Correct, within the constitution, yes.

22 Q And as a police officer, you're taught what
23 you're not allowed to do?

24 A Correct.

25 Q And you even said that your oath is to protect

1 constitutional rights of the community?

2 A That's correct. I said that, yes.

3 Q And every case is important to you, right?

4 A It is.

5 Q And in order to protect the constitutional rights
6 of the community, you would agree with me that you
7 can't go out and commit crimes as part of your job?

8 A As part of my --- commit crimes as part of my
9 duties?

10 Q Right, on your job?

11 A Right. I'm not supposed commit crimes, yes,
12 you're correct.

13 Q Okay. Now when you question individuals that you
14 think may be suspected of a crime, you're required to
15 read them what's called Miranda rights?

16 A Correct.

17 Q Okay.

18 A Well, it depends.

19 Q If your questioning them?

20 A It depends.

21 Q Custody?

22 A If they're in custody, they're under arrest or in
23 the custody of the police department and we are going
24 question them regarding the circumstances of that
25 custody or what they're being charged with.

1 Q Uh-huh.

2 A Then yes, you're correct.

3 Q You tell them that they don't have to talk to
4 you. They have the right to remain silent?

5 A Yes.

6 Q They have a right to an attorney?

7 A Correct.

8 Q If they can't afford one, one will be provided?

9 A That's correct.

10 Q You also tell them they don't have to answer any
11 questions at all if they don't want to?

12 A That's correct and they can stop at any time.

13 Q Now, after that you normally go through if they
14 agree with that and want to talk to you, and you ask
15 them if they want to talk to you, correct?

16 A Correct.

17 Q You ask if they have been threatened, right?

18 Q Right.

19 A Threatened or coerced to talk to us, right.

20 Q Threatened or coerced, right, you ask then that.

21 A Right, I do.

22 Q Okay. Because if someone has been threatened or
23 coerced you can't actually take a statement from them,
24 can you?

25 A If we have threatened or coerced them for them to

1 make a statement, for them to waive their rights,
2 that's correct.

3 Q Okay. You would agree with me that you can't
4 threaten suspects. You, as a police officer in an
5 interrogation, cannot threaten suspects, yes or no?

6 A Threaten suspects with?

7 Q With anything. You can't threaten them, can you?

8 A No, you can't threaten a suspect.

9 Q Okay.

10 Q In the interviews in this case, did you threaten
11 a suspect by sticking a needle --- with the threat of
12 sticking a needle in their arm?

13 A I did not threaten a suspect that I would stick a
14 needle in someone's arm, no.

15 Q Did you say, yes or no, "the only thing that's
16 going to keep a needle from going in your arm is if
17 you're fucking honest with me?"

18 A I did say that.

19 Q To a suspect?

20 A I did.

21 Q You know that's illegal, don't you?

22 A Excuse me?

23 Q That's against the law, isn't it?

24 A No, I was not aware that it was against law.

25 Q You're unaware in all your training ---

1 MS. CAMPBELL: Objection, Your Honor.

2 THE COURT: What's the objection?

3 MS. CAMPBELL: I believe it's gone beyond the
4 scope of what we discussed.

5 THE COURT: Sustained.

6 MR. SCHNEE: I hadn't finished my question.

7 BY MR. SCHNEE:

8 Q It's part of your training to --- let me get this
9 straight. You are unaware that threatening to have a
10 needle going into someone's arm, you're unaware that
11 that's against the law?

12 A Again, with this incident, I didn't threaten to
13 put a needle in someone's arm. I was attempting to
14 get this individual to understand the circumstances
15 that he was in.

16 Q And then exactly what are you ---

17 A It's ---

18 MS. CAMPBELL: Objection, Your Honor. He needs
19 to wait ---

20 THE WITNESS: Can I please finish my ---

21 BY MR. SCHNEE:

22 Q I thought you were finished.

23 A That's all right. I was attempting to get him to
24 realize the predicament he was in and the gravity of
25 the certain situation that he was looking at and by

1 being honest, which was trying to get the truth out of
2 this individual, by being honest, that would be a
3 better option than lying.

4 Q The gravity of the situation is what you're
5 trying to instill in this individual?

6 A That's correct. I was trying to let him see the
7 situation he had put himself in, that is correct.

8 Q The gravity of the situation that you're
9 referring to by a needle in the arm is the death
10 penalty, yes?

11 MS. CAMPBELL: Objection, Your Honor. This was a
12 pretrial ruling.

13 THE COURT: Sustained. Disregard that statement.

14 BY MR. SCHNEE:

15 Q Now, you said that you --- let's see. We'll get
16 back to that one.

17 On July 3rd, 2013, you indicated in your report
18 you made contact with who you listed as a quote
19 criminal informant?

20 A July 3rd, you're talking about my notes?

21 Q Yes, 9:40 A.M.

22 A Oh, let's see.

23 A July 3rd 9:40 A.M. Yes, I received information
24 from an informant, a criminal informant --- a
25 confidential informant, if you will.

1 Q Now, this isn't Donald Moore because you have
2 already talked about him and put his name in there,
3 right, Investigator McCoy?

4 A Correct, it's not Donald Moore.

5 Q And it's not Mary Brown who called Crimestoppers?

6 A That's correct.

7 Q So this is someone else.

8 A That's correct.

9 Q That you received information from about this
10 case?

11 A Correct.

12 Q Who is it?

13 A He was a confidential informant with the Richland
14 County Sheriff's Department.

15 Q What's his name or her name?

16 A I never see the name through the tips. It's not
17 uncommon. We get anonymous tips all the time. I
18 never received his name, nor did I ask for it.

19 Q You didn't even bother to ask for a name?

20 A He was a confidential informant, which is a
21 common practice with the police department or for the
22 Richland County Sheriff's Department.

23 Q Well, did he call you or did the sheriff's
24 department call you?

25 A The sheriff's department called me.

1 Q You didn't even ask to talk to this person?

2 A The sheriff's department contacted me. They had
3 information.

4 Q You didn't ask to talk to the person that gave
5 you that information?

6 A I did. I did speak with him. That's why I said
7 I received information from the informant.

8 Q Right. Well, who is it?

9 A Again, he is a confidential informant and I don't
10 have his name. It's not an uncommon practice for them
11 not to want to give names. It's very common that they
12 don't want to identify themselves.

13 Q Yes. If it was back ---

14 A They don't ---

15 Q --- well over a year ago, I can understand
16 someone not wanting to give their name, but we're in
17 the middle a trial and you're not telling me who this
18 witness is that you talked to?

19 MS. CAMPBELL: Objection, Your Honor, asked and
20 answered.

21 THE COURT: Sustained.

22 BY MR. SCHNEE:

23 Q I'll move on. You say it's a common practice to
24 hide the names of people that you call informants?

25 A Not to hide the names. You are misinterpreting

1 what I'm saying.

2 Q To conceal names.

3 MS. CAMPBELL: Objection, Your Honor. He has a
4 right to answer.

5 THE COURT: Sustained.

6 THE WITNESS: The practice is --- of a
7 confidential informant is to protect this person's
8 identity, from any safety concerns that may arise from
9 the information they give us. It's a common law
10 enforcement practice that's been used for years and
11 that's a common thing. I documented the fact that I
12 spoke with someone and was given information, whether
13 that hurt or helped your client or the other client.
14 I documented that information in the notes because
15 there was no recorded interview because he was
16 confidential informant..

17 BY MR. SCHNEE:

18 Q I see.

19 A I gave you all the information that I had.

20 Q Except you talked to him. You talked to this
21 informant?

22 A According to my notes, I received this
23 information from this informant, yes.

24 Q Directly from the informant?

25 A That's what it appears in my notes, yes.

1 Q An informant that I don't know who it is, right?

2 A I would assume you wouldn't, yes, that's correct,
3 sir.

4 Q Okay. Now, during the course of your
5 investigations overall, have you ever gotten
6 information or wanted to get information from someone
7 and told them that you would conceal their identity
8 and just call them an informant, even though you
9 already knew who they were?

10 A I don't recall a specific interview or
11 conversation. Is there one you can talk about that
12 you can remind me of?

13 Q Sure, August 21, 2013, you had a phone
14 conversation with Donald Moore, did you not?

15 A You said August 21st, 2013?

16 Q Yes, sir.

17 A Let's see. I had one with Mary Brown. Yes,
18 that's correct.

19 Q Okay. Now during that interview, you're talking
20 partly about this case, but Donald Moore brings up the
21 fact he might have information about a completely
22 unrelated case. Do you remember that?

23 A Vaguely, yes.

24 Q Okay. He was trying to --- thinks he can find
25 out the name in a suspect something completely

1 unrelated to any of this?

2 A Do you have a transcript of any of this just so I
3 can look at this it?

4 Q I do not. I have an audio recording I'd be happy
5 to show you?

6 A I recall having a conversation with him. I
7 believe it was about some other case I wasn't involved
8 in.

9 Q Correct. It was some random rape case. Do you
10 remember that?

11 A Sure, sure, that's correct.

12 Q Did you or did you not tell him that if he could
13 find out the name of this alleged suspect, that you
14 would list Mr. Moore as a confidential informant
15 because as long as the victim could identify the
16 suspect, you would never have to release his name as
17 being Donald Moore?

18 A From my understanding and from the way the
19 conversation went, as far as I can remember, Mr. Moore
20 was a confidential informant at that point with the
21 Columbia Police Department even signed up, certified
22 with our organized crime and our narcotics division,
23 so he was acting as confidential informant as we do
24 with many confidential informants and he was basically
25 relaying information --- we were talking about this

1 case where he was named in, because he wasn't at the
2 time this case began. However, at this point in time
3 he was a confidential informant with the Columbia
4 Police Department and he was basically relaying, hey
5 listen, I might have a name or may have information.
6 I'm paraphrasing here, I don't remember the exact
7 words that were said. Stop me if I'm wrong. He was
8 basically trying to give us the name, or if he could
9 find it out and, of course, his concern always with
10 giving information was am I going to be harmed or is
11 this going to come out or something along those lines.
12 I was basically relaying to him, since he was already
13 a confidential informant, that would be kept
14 confidential, which is the whole point of being a
15 confidential informant.

16 Q Did you tell him that it doesn't matter how he
17 gets the name, that as long as the victim identifies
18 the guy it doesn't matter?

19 A There's a good possibility that I said those
20 words, yes.

21 Q All right. I want to talk to you a little bit
22 about some of the information you have been given.
23 Some of this I know it's been gone over a little bit.

24 A All right.

25 Q Now, Marcus Haley Johnson, you were given that

1 name by a number of individuals in this case, haven't
2 you?

3 A Yeah, the first Latoya Barnes was the first time
4 that name ever came up.

5 Q That was back in July or August?

6 A No, that he was back in August 2013, during the
7 same phone conversation that we heard the snippet
8 from.

9 Q And she told you'll that Marcus Haley Johnson
10 happened to be in jail for something at the time,
11 right?

12 A I believe it was a narcotics violation, yes.

13 Q Okay. She suggested you go down there and talk
14 to him because he had information that you wanted,
15 right?

16 A She said he was spreading information inside the
17 jail, possibly, yes.

18 Q Okay.

19 A That he might have known or be able to be confirm
20 what we had already established through other
21 witnesses.

22 Q Okay. You told her absolutely, that's what you
23 could do. That's one of the next things on my list?

24 A I believe so, yes.

25 Q You never talked him, did you?

1 A I never talked to him, no.

2 Q You were also given the name of a number of other
3 people that may or may not establish alibis or have
4 information of anything else of various people
5 involved or not involved. For example, Darryl
6 Samuels.

7 A Correct.

8 Q Never interviewed him?

9 A I did not.

10 Q Anthony Nelson?

11 A He was not interviewed.

12 Q Joshua Green was not interviewed.

13 A Joshua Green was never interviewed.

14 Q Marquis Johnson?

15 A Marquis.

16 Q Yes.

17 A No, he is not interviewed.

18 Q Which is different than Marcus Haley Johnson?

19 A That's correct, different person.

20 Q You interviewed neither of those?

21 A You're, correct.

22 Q Sequan Williams, you never interviewed him.

23 A No, I did not.

24 Q Ashley Carter, you never interviewed her?

25 A No, I did not.

1 Q Did you even try to look any of these people up
2 to see if you could find them?

3 A Well, when we were given the names, you
4 understand, they were cooperating where defense
5 counsel. Typically Troy Stevenson's defense counsel.
6 At that point in time when it was during an interview
7 that I was obtaining this information. Most of the
8 information was information already obtained or
9 corroborated by other sources, that we had already
10 found. The majority of those names you named Marquis
11 Johnson, Sequan Williams, Anthony Nelson and Ashley
12 Carter, there was no information relaying they were
13 directly involved or maybe even knew about this
14 particular incident. Ashley Carter, the only
15 information was that she happened to be there that
16 night and was hanging out with Troy prior to what
17 happened. That's the information we got.

18 Q That's all the information you've got about
19 Ashley?

20 A Ashley Carter, I got a phone number from Ashley
21 Carter I believe at some point.

22 Q You got a phone number, did that you even try
23 call it?

24 A That was Troy's girlfriend.

25 Q Did you even try to call it?

1 A No, I didn't try to call it. The information was
2 she had no information whatsoever.

3 Q She gave you that information?

4 A No, Troy Stevenson gave me that information.

5 Q Troy Stevenson was actually trying to use her as
6 an alibi saying that he had no involvement, right?

7 A The reason these names were given was, you're,
8 correct, they were witnesses who were going to, not
9 alibi Troy during the incident, but to confirm some
10 information that he had given --- a lot of information
11 we had already confirmed.

12 Q Okay. So you have witnesses who are at Troy
13 Stevenson's house?

14 A Correct.

15 Q Shortly before this incident?

16 A Correct.

17 Q And some of them there all the way through the
18 next morning?

19 A There were a few, yes.

20 Q And you've interviewed zero of them, right?

21 A Let me look. Yes, you're correct.

22 Q Okay. Now, you said that there were some dark
23 hoodies taken from Trenton's house?

24 A Trenton Barnes' yeah, that's
25 correct.

1 Q One of them was a wet hoodie, dark blue?

2 A That's the investigator, Investigator Moorner, she
3 was actually running the search. I went to another
4 location. Yes, she stated that it was wet when it was
5 collected.

6 Q Okay. It was a dark colored hoodie?

7 A I believe it was a dark blue or black. I can't
8 remember, I would have to look at the search warrant.

9 Q Ever have that tested or submitted for DNA
10 testing?

11 A The hoodie?

12 Q Yeah?

13 A I believe the hoodie was submitted for testing to
14 see if I could be linked to it scene via blood spatter
15 or DNA.

16 Q Would it surprise do you learn the only hoodie
17 that was tested for DNA was the one that Ms. Hunnewell
18 wore?

19 A Yes, it would.

20 Q Can you show me in your notes where you had that
21 hoodie tested for DNA?

22 A No.

23 Q From Trenton's house?

24 A When items are submitted for analysis, they're
25 done on a submission form through SLED and the results

1 are of course, printed out through SLED and they're
2 stored in the case file.

3 Q Who submits those requests?

4 A Crime scene investigation units.

5 Q Okay, would it surprise you to know that none of
6 those requests have ever been submitted?

7 A I don't know if they were or not. I would have
8 to look at the logs. Do you have a log in front you?

9 Q No, you're the lead investigator, aren't you?

10 A That's correct.

11 Q You're supposed know what's going on in your
12 case?

13 A Sure, absolutely.

14 Q To be the one to follow up and figure out what
15 other people are doing on your case?

16 A That's correct as long as I'm advised of it, yes.

17 Q So you wait for people to tell you what's going
18 on? You don't find out what your own fellow
19 colleagues are doing on your case?

20 A On a case this large or this much stuff involved
21 in it when items of evidence or other witnesses are
22 tasked or pieced out to do, those officers will put
23 notes together and submit them to me on what was done
24 and what was handled. That's something for me to
25 review for court or for them to testify off of when

1 they're called.

2 Q Okay. The house, the Trenton Barnes' house
3 search warrant, that was July 5th of 2013?

4 A Yeah, late afternoon hours. That's correct.

5 Q So between then and yesterday, you had no
6 opportunity to figure out if that hoodie has even been
7 tested for DNA?

8 A Have I had the opportunity or have I checked, do
9 you mean?

10 Q Either one?

11 A I have not looked see if that hoodie was tested,
12 no.

13 Q And you talked a little bit about the video you
14 released to the media?

15 A Correct.

16 Q You didn't want to release the full video because
17 your wanted to figure out if future witnesses were
18 being honest and had actual knowledge of events,
19 right?

20 A Yes, that's a pretty standard investigative
21 practice, yeah.

22 Q And you do that because when you talk people, you
23 want to parlay what they say or what they don't say,
24 right?

25 A Sure.

1 Q Okay. Now, you interviewed --- you interviewed a
2 number of people in the jailhouse at some point, is
3 that right, that have come forward?

4 A I believe it was it was two total.

5 Q One from Michael Schaefer?

6 A That's correct.

7 Q And then there was Michael Peterson?

8 A I did not directly interview Michael Peterson.

9 Q You did not interview Michael Peterson?

10 A I did not interview Michael Peterson.

11 Q Do you know who did interview Michael Peterson?

12 A I'm not aware. The first time I saw Michael
13 Peterson was here when he testified. I was aware that
14 he had given to statement. The solicitor's office
15 told me that, but I don't know who actually
16 interviewed him.

17 Q Okay. You're aware in his version of events that
18 are quite interesting, he claims that Lorenzo told him
19 that at some point Ms. Hunnewell walked into a back
20 room and picked up a cell phone. Were you here for
21 that testimony?

22 A I was. I was sitting over there when he
23 testified to that, yes.

24 Q Now, would that one of those types of times when
25 you want to check to confirm of, you know, if someone

1 is telling the truth or not based on what information
2 they have compared to the video?

3 A Well, I had nothing do with Mr. Peterson's
4 testimony or statements or anything of that nature.
5 That didn't come through the police department.

6 Q Okay.

7 A I didn't have any involvement with it.

8 Q So even as a lead investigator, when you receive
9 that information even when you obtain it, you don't
10 feel it's necessary to follow up or do anything with
11 it afterwards?

12 A I never received his statement or information for
13 my case file because it never generated from the
14 police department. That's not --- that was done
15 through another party, I assume from the solicitor's
16 office, but that information was not delivered to me.
17 The first time I ever heard any statement from
18 Mr. Peterson or even knew he existed was when he
19 testified except that I had gone over the list of
20 witnesses with the solicitor's office, the names of
21 just who was going to testify.

22 Q Okay.

23 A I heard the name, but that was the extent of it.

24 Q So in preparation for trial, you didn't even
25 inquire as to what this witness would say even though

1 you're the lead investigator sitting in here the whole
2 time?

3 MS. CAMPBELL: Objection, Your Honor. The whole
4 line of questioning is --- I think he's ---

5 THE COURT: Overruled.

6 THE WITNESS: With something like that, if I
7 don't initiate it or it doesn't come through our
8 office, I don't get involved in that particular part
9 of it. We have several law enforcement agencies
10 assist in certain things. The solicitor's office have
11 their own investigators where they obtain statements,
12 so that's information that I was not privy to or not
13 given prior to the trial, so I have no way of
14 following up on it if I'm not given that information.

15 Q You're the lead investigator on this case, right?

16 A For the Columbia Police Department, yes.

17 Q You're the lead investigator on this case,
18 correct?

19 A For the Columbia Police Department, yes, you're
20 correct.

21 Q I'm asking you, did you or did you not inquire as
22 to the content of any of the witnesses that you did
23 not personally interview or have notes on already?

24 A I did not inquire as to what the information was,
25 no.

1 MR. SCHNEE: All right. I've got nothing else,
2 Judge.

3 THE COURT: Redirect?

4 MS. CAMPBELL: Yes, sir.

5 REDIRECT EXAMINATION:

6 BY MS. CAMPBELL:

7 Q Is it unusual at all after a case is --- people
8 have been arrested and it comes to our office and the
9 indictments have come down for additional information
10 to come forward?

11 A No, it's not uncommon at all.

12 Q Is it unusual for our office to handle that,
13 investigators from our office, versus putting it back
14 on you?

15 A That's not at all unusual. That's a pretty
16 common practice.

17 Q And he asked you about an interview in March and
18 some names that came up?

19 A That's correct.

20 MS. CAMPBELL: Your Honor, at the time we would
21 introduce that interview of Troy Stevenson.

22 MR. SCHNEE: Judge, I would object. That's
23 clearly hearsay.

24 THE COURT: All right. Step back to your jury
25 room. We'll be back in a few minutes. Do not discuss

1 the case. Keep an open mind.

2 (WHEREUPON, the jury left the courtroom at 3:00
3 P.M.)

4 THE COURT: All right. What's your theory,
5 Ms. Campbell?

6 MS. CAMPBELL: Your Honor, both of the defense
7 counsels went into an interview that took place. I
8 don't think it came out until Mr. Schnee got up. It
9 was with Troy Stevenson. They went into details about
10 what was said in that, names that came up, information
11 that came from Mr. Stevenson. Your Honor, under a
12 completeness doctrine, at this point we think it opens
13 the door to the fact that in order for this
14 investigator to be able to fully explain everything he
15 did in this case, and in addition to that, they should
16 understand the context under which this information
17 came forward that we think right now we have the right
18 to then introduce the entire statement.

19 MR. KRZYSTON: Thank you, Your Honor, may it
20 please the Court. I would note that during our
21 cross-examination we went into no detail specifically
22 with Investigator McCoy. We asked simply did he learn
23 these names and if he had notes regarding those names.
24 There was no information substantively gone into on
25 cross by Mr. Young. Because of that and because we

1 haven't introduced a recording, we would argue that
2 any admission of a recording by Troy Stevenson in
3 between Troy and Mr. McCoy is hearsay as it applies to
4 Mr. Young.

5 Judge, I would again draw the court's attention
6 to the fact that no statements --- I did not go into
7 specifically any words that Mr. McCoy spoke. I did
8 not go or play any recording containing McCoy's voice
9 and I don't think that 106 is triggered until some
10 recording or recitation of his direct statements are
11 utilized by the defense. I would also again assert
12 that this is hearsay. It involves not only the
13 hearsay rules and evidence rules, but it also invokes
14 U.S v. Williamson and potentially Bruton depending
15 upon whether or not the particular statement in
16 question was given to police or was given to a lay
17 declarant. This involves almost every single issue
18 that we have raised prior to trial in arguing
19 severance, as well as during the life of the trial in
20 arguing to exclude hearsay testimony based on
21 Williamson. So I think this is the kit and caboodle.
22 This is everything that we have argued all in one and
23 I do not believe it is admissible.

24 MR. SCHNEE: Judge, I asked this witness multiple
25 questions about names he was given as part of his

1 investigation.

2 Investigatory hearsay is a very limited
3 exception. The fact is ---

4 THE COURT: What is investigator hearsay?

5 MS. CAMPBELL: What?

6 MR. SCHNEE: Investigatory hearsay? It's the
7 investigator is on the stand and they can talk about
8 their investigation in very limited circumstances.
9 That is exactly what Ms. Campbell does on a very
10 regular basis with lead investigators getting into the
11 conversations he had with other witnesses, with other
12 police officers, the course of his investigation. My
13 cross-examination ---

14 THE COURT: For the record, investigatory hearsay
15 doesn't exist, and if Ms. Campbell was going into
16 something inappropriate on direct with a witness it
17 should have been objected to and I would have dealt
18 with it.

19 MR. SCHNEE: Well ---

20 THE COURT: What she does in other cases at this
21 point doesn't matter to me, but investigatory hearsay
22 is something that you just created. Let's deal with
23 the issue.

24 MR. SCHNEE: Judge, the issue is if Ms. Campbell
25 is trying to say that this recording somehow explains

1 what was being questioned by Investigator McCoy as to
2 why he wasn't going to interview any of these
3 witnesses, that's simple preposterous. There is
4 nothing in that recording that would indicate as why
5 he didn't interview any of these witnesses, which was
6 the only thing that came out of the Troy Stevenson
7 interview that he was questioned about are the names
8 of those witnesses.

9 THE COURT: Ms. Campbell.

10 MS. CAMPBELL: That's my point. That is the only
11 thing that came was what he chose to bring out on
12 cross-examination. In order for the jury to be able
13 to understand whether or not they should have followed
14 up with all these other witnesses, they should be able
15 to hear exactly what information was provided, what
16 information he had at the time and the context in
17 which it was being given as far as their relevance as
18 to what they did. Right now the only thing the jury
19 knows is that there are eight names out there that
20 they didn't ---

21 THE COURT: No, we're at 12.

22 MS. CAMPBELL: Twelve now? There's two of them
23 I've never heard of.

24 THE COURT: According to Mr. Krzyston.

25 MR. SCHNEE: Well, actually, Judge, there were

1 quite a few given by other people, and even
2 Investigator McCoy said that, yes, Marcus Haley
3 Johnson, Marquis Johnson, some of the others were
4 given by Latoya Barnes, which had been testified to
5 multiple times even by Ms. Barnes when she was on the
6 stand.

7 MS. CAMPBELL: I'm not talking about Ms. Barnes.

8 MR. KRZYSTON: Judge, might I inquire as to what
9 exactly in Mr. Stevenson's statement would go to
10 establish whether or not his failure to investigate
11 these people was reasonable. I don't believe there is
12 anything in the statements themselves that actually
13 explain why he will failed to talk to these people. I
14 mean, there's no reference to gangs, to these people
15 being in gangs. This is simply information conveyed
16 to Mr. Stevenson --- rather from Mr. Stevenson to
17 Investigator McCoy, that indicates these people were
18 around. I don't know that there's anything in the
19 actual substantive statement that addresses why he
20 filed do that. If that's the reason the State is
21 offering that evidence, I don't know that we actually
22 have any of that evidence.

23 MR. SCHNEE: And we obviously have a huge Bruton
24 issue because this is Troy Stevenson in a custodial
25 interrogation.

1 THE COURT: Why didn't you go interview these
2 people?

3 THE WITNESS: Why did I not interview these
4 people?

5 THE COURT: Yes.

6 THE WITNESS: In speaking with Troy, it was a ---
7 it was defense counsel --- Amy Zmroczek was
8 cooperating and Troy was cooperating with the
9 investigation.

10 THE COURT: Right.

11 THE WITNESS: They came forward. It was
12 indicated during the interview that there were some
13 statements that she had already spoken to all these
14 individuals and some statements involved as well as
15 identification had been made on some of them ---

16 THE COURT: Okay.

17 THE WITNESS: --- or most of them. She also
18 indicated that that would be provided to me or to us
19 so I could do a follow up. I wanted to look what the
20 had been provided already to determine when I talked
21 to them what was true or what wasn't true, what was
22 going on, also Troy himself during the interview, like
23 Ashley Carter said that she didn't know anything. She
24 wasn't involved. She didn't have any idea. She was
25 just there hanging out at the house prior to it. He

1 even made statements saying they never discussed the
2 crime itself the night before it happened.

3 There was even information in there about none of
4 those people were involved in the planning, the
5 operation or even there at the scene. The only people
6 he identifies at the scene that did the shooting are
7 those two men right there and he is adamant about
8 that. That the only people down there were Trenton,
9 Lorenzo and himself which is the same information I
10 got from him the other two times I interviewed him.
11 This is the third time. This stuff came out in March
12 of this year after defense counsel supposedly spoke
13 with these individuals and there were statements that
14 existed.

15 Now, I reviewed the information that was given to
16 the --- well, I've seen some information regarding
17 what she had. There were no statements. There was
18 nothing to that effect at all. My understanding is
19 they didn't even cooperate. Troy also states that a
20 lot of these people don't want to cooperate with the
21 police. They have no desire to come talk to me
22 because of (A) their gang involvement. He didn't say
23 gang involvement, but that's the gist of it as well as
24 (B) they're afraid of arrest because they know about
25 --- they possibly know about it but don't --- weren't

1 involved in it, so they were afraid of some misprison
2 charge or something, I'm assuming. I wanted to get the
3 information from Ms. Zmroczek before I went and
4 tracked it down. Of course, that wasn't provided
5 until November of this year.

6 MS. CAMPBELL: And just for the record,
7 Reciprocal Rule 5 didn't include any of that
8 information.

9 THE WITNESS: Yeah, so I don't know what's...

10 THE COURT: I mean, what you're really worried
11 about is him saying or them playing an audio where
12 Troy says your client did it, right?

13 MR. KRZYSTON: Correct, Your Honor.

14 THE COURT: Same thing for you, right?

15 MR. SCHNEE: That's the entirety of his
16 recording.

17 THE COURT: That's not the entirety of it. Don't
18 use words like entirety.

19 MR. SCHNEE: The vast majority.

20 THE COURT: Here is what I'm going to allow. I'm
21 going to allow Investigator McCoy to explain not via
22 the audio recording, but explain via his own testimony
23 why he made the decision to not go interview these
24 people. That explanation is not going to involve
25 anything because anybody is in a gang.

1 THE WITNESS: Got you.

2 THE COURT: Or anybody is scared of any
3 retaliation or somebody is going to come get me and
4 it's not going to have anything do with Troy told me
5 that these two people did it.

6 THE WITNESS: Got you.

7 THE COURT: I think he should be allowed --- I
8 mean, this was at least ten minutes of everybody's
9 cross-examination. You had all these witness names
10 and you didn't do anything with it. I don't think
11 it's fair to leave that out there. I also don't think
12 Troy saying that Mr. Barnes and Mr. Young did it is
13 admissible under Bruton, and the confrontation clause
14 and every other violation that I can imagine, but I
15 will allow Investigator McCoy to explain why he didn't
16 go interview these people, but without saying
17 retaliation, gangs or ---.

18 MS. CAMPBELL: As to them?

19 THE COURT: As to, Mr. Stevenson had already told
20 me that Mr. Barnes and Mr. Young did it. I mean,
21 that's not something that's admissible. He can go on,
22 you know, I made the decision to not go interview
23 these people because of this, without saying the gist
24 of Troy says Lorenzo and Trenton did it with me.

25 MR. KRZYSTON: Your Honor, and then my concern

1 becomes --- I guess, I've got an issue with the fact
2 of how he knows these people weren't willing to
3 cooperate with law enforcement. I mean, he has
4 learned the fact these people are quote unquote
5 unwilling to cooperate with law enforcement directly
6 from the mouth of Troy Stevenson. I believe that's
7 hearsay.

8 THE COURT: Well, I mean, you opened this door,
9 Mr. Krzyston. I mean, this door was opened by the
10 defense and the cross examination of the lead
11 investigator as to what he did or what he didn't do,
12 so I am going to give him a little bit of leeway. I'm
13 going to allow Ms. Campbell to lead through this a
14 little bit so that we don't end up in a situation
15 Investigator McCoy feels like he has to say something
16 just to explain himself.

17 MS. CAMPBELL: But, Your Honor, in addition to
18 that as your ruled prior to us getting into this part
19 with this witness, he is not going to say anything
20 about them being in a gang.

21 THE COURT: Right.

22 MS. CAMPBELL: But an additional reason he didn't
23 go interview a couple of these people is that they are
24 in gangs and in his experience, they aren't
25 forthcoming.

1 THE COURT: Well, we don't need get into that.
2 He didn't learn that from Troy is what he just told
3 me. What he just told me was he didn't --- he was
4 essentially speculating that these people were in
5 gangs and they weren't going to talk to him. That's
6 what he just said.

7 MS. CAMPBELL: Except the exception to that is
8 Latoya Barnes when she brings up the names of Marquis
9 and Marcus, he does know that are gang affiliated and
10 that he is not going to talk to them. And they
11 brought that out, too. I mean, I just feel like we're
12 hamstrung because we can't address this misinformation
13 their purporting without going into Troy Stevenson.

14 THE COURT: He has --- I mean, do you have any
15 personal knowledge if any of that these people are in
16 gangs?

17 THE WITNESS: Some not all of them.

18 THE COURT: That you knew when you were
19 interviewing Troy Stevenson?

20 THE WITNESS: At that particular time?

21 THE COURT: Right.

22 THE WITNESS: No, at the particular time I was
23 interviewing him, I wasn't familiar with any of the
24 individuals that he was ---

25 THE COURT: Okay. Nothing about any of those

1 being gang members. That's not the reason he didn't
2 go interview them. He didn't go interview them for
3 whatever reason that he didn't go interview him, but
4 it wasn't because he thought they were gang members
5 that he didn't go talk to them.

6 MS. CAMPBELL: But when he got the information
7 from Latoya Barnes about just Marquis and Marcus
8 Johnson ---

9 THE COURT: Right.

10 MS. CAMPBELL: --- he did know that information
11 about those two individuals, not the rest of them.

12 MR. KRZYSTON: Judge, we've been given nothing on
13 gangs. I don't know that, I mean, they're saying they
14 know that Marquis and Marcus Johnson are in a gang.

15 MS. CAMPBELL: It doesn't matter if he knows it,
16 if that's what he thought.

17 MR. KRZYSTON: To substantiate that or base that
18 opinion on.

19 THE COURT: We're not saying anything about
20 gangs. That's not why he didn't go interview him. He
21 didn't interview him because of the reasons he already
22 stated. All right. Bring them back in.

23 MS. CAMPBELL: And, Your Honor if they go back
24 into it again after ---

25 THE COURT: I tell you what, the next person that

1 intentionally violates an order of this court is going
2 to be dealing with me in a contempt hearing. Does
3 everybody understand that, Ms. Campbell?

4 MS. CAMPBELL: Yes, sir.

5 THE COURT: Ms. Garfield?

6 MS. GARFIELD: Yes, sir.

7 THE COURT: Ms. Simpson?

8 Ms. GARFIELD: Stepped out.

9 THE COURT: Ms. Pinnock?

10 MS. PINNOCK: Yes, sir.

11 THE COURT: Mr. Krzyston?

12 MR. KRZYSTON: Yes, sir.

13 THE COURT: Ms. Bambach?

14 MS. BAMBACH: Yes, Your Honor.

15 THE COURT: Mr. Schnee?

16 MR. SCHNEE: Yes, sir.

17 THE COURT: You can't just ask questions and
18 don't expect repercussions from asking inappropriate
19 questions or questions that you know are out there and
20 the information is out there and expect that it's not
21 going to come out later. That's not the way it works.
22 I'm going to allow him to explain it. I want you to
23 lead him through it, Ms. Campbell, as much as you need
24 to.

25 MS. CAMPBELL: Do you know where we can go?

1 THE WITNESS: Uh-huh.

2 THE COURT: Do you understand what I'm allowing
3 or not allowing, Investigator McCoy?

4 THE WITNESS: No gangs and no references to
5 retaliation.

6 THE COURT: Retaliation or Mr. Stevenson saying
7 Mr. Barnes or Mr. Young did it.

8 THE WITNESS: Got you. Won't happen.

9 MR. KRZYSTON: Your Honor, we would just ask to
10 proffer. Give him a dry run before we get in front of
11 the jury.

12 THE COURT: That's fine. Do it.

13 REDIRECT EXAMINATION:

14 (Denno)

15 BY MS. CAMPBELL:

16 Q He has asked you about a number of people in a
17 March 2014 interview with Troy Stevenson.

18 A That's correct it was with Troy Stevenson's
19 defense counsel, Aimee Zmroczek. In fact, I think she
20 is the one that set it up. She came forward to Dolly
21 Garfield saying that her client wanted to speak with
22 police, so I contacted Ms. Zmroczek to set up a time
23 to meet at Columbia police headquarters and that's
24 where I interviewed Troy and Aimee was there. It was
25 audio recorded.

1 Q And during that time there were a number of names
2 that came up?

3 A That's correct.

4 Q Including some of the names we heard, Darryl
5 Samuels?

6 A Correct.

7 Q Ashley Carter?

8 A Yes.

9 Q Somebody named Green?

10 A Yes.

11 Q Some other people, as well?

12 A That's correct, Joshua Green, Anthony Nelson,
13 Sequan Williams, Marquis Johnson, yes.

14 Q And what, if any, information were you made aware
15 that they might or might not have?

16 A Well, the information from Troy was that
17 regarding these individuals, Ashley Carter was Troy's
18 girlfriend, and she was at the home that evening prior
19 to the murder. She was there, they were just hanging
20 out. According to him, his statement, she was not
21 involved and wasn't a witness to anything. In fact,
22 her and Troy were in a separate bedroom just sleeping,
23 hanging out.

24 As far as Marquis Johnson, Ms. Barnes had given
25 me that name early earlier because Lorenzo had been

1 calling the house quite frequently. Troy was able to
2 give a reason for that. He stated that Lorenzo was
3 calling Marquis to inquire about Rolanda Coleman who
4 had called the house a few times. He wanted to know
5 if Rolanda was still calling. According to Troy, he
6 never mentioned anything about them talking about the
7 crime that was to occur.

8 The other individuals, Sequan Williams, Darryl
9 Samuels, Anthony Nelson, Joshua Green, they were at
10 the home, and according to Troy, the incident never
11 came up that was going to happen. He stated that it
12 wasn't --- it never became a topic of conversation
13 between them. Troy was aware. I shouldn't go into
14 that, but that topic never came up as far as that ---
15 what was going to happen or what might happen. The
16 Azo name, Azo came up that they were at a recording
17 studio earlier.

18 Q And when you say earlier, do you mean earlier in
19 the evening or the earlier in the week or what?

20 A Earlier in the day.

21 Q Earlier in the day?

22 A Earlier in the day. They were at a recording
23 studio or at a home that belonged to this individual
24 named Azo, which I was never provided any particulars
25 on who Azo was. Just --- they gave me a street and a

1 possible house on the street. He wasn't able to give
2 me anything beyond that. They were at a recording
3 studio and that is where this incident was not
4 planned, but it was talked about.

5 Q By whom.

6 A By Lorenzo Young and Trenton Barnes. They talked
7 about the incident.

8 Q Okay.

9 A I didn't...

10 MR. KRZYSTON: Judge, just for the record, we
11 would object to that last comment if that's going to
12 be introduced.

13 THE COURT: Why?

14 MR. SCHNEE: Troy --- that would be a statement
15 from Troy that Trenton and Lorenzo were planning a
16 robbery at the studio. That would be the definition
17 of a Bruton problem inculcating my client.

18 THE COURT: Don't say anything about them talking
19 about something at Azo's house or wherever.

20 BY MS. CAMPBELL:

21 Q As far as they had been at the house earlier that
22 day and that's all the information he had?

23 A Yes, so they were there earlier that day.

24 Q And finally were any of the names given to you or
25 provided to you, was there any information that was

1 provided to you by Troy Stevenson or anyone else that
2 they knew anything about what had happened that night?

3 A No, not that night.

4 Q About the actual robbery itself?

5 A No.

6 Q Okay.

7 MR. KRZYSTON: Judge, are you finished?

8 THE COURT: She is finished.

9 MR. KRZYSTON: Again, I would object to the
10 testimony in its whole.

11 THE COURT: I've already ruled on that.

12 MR. KRZYSTON: Okay. I think they can get out.
13 I don't mean to transgress here, but I think they can
14 get out what they're trying to say without saying Troy
15 said. The basis of my problem is the part about Troy
16 said.

17 THE COURT: The basis of the problem is the line
18 of questioning by the defense attorneys and the
19 cross-examination of the lead investigator, so your
20 motion is overruled.

21 Bring them in. Do you understand what you're
22 doing and not doing?

23 THE WITNESS: Yes, Your Honor.

24 THE COURT: Very good.

25 MR. KRZYSTON: Thank you, Judge.

Redirect of McCoy by Campbell
(continued)

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1 (WHEREUPON, the jury entered the courtroom at
2 3:18 P.M.)

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

4 THE COURT: All right. Go ahead, Ms. Campbell.

5 MS. CAMPBELL: Thank you, Your Honor.

6 REDIRECT EXAMINATION:

7 (continued)

8 BY MS. CAMPBELL:

9 Q Investigator McCoy, they asked you many questions
10 about the information you received from that March,
11 2014 conversation you had with Troy ---

12 A Yes, ma'am, Troy and Amy Zmroczek

13 Q --- Stevenson?

14 MR. KRZYSTON: Objection, Your Honor. Prior
15 objection.

16 THE COURT: Overruled.

17 BY MS. CAMPBELL:

18 Q I'm sorry. You said somebody else was present?

19 A Aimee Zmroczek, his defense counsel.

20 Q And, in fact, who initiated that interview?

21 A From my understanding, I received a call from
22 Dolly Garfield, sometime in late February, beginning
23 of March. I don't remember to exact time, in
24 reference to Troy wanting to come forward and talk
25 some more about some information.

1 Q You aren't going to be able to say that part,
2 okay?

3 A Right.

4 Q But during the course of that conversation did
5 some other names come up?

6 A Yes, during that interview some other names did
7 come up.

8 Q Specifically, they asked you about several of
9 those names, including Ashley Carter. What, if any,
10 information did Troy Stevenson tell you she had, if
11 anything?

12 A According to the interview, Ashley Carter is his
13 girlfriend, 19 years old, I was given a phone number.
14 Again, she was his girlfriend, she was not involved,
15 did not witness anything, was just at the home on
16 Lucille Drive hanging out with him sleeping with him
17 at the home.

18 Q And as far as some of the other names like Darryl
19 Samuels, Sequan Williams, people of that sort, what if
20 any, information did Troy Stevenson tell you they had
21 about anything?

22 A They were just basically at the home, that they
23 had no direct knowledge and that the --- no direct
24 knowledge of anything. They were just at the home.

25 Q In fact, during the time period when all these

1 phones were going back and forth, who were the only
2 two people to your knowledge who were awake other than
3 Troy Stevenson?

4 A To my knowledge, the only people awake?

5 Q In the early morning hours ---

6 A Ms. Barnes, she testified to, I believe, Marquis
7 Johnson.

8 Q As far as Marquis' involvement or knowledge, if
9 anything, in this case, what was that?

10 A Well, Ms. Barnes had given me information about
11 Marquis prior that someone was calling the house for
12 him repeatedly. Troy was able to tell me what that
13 was. It was basically Lorenzo was calling the house
14 asking about Rolanda Coleman. Rolanda Coleman had
15 called the house several times and Lorenzo was calling
16 Marquis about Rolanda, that's what Troy said.

17 Q Was there any indication from Troy Stevenson or
18 anyone else that Marquis had anymore involvement than
19 that in this case?

20 A Not at that time, no.

21 Q Did he have any knowledge of what happened at the
22 bakery?

23 A Not at that particular time, no.

24 Q And you did interview Latoya Barnes?

25 A That's correct, I confirmed that information. Of

1 course, that was prior to this interview, yes. I
2 already had that information.

3 Q There was also some information about other
4 people's names that came up?

5 A Sequan Williams, Darryl Samuels, Anthony Nelson,
6 Joshua Green, the same information that they were at
7 the house hanging out that night. That was the
8 extent. They were mainly to corroborate a previous
9 statement that Troy had given me involving where he
10 was just prior to anything.

11 Q And had Ms. Barnes, his mother, already given you
12 that information?

13 A Yes, she had. She already told me --- it
14 confirmed what Ms. Barnes had said.

15 Q And at any point did any of these people come to
16 you and say they have information about this bakery
17 case?

18 A No, they did not.

19 Q Would you have been willing to take their
20 statement if they had been willing to come to you?

21 A Absolutely.

22 Q They also asked you about Azo?

23 A That's correct.

24 Q Were you ever able to get a real name to go with
25 Azo?

1 A I never got an actual real name or any
2 identifying information about Azo. The only
3 information was that they were at Azo's house at some
4 kind of recording studio earlier in the day on the
5 30th.

6 Q That was the extent of that information?

7 A Yes, that was the extent of that information
8 there at the house.

9 Q Any information that Azo was anywhere around the
10 bakery that night?

11 A No, no information at all that he was involved in
12 the crime.

13 Q Defense counsel also asked you about an
14 additional name that Latoya Barnes gave you, which
15 would be Marcus Johnson?

16 A Yes, Marcus Johnson.

17 Q He was in the jail at the time?

18 A Yes.

19 Q Was the information --- as far as Ms. Barnes
20 relating to you, what was --- why was she relating
21 that information to you?

22 A Why was she relating it to me?

23 Q As far as why she thought ---

24 MR. KRZYSTON: Objection speculation.

25 THE COURT: Sustained. Rephrase your question.

1 BY MS. CAMPBELL:

2 Q Why did Ms. Barnes tell you she was giving you
3 that information?

4 MR. KRZYSTON: Objection, speculation.

5 THE COURT: Sustained.

6 Why did she tell him?

7 MS. CAMPBELL: She told him why..

8 THE COURT: Okay. If she explained why.

9 MS. CAMPBELL: She explained.

10 THE WITNESS: He said that ---

11 MR. KRZYSTON: Objection, hearsay.

12 THE COURT: Overruled.

13 THE WITNESS: She said Marquis Johnson was in the
14 jail telling everyone who had done it. He was the
15 boyfriend of Latoya Barnes or former boyfriend, I
16 should say.

17 BY MS. CAMPBELL:

18 Q And why did she tell you that had meant anything?

19 A Well, he had been talking about it and he was
20 familiar with the individuals involved with the case
21 and familiar with it.

22 Q And the information that she gave you that Marcus
23 Johnson had, did that corroborate or contradict the
24 information you already had?

25 A It corroborated the information we had already

1 obtained through the investigation; that's correct.

2 Q And as far as the note taking and everything, as
3 far as documenting things, it may not have a note that
4 says you audio recorded it, but it would be audio
5 recorded?

6 A It would be audio recorded --- I usually --- I
7 worry about discovery later on. If there are too many
8 notes and or it takes up too many notes, if something
9 doesn't get put in the file and causes a problem or
10 something gets lost --- typically if it's later on in
11 the investigation, especially after a case has been
12 filed, closed and put away into our filing system,
13 I'll just record it, at least document it and then it
14 will be placed in the file and under over at the
15 appropriate time.

16 MS. CAMPBELL: Thank you, Your Honor, I have
17 nothing further.

18 THE COURT: Recross?

19 MR. KRZYSTON: Thank you, Your Honor, may it
20 please the Court?

21 RECROSS-EXAMINATION:

22 BY MR. KRZYSTON:

23 Q Mr. McCoy, you're an investigator, right?

24 A Yes.

25 Q The term itself indicates that you go actually go

1 out and investigate crimes?

2 A I do, yes, sir.

3 Q You would agree with me if you just sat back in
4 your office waiting for people to come talk about
5 crimes, you probably wouldn't get much done, would
6 you?

7 A It would depend on the situation and the kind of
8 information they had. We have actually had quite a
9 few people come forward since Donald Moore came
10 forward.

11 Q But in general if you didn't go out, leave your
12 office to talk to anybody, you wouldn't? find out
13 anything, right?

14 A That's why we went and canvassed the area after
15 this incident happened, yes.

16 Q I'm sorry. Are you done?

17 A I'm sorry, I'm done.

18 Q No worries. Now, you just testified that you had
19 no knowledge that Azo was at Lucille Drive when you
20 were doing your investigation on the night in
21 question?

22 A That's correct. From the interview that I was
23 conducting with Troy, I don't believe Azo was ever
24 mentioned.

25 Q And that was on?

1 A Not prior to the incident.

2 Q And that was on March 24th, 2014.

3 A That's correct.

4 Q Do you have a copy of your handwritten notes in
5 front of you?

6 A From the interview?

7 Q Yes --- from all your --- just the life of your
8 case?

9 A I didn't take handwritten notes. I don't recall
10 taking handwritten notes from that interview.

11 Q You took handwritten notes on August 9th, 2013,
12 didn't you?

13 A August 9th, 2013, who are you talking about?

14 Q Latoya Barnes?

15 A Yes, I think I notated in there that I talked to
16 her and put some information down, yes.

17 Q Ms. Barnes told you that Azo was there that
18 night, didn't she?

19 A I don't recall if is he did or not.

20 Q Do you have a copy of you notes or would a copy
21 of that page help you?

22 A I've got it. August 9th.

23 Q Yes, sir.

24 A This would have been at 3:21, correct.

25 Q Correct 15:21 as it's notated on your notes.

1 A Do you have a particular bullet point? What
2 number of bullet point down?

3 Q It's actually the last word before the next entry
4 on August 20th, 2013?

5 A I still don't see anything about Azo in my notes
6 unless I'm looking at a different ---

7 MR. KRZYSTON: May we approach, Your Honor?

8 THE COURT: Yes.

9 THE WITNESS: I'm sorry. I'm looking at my typed
10 notes. Do you mind if I look at this?

11 BY MR. KRZYSTON:

12 Q That's fine. Do you recognize these notes?

13 A I do. These are my handwritten notes during the
14 investigation, yes.

15 Q On the last line, the line right above
16 August 20th, 2013, it states Azo as being somebody
17 that Ms. Barnes told you was in the house on Lucille
18 Drive before the alleged robbery took place?

19 A It doesn't say in the house. I just says Azo
20 with quotations as a nickname was somebody I might
21 possibly ---

22 Q Somebody who possibly was there?

23 A I don't believe he was there at the house.
24 That's not what Troy said in his interview.

25 Q Now, as the lead investigator you actually get to

1 choose and pick what gets submitted to SLED and what
2 doesn't, right? We were talking about that a little
3 bit earlier.

4 A Normally, you know, when we ---

5 MS. CAMPBELL: Objection, Your Honor, outside the
6 scope.

7 THE COURT: Sustained.

8 MS. CAMPBELL: Thank you.

9 MR. KRZYSTON: The Court's indulgence, Your
10 Honor.

11 (Pause.)

12 No further questions, Your Honor.

13 THE COURT: Mr. Schnee?

14 MR. SCHNEE: Very briefly.

15 THE COURT: Yes, sir.

16 RECROSS-EXAMINATION:

17 BY MR. SCHNEE:

18 Q If I'm understanding you correctly, you chose not
19 to interview any of these people because you did not
20 feel at the time that they had relevant information
21 that would assist you?

22 A Well, at the time it was indicated that the
23 majority of them were cooperating with defense counsel
24 and that they had been interviewed. I wanted to
25 obtain those interviews and any relevant information,

1 identifying information prior to me going out and
2 conducting any interview with anyone else just to
3 confirm what they had been saying.

4 Q Okay. Well, Marcus Haley Johnson you knew about
5 in August of 2013, which is not from the March
6 interview. You chose not to interview him, right?

7 A The name came up of Marcus Haley Johnson, not
8 that he was involved or had direct knowledge, but that
9 he was talking about it down at the jail, about who
10 had done it.

11 Q Okay. Well, you talked to a lot of other people
12 who had just been talking in general about the crime,
13 right?

14 A I believe the majority of the people I talked to
15 had either direct knowledge or were able to
16 corroborate pretty quickly the information that we
17 based our investigation on.

18 Q But you at least talked to those people, right?

19 A Right.

20 Q You took the time to talk to them?

21 A Right, and most of them came forward, or we went
22 out when we were conducting other investigative events
23 and we were able to identify them and speak with them.

24 Q Okay. Well, in August of 2013, you knew exactly
25 where Marcus Haley Johnson was, right?

1 A He was in the Alvin S. Glenn Detention Center.

2 Q Did you even go down to talk to him, yes or no?

3 A No, I did not.

4 MR. SCHNEE: All right.

5 THE COURT: All right. Call your next --- do
6 your need a break? Go back to your jury room. Do not
7 discuss the case. Keep an open mind. Do not discuss
8 the case. Everyone remain seated while the jury is
9 dismissed.

10 (WHEREUPON, the jury left the courtroom at 3:31
11 P.M.)

12 (WHEREUPON, a short break was taken.)

13 (WHEREUPON, State's Exhibits 356, 357, 358, 359,
14 360, 361, 362 were withdrawn.)

15 (WHEREUPON, State's Exhibit Numbers 441, 444
16 through 450 were marked for identification only.)

17 THE COURT: Ready?

18 MS. GARFIELD: Yes, sir.

19 THE COURT: Ready?

20 MR. KRZYSTON: Sorry, yes, sir, Your Honor.

21 MR. SCHNEE: Yes, sir.

22 THE COURT: Okay.

23 (WHEREUPON, the jury entered the courtroom at
24 3:52 P.M.)

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

1 THE COURT: Welcome back. Call your next
2 witness, please.

3 MS. CAMPBELL: Thank you, Your Honor. The State
4 calls investigator Jon VanHouten.

5 JON VANHOUTEN,
6 after being duly sworn, testified as follows:

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

9 MS. GARFIELD: May it please the Court?

10 THE COURT: Yes, ma'am.

11 DIRECT EXAMINATION:

12 BY MS. GARFIELD:

13 Q Investigator VanHouten, please share with the
14 jury where you're employed.

15 A Columbia Police Department.

16 Q Please explain what your duties are at the
17 Columbia Police Department.

18 A I am assigned to the US Secret Service. I work
19 in the computer forensic laboratory of the Columbia
20 field office.

21 Q What are your duties in that capacity?

22 A I analyze digital media from computers, cell
23 phones, cameras, anything that stores digital
24 electronic media.

25 Q Is that done on just a state level?

1 A No, I work any agency that requests assistance
2 for computer forensics examination, whether it be the
3 military, any other agencies and any agency that
4 requests a service across the United States.

5 Q What kind of training --- let me back up.
6 Specifically, are you ever asked to examine physical
7 phones?

8 A Yes.

9 Q And when I say phones, I am referring
10 specifically to cell phones.

11 A Yes.

12 Q And when you are asked to examine a cell phone,
13 can you explain to the jury what you do in going about
14 that examination?

15 A Generally when we analyze a cell phone, depending
16 on what type of information the agency or the agent or
17 officers requesting we conduct what's either called a
18 physical examination or a logical examination, we use
19 equipment. In this particular assistance, we used a
20 system called Cellebrite to analyze the phones. We
21 can generally pull logical data. Logical data is data
22 that you see on your device when you click through it.
23 Physical data includes unallocated space, which is
24 data that you can't see, deleted stuff, so we're able
25 to pull deleted stuff and stuff you can't see.

1 Q Are you do that from examining the physical
2 phone?

3 A Yes.

4 Q Does this involve reviewing phone records?

5 A Sometimes.

6 Q Now, were you asked to review and do such
7 examination in this case?

8 A Yes.

9 Q In fact, were you asked to review several phones?

10 A Two phones, yes.

11 Q Specifically, I want to show you what's been
12 marked as State's Exhibit Number 380. Do you recall
13 this exhibit?

14 A Yes, this appears to be the phone that I
15 examined. I have the photographs that I took of the
16 phone.

17 Q Were you able --- were you given a target number
18 related to that phone?

19 A At the time of the examination, yes.

20 Q And do you have that number before you
21 Investigator VanHouten?

22 A I do.

23 Q What is that number?

24 A Bear with me just a second. The number I have
25 for this Samsung phone is (803)463-0890.

1 Q Investigator VanHouten, in the course of this
2 investigation involving the case in court today, what
3 number was that associated with?

4 A I believe the defendant, Lorenzo Young.

5 Q And did you conduct such examination on the
6 phone?

7 A I did.

8 Q And particularly did you find any relevant
9 information on that phone?

10 A I found numerous artifacts of relevance on the
11 phone.

12 Q Did you find any photographs or pictures?

13 A I did.

14 MR. KRZYSTON: Objection, Your Honor. Prior
15 stated objection and foundational objection, as well.

16 THE COURT: Overruled.

17 BY MS. GARFIELD:

18 Q I want to show you 392 and 435. Without showing
19 these to the jury, do you recognize these photographs?

20 A Yes.

21 Q Do you recognize both of them?

22 A I do, yes.

23 Q Investigator VanHouten, those photographs were
24 taken from the cell phone that you just alluded to?

25 A Yes, they were.

1 Q That would be the phone associated with Lorenzo
2 Young?

3 A Yes.

4 MS. GARFIELD: Your Honor, at this time I'd like
5 to introduce 392 and 435 boo evidence?

6 MR. KRZYSTON: I would maintain my prior
7 objection.

8 THE COURT: Approach.

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

12 THE COURT: All right. Do you have an objection?

13 MR. SCHNEE: No.

14 THE COURT: State's 392 and 435 admitted over
15 Defendant Young's objection.

16 (WHEREUPON, State's Exhibit Numbers 392 and 435
17 were admitted into evidence.)

18 BY MS. GARFIELD:

19 Q Did you also obtain a particular video from this
20 target telephone?

21 A Yes.

22 Q I'm going to show you what's been marked as
23 State's Exhibit 441. Do you recognize this video or
24 do you recognize the CD?

25 A Yes.

1 Q Is that contained --- and you've had an
2 opportunity to review that video?

3 A Yes.

4 Q Is that video you obtained from the target's
5 phone?

6 A That's correct.

7 Q Again, that would be the phone that's associated
8 with Lorenzo Young?

9 A Yes.

10 MS. GARFIELD: Your Honor, at this time I'd like
11 to enter 441 into evidence.

12 MR. KRZYSTON: Your Honor, we renew our prior
13 objections.

14 MR. SCHNEE: Judge, I'd like to renew as it
15 relates to Trenton Barnes.

16 THE COURT: Overruled.

17 (WHEREUPON, State's Exhibit Number 441 was
18 admitted into evidence.)

19 BY MS. GARFIELD:

20 Q Upon reviewing that video, Mr. VanHouton, did you
21 also have an opportunity to review some still shots
22 that were taken from that video?

23 A Yes.

24 Q I'm showing you what's been marked as State's
25 Exhibits 425, 428 and 432. Without showing those to

1 the jury, do you recognize those photos?

2 A Yes.

3 Q And are those the still shots from the video that
4 you obtained from the target phone?

5 A Yes.

6 Q The phone that's in relation to Lorenzo Young?

7 A Yes.

8 THE COURT: Your Honor, I'd like to introduce
9 State's Exhibit 425, 428 and 432 into evidence.

10 MR. KRZYSTON: Renew prior objection.

11 MR. SCHNEE: Same objection.

12 THE COURT: State's 425, 428 and 432 admitted over
13 defense objection.

14 BY MS. GARFIELD:

15 Q Investigator VanHouten, I'd like you to share
16 with the jury in you area, what is a web search?

17 A Well, a web search uses a service provider such
18 as Internet Explorer, Fire Fox, Safari Opera, to
19 search for content on the internet.

20 Q Were you able to ascertain any information in
21 that area on this particular cell phone?

22 A Yes.

23 Q Please explain to the jury what you found.

24 MR. KRZYSTON: Objection, foundation.

25 THE COURT: Overruled.

1 BY MS. GARFIELD:

2 Q Go ahead, sir.

3 A On this device, I conducted a timeline of
4 chronological events in order and every time the
5 device was used, and I found a series of internet
6 history and the Chrome cache. Chrome is an internet
7 search engine used to search the internet. Cache is a
8 temporary folder that most all of your search engines
9 use to store video. When you look at a website and it
10 has a video or a photo, when you click on the photo to
11 enlarge it or get a better idea of it, the internet
12 search automatically stores it as a temporary file in
13 the temporary folder, which is called cache and we can
14 look, you know, when you search --- when you click on
15 a photo and you search for it or you see something and
16 you click on it, it stores it in the phone or device
17 and basically any search provider or search engine,
18 it's in the cache folder, which you don't see, but it
19 is a hidden file we can bring back.

20 Q That's some of the hidden data that you referred
21 to initially?

22 A Right.

23 Q Did you find any particular pictures in this web
24 search related to the case at hand?

25 A Yes, I did.

1 Q Explain to the jury what kind of pictures those
2 were?

3 A Well, the pictures that I felt were relevant
4 artifacts to this case were actual --- were photos
5 that I found in the cache for a web search for the
6 photos that were released to the media. This was ---
7 these --- the cache logged in these photos on
8 July 5th, 2013, at 6:09 P.M. and they are the still
9 shots of the photos --- still shots of video that were
10 released to the media, which the media released to the
11 public.

12 Q To whoever is using this phone is making this
13 type of search?

14 A Yes.

15 Q And again this is taken off the target phone
16 463-0890?

17 A Yes.

18 Q And that would be the phone associated with
19 Lorenzo Young in this case?

20 A Yes.

21 Q I'm going hand you what's been marked as State's
22 Exhibit 442, and ask if have you seen this CD before?

23 A Yes.

24 Q Are you familiar with that's on this CD?

25 A Yes.

1 Q Would that contain those web search photos that
2 you just testified to?

3 A Yes.

4 MS. GARFIELD: Your Honor, I'd like to introduce
5 State's 442 into evidence and publish for the jury?

6 MR. KRZYSTON: Can we approach, Your Honor?

7 THE COURT: Yes.

8 MR. KRZYSTON: Thank you.

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

12 THE COURT: Yes, ma'am.

13 (WHEREUPON, State's Exhibit Number 442 was
14 admitted into evidence.)

15 MS. GARFIELD: I'm sorry. Was it introduced?

16 THE COURT: Yes.

17 MR. SCHNEE: Same objection.

18 MR. KRZYSTON: Here, as well, Judge.

19 THE COURT: What was the objection?

20 MR. SCHNEE: Prior objections that we made. This
21 is the video that was taken.

22 THE COURT: From the phone?

23 MR. SCHNEE: Yes.

24 MR. KRZYSTON: I'm sorry. May we approach one
25 more time?

1 THE COURT: What's the objection?

2 (WHEREUPON, a bench conference was held in the
3 presence, but not within the hearing of the
4 jury.)

5 THE COURT: State's 442 admitted over objection.

6 BY MS. GARFIELD:

7 Q Investigator VanHouten, can you please step down?

8 (The witness complies.)

9 Thank you. Is this what's on that CD that was
10 just introduced into evidence?

11 A Yes, this was --- this was found in the internet
12 Chrome cache for the search history.

13 Q Go back to the --- and, Investigation VanHouten,
14 how many pictures related to that media search were
15 found on this phone?

16 A About nine.

17 Q And this time I would ask the assistance of
18 Ms. Brian to publish those to the jury. That's
19 picture number one and that would be a picture that
20 was released to the media?

21 A Right.

22 Q In this case?

23 A Right.

24 Q That's another picture?

25 A Right. That's another picture found in the

1 Chrome cache.

2 Q And again another picture released to the media?

3 A Yes.

4 Q Picture number three, is that another picture?

5 A Yes.

6 Q And that would be a picture --- can you describe
7 what's in the picture?

8 A It appears to be an open door with a subject
9 wearing a red hoodie and glue jeans.

10 Q And again --- I'm sorry. Please continue.

11 A Entering the business.

12 Q And again this is a photograph released to the
13 media?

14 A Yes.

15 Q Please explain what picture number four shows?

16 A It appears to be the same subject, red hoodie,
17 blue jeans and you can see the outline of a pistol.

18 Q Or a firearm?

19 A A firearm.

20 Q And again, this would be a picture that was
21 released to the media?

22 A That's correct.

23 Q What does this picture represent?

24 A This is a picture in a kitchen and there is
25 another subject wearing a --- this appears to be a

1 black shirt and black pants.

2 Q And again this would be a picture that was
3 released to the media.

4 A Yes.

5 Q And these were released to the media after this
6 incident occurred?

7 A Yes. A photo of a subject wearing a red hoodie
8 and wearing blue jeans and entering the business.

9 Q And again that picture was also released to the
10 media?.

11 A Yes, also released to the media. This is a white
12 van with crime scene tape outside the business. This
13 was also found in the cache and the picture was also
14 released to the media.

15 Q I believe that's all and I believe this is the
16 last picture?

17 A I think so. This is one of the pictures that was
18 released to the media of the kitchen. No subjects
19 were visible, no visible subjects in it.

20 Q And, Investigator VanHouten, all these pictures
21 would have been found in Mr. Young's phone or the
22 number associated with Mr. Young through internet
23 search history?

24 A Yes.

25 Q So a person would have to be searching on the

1 internet for those pictures or viewing the pictures on
2 the internet?

3 A Yes, they would have to be viewing the pictures.

4 Q I want to go back to the photographs that you've
5 identified. Do you have a date of when those
6 photographs were taken on the phone?

7 A I do. The phone, again these were not taken by
8 the phone. These were not in the media folder of the
9 phone, so they weren't actual photographs taken by the
10 phone itself. It's a temporary cache that is stored
11 automatically by the internet search engine and there
12 is a date in the metadata is associated when the
13 photos were clicked on and expanded to view. The
14 dates I have range from July 5th, 2013, at 6:09 P.M.
15 all the way to --- I'm sorry, the first set --- the
16 first set was taken July 1st, 2013, at 7:24 P.M.

17 The site was apparently revisited on the 5th, four
18 days later, so the first set of photos recovered by
19 the --- or that were logged in by the Chrome cache was
20 July 1st, 2013, at 7:24 P.M.

21 Q And those would be the times associated with the
22 photographs we just viewed?

23 A Right.

24 Q Okay, and those would be the photographs that
25 were released to the media?

1 A That is correct.

2 Q That someone would have searched for?

3 A Yes.

4 Q Now, particularly, I want to take you back to the
5 other two, the other two photographs. Do you have
6 them?

7 A I just have mine.

8 Q The two photographs, State's Exhibit 392 and 435,
9 do you have any notations or can you tell when those
10 pictures were taken on this target phone?

11 A Yes.

12 Q And what date would that be?

13 A Bear with me just a second.

14 (A cell phone rang.)

15 (Pause.)

16 THE BAILIFF: Give me the phone.

17 (There was no response.)

18 THE COURT: Ladies and gentlemen, if you'll step
19 back to your jury room. Do not discuss the case.
20 Keep an open mind.

21 (WHEREUPON, the jury left the courtroom at 4:11
22 P.M.)

23 THE BAILIFF: Give me the phone.

24 UNIDENTIFIED MAN: No.

25 THE COURT: All right. He is not allowed to stay

1 in here. Take him out.

2 (Pause.)

3 Okay. I think it's off. Bring them back in.

4 (WHEREUPON, the jury entered the courtroom at
5 4:13 P.M.)

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

7 THE COURT: You may ask your last question again.

8 MS. GARFIELD: Thank you.

9 BY MS. GARFIELD:

10 Q Particular to the pictures you retrieved from the
11 phone, is there a date on the cell phone ---

12 A Yes.

13 Q --- as to when those pictures were taken?

14 A Yes, the metadata stored within the photo itself
15 shows it was taken with this phone on June 28th, 2013,
16 at 8:54 A.M.

17 Q And can that time or day be changed in any way?

18 A Not in the metadata.

19 Q And, in particular, the video that you retrieved
20 from the phone?

21 A Uh-huh.

22 Q Is there also a corresponding day and time of
23 when it was made?

24 A There would be, and I would need a minute to
25 search.

1 Q Okay.

2 A Okay. Take your time. You're referring to your
3 notes to refresh your memory?

4 A Yes.

5 Q Okay.

6 (Pause.)

7 A The video would have been taken June 25th, 2013,
8 at 11:34 P.M.

9 Q And, again, could that be changed or altered?

10 A In the metadata, no, no.

11 MS. GARFIELD: Thank you, Investigator VanHouten.
12 Please answer any questions defense counsel may have.

13 MR. KRZYSTON: Thank you, Your Honor. May it
14 please the Court.

15 THE COURT: Yes, sir.

16 CROSS-EXAMINATION:

17 BY MR. KRZYSTON:

18 Q Agent VanHouten, right? Or is it ---

19 A Either way.

20 Q I just have a few questions for you.

21 A Okay.

22 Q Now, you testified that you pulled all this
23 information off the cell phone, correct?

24 A The Samsung, yes.

25 Q Okay, and when you pull that information, you've

1 got no way of knowing who searched for that
2 information?

3 A No, just the user of the device. I couldn't tell
4 you unless I was standing there who was actually
5 fingering the phone, per se.

6 Q Right. And in addition to that information that
7 we just talked about, the news searches, there's other
8 information on the phone, as well, correct?

9 A Yes.

10 Q So and you got a phone, correct?

11 A I'm sorry?

12 Q You've got a smart phone, correct?

13 A Yes.

14 Q And just using your phone as an example, when we
15 talk about this catch (sic) file?

16 A Cache.

17 Q Catch?

18 A Cache file.

19 Q Cache file, excuse me, it just stores things that
20 you look at, correct?

21 A Yes.

22 Q So for me, as an example, I like to look at
23 fishing pictures from my friends?

24 A Right.

25 Q So there would be a ton of my friends up there

1 holding fish that they just caught, and I don't know
2 if you search the news, but anytime you search the
3 news, it would take a picture and cache it, correct?

4 A Yes. If you click on the --- if there's an
5 extension or a hyperlink --- if you're just reading a
6 news article, it's not going to cache it. If there's
7 a hyperlink or executable file, which you can click
8 on, either a photo or video, then yes, it would.

9 Q So you would have to actually engage the file?

10 A Pretty much.

11 Q Touch it and it pops up to the photo and then it
12 caches it, right?

13 A That's correct.

14 Q Now, when you were looking at all the contents on
15 this phone, it wasn't just the news stuff, was it?

16 A No.

17 Q In fact, there was some song downloads?

18 A Yes.

19 Q There was other media.

20 Q Search for women's clothing?

21 A I believe so.

22 Q Search for other feminine products?

23 A I can't remember right offhand feminine products
24 but I mean, other than just this, just the news, then
25 yes, there was other search history of other items not

1 relevant to this case, but yes.

2 Q And, again, you can't tell who searched those
3 items or who clicked on the women's skirt or who
4 clicked on for instance a fish picture?

5 A I cannot. However, the phone was screen locked.
6 It had a screen pattern password. I was able to break
7 that decrypted --- so whoever had the phone would have
8 had to have known the screen pattern to unlock the
9 device.

10 Q Right. If it was an "S" and as long as the
11 person using the phone knew ---

12 A They would have to know what the screen lock
13 pattern was.

14 Q They're good to know go? There was no biological
15 or specific information that would identify the user?

16 A No.

17 MR. KRZYSTON: Thank you, Your Honor. That's all
18 I have.

19 MR. SCHNEE: No questions.

20 THE COURT: Redirect?

21 REDIRECT EXAMINATION:

22 BY MS. GARFIELD:

23 Q Investigator VanHouten, the other search history
24 that Mr. Krzyston just alluded to, are you able to
25 date that, as well?

1 A Yes. As long as it was not deleted from the
2 device, then yes.

3 Q Do you have those before you?

4 A I do. Is there something particular you're
5 looking for.

6 Q Just like, I guess, female searches that
7 Mr. Krzyston alluded to?

8 A Yeah. Bear in mind --- I believe the report was
9 almost 2,000 pages --- I'm sorry, 1,039 pages so it's
10 going to.

11 Q So the search history that you did ranged from
12 July 2013?

13 A No. The search history I did on the device once
14 I --- I had to pull a physical extraction, which
15 includes all deleted data, I had to search through all
16 search histories that were done on this device. I
17 just picked out what the media released that was on
18 the device that was relevant to this case, but yes, it
19 goes back further than July.

20 Q So you just picked out information that would
21 have been in close proximity to this incident?

22 A Right. Again, I did a timeline and I narrowed it
23 down to three or four days prior and then three or
24 four days after, but yes there's numerous other items
25 not relevant to the case that are on the phone as far

1 as internet history, photos, things of that nature.

2 MS. GARFIELD: Thank you. Nothing further.

3 MR. KRZYSTON: Briefly, Your Honor.

4 RECROSS-EXAMINATION:

5 BY MR. KRZYSTON:

6 Q You said that he was about 1,000 pages of data
7 you pulled off this device?

8 A Yeah, the forensic report I generated was over
9 1,000 pages --- I know it was over 1,000 pages. Yes,
10 it was 1,039.

11 Q And, again, those searches scan to include
12 everything from women's clothing to news articles?

13 A Yes, absolutely.

14 MR. KRZYSTON: Thank you. I have no further
15 questions.

16 THE COURT: Have a good day.

17 MS. GARFIELD: The State calls Christopher
18 Eunice.

19 THE COURT: Approach while he's walking in.

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

23 CHRISTOPHER EUNICE,

24 after being duly sworn, testified as follows:

25 THE CLERK: Please have a seat. State your full

1 name for the record.

2 THE WITNESS: Christopher Lee Eunice.

3 DIRECT EXAMINATION:

4 BY MS. GARFIELD:

5 Q Mr. Eunice, please share with the jury where
6 you're employed?

7 A Lexington County Coroner's office.

8 Q How long have you been with the Lexington County
9 Coroner's office?

10 A Approximately four days.

11 Q Please share with the jury how you came about
12 that position?

13 A The newly elected coroner hired me as chief
14 deputy coroner in Lexington.

15 Q And when were you sworn in?

16 A Thursday.

17 Q Before that where were you employed?

18 A Columbia Police Department.

19 Q And was your rank an investigator?

20 A My rank was M.P.O., but I was assigned to
21 investigations.

22 Q And during your assignment with investigations,
23 did you have an opportunity to work on this case
24 involving the death of Kelly Hunnewell?

25 A I did.

1 Q Specifically on July 1st, 2013, what were you
2 tasked to do?

3 A July 1st, 2013, let me refer back.

4 Q Let me direct your attention. That would be the
5 morning of the murder.

6 A The morning of the murder, I responded several
7 hours after the murder actually took place. I didn't
8 arrive until approximately eight o'clock in the
9 morning. I went to headquarters. After arriving at
10 headquarters, I watched video that was already up
11 there. I later went back out, and I canvassed the
12 right side of Bonner Avenue. I made contact, knocked
13 on doors, made contact with individuals that I was
14 canvassing, advising them of the situation that had
15 taken place, if there was anything they heard, or saw
16 to please come forward, if they were afraid to come
17 forward to contact Crimestoppers.

18 Q Are you the only investigator doing this type of
19 canvassing?

20 A No, ma'am.

21 Q Particularly, you said you were doing this on
22 Bonner Avenue?

23 A I canvassed the right side of Bonner Avenue.

24 Q Are you familiar with area of the City of
25 Columbia?

1 A Yes, ma'am.

2 Q Is Bonner Avenue in close proximity to Lucille
3 Drive?

4 A Yes, ma'am.

5 Q And were there other law enforcement also
6 canvassing this area?

7 A Yes, ma'am, other investigators were canvassing
8 as well.

9 Q As well as the area around Tommy Circle?

10 A Yes, ma'am.

11 Q I want to direct your attention, kind of changing
12 gears on you. You're familiar with some video that
13 was obtained off a cell phone?

14 A Yes, ma'am.

15 Q And particularly that was a cell phone of a
16 number 463-0890?

17 A Yes, ma'am.

18 Q And were you familiar with who that number was
19 associated with?

20 A Lorenzo Young.

21 Q Particularly, I want to show you what's already
22 been introduced into evidence as State's Exhibit
23 Number 441. Are you familiar with the video?

24 A I'm familiar with the video that was on the disc,
25 yes, ma'am.

1 Q You've had an opportunity to review the video
2 that was obtained off the phone?

3 A Yes, ma'am.

4 Q Let me ask you, do you have any personal
5 knowledge concerning Lorenzo Young?

6 A Yes, ma'am, I had done searches.

7 Q And particularly when you reviewed that video,
8 did you observe anyone in the video that you
9 recognized?

10 A Yes, ma'am.

11 Q And can you explain who that was?

12 A Mr. Lorenzo Young.

13 Q And what was he wearing?

14 A A gray hooded sweatshirt with the hood pulled up
15 over his head and camouflage pants.

16 MS. GARFIELD: Your Honor, at this time, I'd like
17 to publish State's Exhibit 441?

18 MS. BAMBACH: Objection. We renew our previous
19 objections.

20 THE COURT: All right.

21 MR. SCHNEE: I also renew my objections.

22 THE COURT: All right. You're allowed to
23 publish.

24 (WHEREUPON, the video was played for the jury.)

25 BY MS. GARFIELD:

1 Q Deputy Coroner, you may step down. If you'll get
2 to the other side, please, sir. If you would please
3 publish to the jury, the video you observed and
4 identified Lorenzo Young in.

5 (Complies.)

6 Q Since it's so short, show it one time.

7 (Complies.)

8 Q And the person that you identified as wearing
9 camouflage, who is that person?

10 A Lorenzo Young.

11 Q And that's the person you see on the video?

12 A Yes, ma'am.

13 Q Deputy Eunice, were you also shown pictures that
14 were taken from that same cell phone?

15 A Yes, ma'am.

16 Q I'll show you'll State's Exhibit Number 392 and
17 435 that have been introduced into evidence. Do you
18 recognize the individual in these two photographs?

19 A Yes, ma'am.

20 Q And please share with the jury who the pictures
21 are of in these two photographs?

22 A Mr. Lorenzo Young.

23 MS. GARFIELD: Your Honor, permission to publish
24 to the jury?

25 THE COURT: Yes, ma'am.

1 BY MS. GARFIELD:

2 Q Deputy Eunice, these pictures that you identified
3 as Lorenzo Young, do you see Lorenzo Young in the
4 courtroom?

5 A Yes, ma'am.

6 Q Can you identify him for the record?

7 A He is sitting right here.

8 Q What is he wearing?

9 A A blue shirt and multicolor pastel tie.

10 MS. GARFIELD: Your Honor, may the record reflect
11 Deputy Eunice has identified Lorenzo Young for the
12 record.

13 THE COURT: So reflected.

14 MS. GARFIELD: Please answer any questions
15 defense counsel may have for you.

16 MS. BAMBACH: I have no questions.

17 MR. SCHNEE: I have no questions.

18 THE COURT: Have a good day.

19 THE WITNESS: Thank you, sir.

20 THE COURT: All right.

21 MS. SIMPSON: The State calls Suzann Cromer. May
22 we approach briefly, Your Honor.

23 THE COURT: Yes.

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

1 jury.)

2 THE COURT: Ladies and gentlemen, if you'll step
3 back to your jury room for just a short break. Do not
4 discuss the case. We won't keep you out too long.
5 Thank you.

6 (WHEREUPON, the jury left the courtroom at 4:30
7 P.M.)

8 THE COURT: Go ahead and get her in here.

9 MS. SIMPSON: She is coming in.

10 We just want to make sure Ms. Cromer was advised
11 regarding your pretrial rulings. I have not had a
12 chance to talk to her prior to her testifying now.

13 THE COURT: Okay.

14 MS. SIMPSON: If I can just show her the video
15 now.

16 I think Ms. Cromer is good to go as soon as
17 defense counsel is finished reviewing the charts.

18 THE COURT: Where did she go?

19 MS. SIMPSON: She is behind the TV.

20 THE COURT: Are you hiding?

21 MS. SIMPSON: Yep.

22 THE COURT: Okay. All right. Does she know what
23 she is doing?

24 MS. SIMPSON: Yes. She can walk back in or
25 however.

1 THE COURT: She can stay right there.

2 MR. KRZYSTON: Your Honor, we would have an
3 objection to those charts.

4 THE COURT: Okay. What's your objection?

5 MS. BAMBACH: I would argue that all of those
6 are ---

7 THE COURT: What are those?

8 MS. BAMBACH: All of the...

9 MR. KRZYSTON: Charts.

10 MS. BAMBACH: Charts.

11 THE COURT: What are the numbers?

12 MS. SIMPSON: I believe it's State's 444 through
13 450.

14 MS. BAMBACH: It's actually verbatim of the
15 report from SLED. It's not a summary whatsoever. It
16 is the actual verbatim with some words like glob and
17 cartridge highlighted or bolded. Under 1006, I do not
18 believe these would be a summary. They're actually
19 word for word of the record.

20 MS. SIMPSON: Your Honor, with respect to --- I
21 think it is pursuant to ---

22 THE COURT: 70 something. What are you on?

23 MS. SIMPSON: Oh, 703 with respect to what
24 experts relied and on, and she has reviewed the chart,
25 and these do contain her results from her testing.

1 There are a number of bench notes other things with
2 respect to her testing which are not documented on the
3 charts, as well. This is regarding the firearms and
4 tool marks identification field, which in this case is
5 extremely --- it's going to go in-depth and will
6 assist the jury in their understanding as well as her
7 testimony and presenting it to the jury. Be as I
8 stated, South Carolina Rules of Evidence, I believe,
9 1006 would allow this. And I believe they actually
10 objected with respect to DNA that it was not verbatim.

11 THE COURT: So what's your objection?

12 MS. BAMBACH: My objection is --- well, she is
13 not relying on that. She created that. She would have
14 relied on the testing and she would have relied on the
15 bench notes. That's the report that she actually
16 created.

17 THE COURT: So what's your objection?

18 MS. BAMBACH: That it's not a summary.

19 THE COURT: They're not offering it as a summary.

20 MS. BAMBACH: She would argue --- she doesn't
21 need to rely on that. She relies on her knowledge and
22 skills in the area of ballistics. That's what she
23 created.

24 THE COURT: What's your objection?

25 MR. SCHNEE: Judge, I object to the introduction.

1 I have no objection to using them as demonstratives,
2 but introducing that as her report --- which puts some
3 sort of special significance or on her actual report
4 compared to anyone else's reports that are clearly not
5 in evidence.

6 THE COURT: Whose would those be?

7 MR. SCHNEE: Well, any of the law enforcement
8 officers. We don't have the 1,036 page phone dump.

9 THE COURT: This is an expert.

10 MR. SCHNEE: Right. We also don't have the
11 autopsy report in evidence. All we have is a simple
12 hand drawn diagram that does aid the jury. The jury
13 is certainly capable of remembering what testimony is.
14 Certainly I hope they are anyway. I object to their
15 introduction as there is no valid purpose to introduce
16 her report in that form. I understand for
17 demonstrative purposes and I have no problem that. I
18 understand going in front of the jury in a room that
19 puts a huge emphasis on that, but that's not
20 admissible.

21 THE COURT: You haven't told me the reason it's
22 not admissible.

23 MR. SCHNEE: Well, Judge, it's not a summary of
24 her findings. It's her own report.

25 THE COURT: Right. She's available for

1 cross-examination and it contains no hearsay, so why
2 is it not admissible? It's her report. She
3 testifying to it. She is present. You're able to
4 confront her.

5 MR. SCHNEE: Judge, I'm not arguing about the
6 content. I'm arguing about the content, I'm arguing
7 about admissibility of just those charts. I think
8 that would be a cumulative introduction of evidence
9 compared to her own testimony. Entirely unnecessary
10 and I think it unfairly highlights that as important
11 testimony compared to anybody else's.

12 THE COURT: All right. Pursuant to the proper
13 foundation, it's admissible. She is an expert. It's
14 her report and I mean, it's not like there's --- I
15 mean, the difference between this and an autopsy
16 report is an autopsy report contains hearsay. It
17 contains information provided to the pathologist by
18 law enforcement, by the coroner's office or other
19 extraneous information that the pathologist would have
20 no way to know. I mean, I assume this is her actual
21 physical, for lack of a better scientific term that I
22 can think of at the moment of what she did.

23 MS. SIMPSON: That would be correct, Your Honor.

24 THE COURT: Why don't you let me see them so I
25 will can look at them?

1 I think it's different if they contain hearsay or
2 I mean, this obviously isn't an investigator's report
3 where they're taking statements from people or taking
4 notes.

5 THE COURT: Okay. My ruling stands.

6 MS. SIMPSON: Thank you, Your Honor.

7 THE COURT: All right. Bring them back in.

8 (WHEREUPON, the jury entered the courtroom at
9 4:41 P.M.)

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

11 THE COURT: Call your next witness.

12 MS. SIMPSON: The State calls Suzann Cromer.

13 SUZANN CROMER,

14 after being duly sworn, testified as follows:

15 THE CLERK: Please have a seat and state your
16 full name for the record.

17 THE WITNESS: My name is Suzann Cromer,
18 C-R-O-M-E-R.

19 DIRECT EXAMINATION:

20 BY MS. SIMPSON:

21 Q Ms. Cromer, where are you employed?

22 A I'm employed with the South Carolina Law
23 Enforcement Division, commonly referred to as SLED.

24 Q And what is your position with SLED?

25 A I am a firearm and toolmark examiner in the

1 forensics services laboratory.

2 Q And what all is included in your forensic
3 laboratory as a whole?

4 A We have an evidence control department, a
5 firearms department, a question document department,
6 a latent prints department, a crime scene unit, a
7 toxicology department, a trace department, a DNA case
8 work and DNA CODIS unit or database unit.

9 Q You work in the firearms and tool marks
10 identification area.

11 A Yes, I do.

12 Q What exactly is a firearms and tool marks
13 identification examiner --- what do they do?

14 A What I do is we call firearms identification. I
15 look at ammunition components, bullets, cartridge
16 casings, shotgun shells, cartridges, wadding to
17 determine whether they were fired by or loaded into
18 and extracted out of a specific firearm. We also give
19 what we call GRC lists. That is a general rifling
20 characteristic list. If we do not have a firearm and
21 we have a projectile that's marked well enough to be
22 able to give an investigator that. What it is, it
23 takes all the information from that projectile. We
24 plug it into a database and it will give us a list of
25 possible firearms that could have fired that specific

1 projectile.

2 We also do tool mark identification, bolt cutters
3 on a padlock. Pry marks with a crowbar, pry marks on
4 a window. We also do serial number restoration where
5 we can raise or attempt to raise a serial number that
6 has been obliterated from a firearm. We have also
7 destroy firearms and ammunition for most of the state.

8 Q And with SLED, do you receive a number of, I
9 guess, different types of cases from different
10 counties all over the state?

11 A Yes, ma'am. We have received evidence from all
12 over the state.

13 Q So you work with a number of different law
14 enforcement agencies, not just the Columbia Police
15 Department?

16 A That is correct.

17 Q Tell the jury a little bit about your educational
18 background and training?

19 A Okay. I have a bachelors degree from Clemson
20 University. I went to the University of South
21 Carolina and did some graduate work there. I was
22 hired on at SLED and completed their in-house training
23 program, which is a three to five year intense study
24 program. It's more of an apprenticeship, if you will,
25 where I worked under five qualified firearms

1 examiners. We take written tests, oral tests,
2 practical exercises and prepare cases for examiners.
3 Upon completion of the course of study, we are given a
4 comprehensive final exam, which is graded by our
5 training officer and then by our lieutenant. I have
6 taken classes with the Association of Firearm and Tool
7 Marks Examinations, which is called AFTE. That is an
8 international organization for our profession that
9 meets once a year to talk about relevant issues in our
10 field. They meet for a week long seminar. Also, they
11 offer extra work shops. I've taken extra work shops
12 through AFTE like barrel making, machine gun
13 conversion, ethics.

14 I've also taken classes with the South Carolina
15 chapter of the International Association of
16 Identification. Most pertinent being two different
17 three day shooting reconstruction work shops. I've
18 taken classes with the Bureau of Alcohol, Tobacco and
19 Firearms on serial number restoration and the
20 integrated ballistics identification system. We call
21 it IBIS and it's a searchable database of images of
22 bullets and cartridge cases.

23 I am the state coordinator for our IBIS system.
24 I also have attended several conferences, user
25 conferences, with the ATF and represented North and

1 South Carolina. I've also taken classes and toured
2 firearm manufacturers. I've toured Smith and Wesson,
3 FN, Ruger. I've also been a certified Glock armorer,
4 which means I can work on and repair that firearm
5 since 2003.

6 Q Okay. So you said respect to Glocks you've
7 actually been --- what was it termed?

8 A An armorer.

9 Q So you can actually dismantle it?

10 A I can.

11 Q Describe what that is for the jury?

12 A That means I can take it apart, order parts for
13 it, fix it and put it back together.

14 Q So you're very familiar with Glocks?

15 A Yes, ma'am.

16 Q Have you ever testified as an expert in the field
17 of firearms and tool marks identification?

18 A Yes, ma'am, I have.

19 Q Approximately how many times have you testified
20 as an expert?

21 A Approximately 80.

22 Q And do you actually continue to participate in, I
23 guess, continuing educational requirements to keep
24 your training and education up to date?

25 A Yes. We --- well, there are no continuing

1 educational requirements for our field, but we are
2 always, you know, trying to take classes, looking at
3 classes and reading professional journals that come
4 out.

5 MS. SIMPSON: Your Honor, at this time I'd like
6 to offer Ms. Cromer as an expert in the field of
7 firearms and tool marks identification.

8 MS. BAMBACH: No objection.

9 MR. SCHNEE: No objection.

10 THE COURT: All right. Ladies and gentlemen,
11 this witness will be qualified as an expert in the
12 area of firearms and tool mark identification. She
13 will be allowed to give opinion testimony in that
14 area. That does not mean that you have to accept her
15 opinion but it is evidence for you to use in any way
16 you see fit and give it the weight and credibility you
17 deem as appropriate as you are required to do with
18 each and every witness.

19 Ms. Simpson.

20 MS. SIMPSON: Thank you, Your Honor, Your Honor.

21 BY MS. SIMPSON:

22 Q With respect to firearms and tool marks
23 identification, what actually makes it possible. We
24 heard some terms like rifling characteristics and
25 things of the nature.

1 A When you're talking about firearms ID, what we're
2 looking at are defects that can be imprinted on the
3 bullet or the cartridge case by the process of being
4 fired by that firearm.

5 As you can imagine, the manufacturing process has
6 hard steel tools working on a hard steel barrel or
7 breach face of a firearm. That can leave defects that
8 can be passed to those ammunition components. Also
9 wear and tear. Some people aren't nice to their
10 firearms and they don't clean them with the proper
11 things and they can leave defects inside of that
12 barrel that are unique to that firearm.

13 Q And, were you actually requested and did, in
14 fact, examine some evidence in this case?

15 A Yes, ma'am, I did.

16 Q How did this evidence come to you?

17 A It was submitted to our lab through Columbia PD.
18 I receive most of my evidence through either Amy
19 Stevens in our evidence control department or Betty
20 Butler, who is a technician, I believe, in our
21 evidence processing unit.

22 Q Okay. I want to show you what's been introduced
23 into evidence as --- let me get these. As State's
24 Exhibit 336, 335, 334, and 333. Do you recognize
25 these items as being some of the items that you were

1 asked to analyze?

2 A What I'm looking for is I actually scribe on the
3 evidence with an electric pencil, my lab number, my
4 item number and my initials. This was my Item (6),
5 and you can see it's still in a sealed container with
6 my initials and seal date.

7 Q And what are these items as you to through them?
8 My apologies.

9 A Okay. This is a fired 45 GAP caliber cartridge
10 case.

11 Q Okay. And if you need scissors to open anything,
12 let me know.

13 A Again, this was my Item (8) and it is still in a
14 sealed container with my initials and seal date. This
15 is another fired 45 GAP caliber cartridge case. Again
16 this is my Item (9) still in a sealed container with
17 my initials and seal date. It's another 45 GAP
18 caliber cartridge case.

19 This is my Item (10), again in a sealed container
20 with my initials and seal date, another 45 GAP caliber
21 cartridge case.

22 Q I'll also going to show you what's been
23 introduced as State's 331 and 332. Do you recognize
24 these items? While you're looking at that, when an
25 item of evidence comes to you, is it properly sealed

1 and packaging other than any processing that may have
2 been done for your purposes?

3 A Yes. Actually when I get evidence, I will take a
4 picture of container it comes in, I open it and then
5 take a picture of any internal packaging and check the
6 seals and I take notes on that, so all of this was
7 sealed when I received it.

8 This is my Item 12. It is a fired 40 caliber S&W
9 cartridge case, again still in a sealed container with
10 my initials and seal date, and this is my Item 11 also
11 another fired 40 S&W caliber cartridge case with my
12 initials and seal date.

13 Q And then in State's Exhibits 342, 341 and 338,
14 did you examine these item, as well? And again, do
15 you know --- well, let me ask you, do you necessarily
16 know where these items come from with respect to a
17 particular crime scene?

18 A Not unless it's labeled on the container that I
19 receive it in, I may not know where it came from or if
20 it's placed on our intake documents, but I believe in
21 this case, I was not --- I did not have any direct
22 indication of where they came from for these items.
23 Again, these are marked on the base with my lab
24 number, item number and initials. These were my Items
25 7, 13, and 16. Again, still all inside a sealed

1 envelope with my initials and seal date at the top.
2 These are three fired 45 caliber projectiles or fired
3 bullets.

4 Q And then also State's 339, 340 and 337?

5 A Let me double check my notes.

6 This was my Item 14. This is a fired bullet
7 jacket fragment. Again, it is in a sealed envelope
8 with my initials and seal date.

9 This is Item 15. Again, sealed container with my
10 initials and seal date. It is a lead fragment.

11 And this is my Item 17. Again, another fired
12 bullet jacket fragment in a container sealed with my
13 initials and seal date.

14 Q And then we're nearing the end, State's 401, 371,
15 and 346. Did you receive these items, as well?

16 A Yes. State's Exhibit 401 was my Item 13. Sorry,
17 my Item 37, which is an unfired 40 caliber cartridge
18 head stamped LDLELD.

19 State's Exhibit 371 was my Item 35. Again, it's
20 another unfired 40 caliber S&W cartridge headstamped
21 ELD. State's Exhibit 346 was my Item 20. It is a
22 fired projectile still in a container sealed with my
23 initials and seal date.

24 Q And then finally State's 370 and 372, did you
25 have these items, as well?

1 A Yes, ma'am, I did. State's Exhibit 372 was my
2 Item 38 and State's Exhibit 370 was my Item 36, and it
3 is an unfired 45 GAP caliber cartridge headstamp CBC.

4 Q And after you received these items, did you in
5 fact, conduct some testing on all of these items?

6 A Yes, ma'am, I did.

7 Q And did you formulate a report to document those
8 findings?

9 A Yes, ma'am, I did.

10 Q I'm going to show you what's been marked as
11 State's 444 through 450. Have you had a chance to
12 review these items?

13 A Yes, ma'am, I have.

14 Q And do they fairly and accurately depict your
15 results?

16 A Yes, ma'am, they to.

17 Q Would it assist you in testifying to the jury
18 about those results if you could use those charts and
19 diagrams?

20 A Yes, ma'am.

21 MS. SIMPSON: Your Honor, at this time the State
22 would offer State's 444 through State's 450 into
23 evidence?

24 THE COURT: Over defendant's objection.

25 MS. SIMPSON: Thank you, Your Honor.

1 (WHEREUPON, State's Exhibit Numbers 444 though
2 450 were admitted into evidence.)

3 MS. SIMPSON: Permission for the witness to step
4 down?

5 THE COURT: That's fine.

6 BY MS. SIMPSON:

7 Q Okay. We'll start. I'm going to show you.
8 Actually, if you'll stand on this side and speak up so
9 the court reporter can hear you. State's 444 will be
10 what we're referencing. Before we get there, can you
11 tell the jury just a little bit about what is
12 contained in an unfired, I guess, bullet?

13 A Well, what we have is when you have an unfired
14 piece of ammunition it's called a cartridge. A
15 cartridge contains a bullet, propellant powder, the
16 cartridge contains a bullet, propellant powder, the
17 cartridge case and a primed. That primer is struck by
18 the firing pin of the firearm, causing an initial
19 spark. It goes through a flash hole in the cartridge
20 case which ignites the gunpowder. It causes great
21 pressure, pushes the bullet down the barrel of the
22 gun, but also pushes that cartridge case back into the
23 breach base of the firearm. So that's the components
24 of a cartridge.

25 Once it's fired, you can have a bullet, which is

1 the actual round thing that's left and then you have a
2 cartridge case.

3 Q Is the bullet often referred to as a projectile
4 or the entire ---

5 A I've heard people refer to entire cartridge as a
6 bullet and then I've heard them refer to the actual
7 projectile as a bullet. People use that
8 interchangeably.

9 Q With respect to this case, I want to backtrack
10 just a little bit. Did you actually receive any
11 firearms to test?

12 A No, ma'am, I did not.

13 Q Is it uncommon to not get a firearm?

14 A No, sometimes we get a firearm. Sometimes we do
15 not.

16 Q Does it hinder your ability to test these items
17 with respect to identifying certain aspects of them
18 and coming to conclusions with respect to them?

19 A No. I can actually look at that cartridge case,
20 the fired case that's left behind and try to give
21 investigators an idea of how many firearms were fired.
22 Also, as I said before, I can look at those fired
23 bullets, get the information that the rifling gives to
24 me and possibly potentially give those investigators a
25 list of particular firearms that would be looking for.

1 Q We'll talk about these in a grouping. First with
2 respect to Items 6, 8, 9, and 10, all of these were
3 the fired 45 GAP caliber cartridge cases. Tell the
4 jury what exactly that was and what your findings---
5 what you did and what your findings were?

6 A When I am comparing ammunition, first off these
7 were four fired 45 GAP caliber cartridge cases,
8 meaning it's that shell that I talked about and we
9 first look at caliber and 45 GAP is a specific caliber
10 that refers to the dimension of the bullet that's in
11 it and the length of the cartridge case, so when you
12 see caliber it usually refers to more things than just
13 that ammunition.

14 So I look at those. I take notes from those,
15 what type of case was it. What type of primer did it
16 have? So then I mark all that down, and then I'll go
17 to my comparison microscope. I also look at the
18 firing pin impression itself. You can have different
19 class characteristics of firing pin impressions. You
20 can have hemispherical, you can have a Glock type, you
21 can have a circle type or a rectangular type. There
22 are different types.

23 First when I look at them I'll screen them and
24 see if they all have the same type of firing pin
25 impression and then I'll go to my comparison

1 microscope and I'll actually compare the markings on
2 those cartridge cases to each other.

3 Q And was that actually done in this case with
4 respect to these four items first?

5 A Yes, it was.

6 Q And you mention in your results also Item 12.
7 Before we get there let me show you State's 333. I
8 believe this is your Item 10. This is the casing that
9 we're talking about, as well, as Item 9 just as an
10 example of what you were looking at?

11 A Yes, ma'am.

12 Q And all these along with Item 6 and 8 were
13 actually compared to one another?

14 A Yes, ma'am, they were.

15 Q And what were your findings, with respect to the
16 comparisons that you made in the examination?

17 A Based on my microscopic examination of the firing
18 pin and the firing pin shear on these cartridge cases,
19 they were all fired by the same gun.

20 Q Okay. And with respect to 45 GAP caliber, as a
21 firearms expert tell us what that means to you?

22 A 45 GAP is not something I've seen very often.
23 I've been with SLED --- I've been in the firearms
24 department 16 years. I've been in the firearms
25 examiner training side and then as a firearms examiner

1 for over 14 years now. Typically, I think I've only
2 seen 45 GAP in non-police involved shootings once,
3 maybe twice. 45 GAP is a new caliber that came out in
4 about --- it was invented around 2002. It came out
5 for commercial use in 2003, and it was really marketed
6 towards the law enforcement community, so it's not
7 something that we see very often.

8 Q Okay. Then I'm going to show you State's 445
9 specifically referencing the other fired cartridge
10 cases that you received, Items 11 and 12, tell us
11 about those items, what they were and what your
12 testing showed with respect to comparison with the
13 other items?

14 A Okay. First off, 11 and 12 were two fired 40
15 caliber S&W fired cartridge cases. Right away I knew
16 they were not fired by the same firearm that fired the
17 45 GAP caliber cartridge cases.

18 40 S&W caliber is approximately about .40 in
19 dimension. 45 GAP is about .451 in dimension, so
20 right then and there --- and then your chamber, the
21 chambers of firearms are built specific to the size of
22 ammunition that they're going to fire because you want
23 those walls of the chamber to be tight to support that
24 cartridge case during the firing process.

25 These were not the same caliber, so they were not

1 the same size. They also had a different class of
2 firing pin so then I took them to the microscope. I
3 compared them to each other and determined that they
4 were fired by one firearm, but not the firearm that
5 fired the 45 GAPs.

6 Q So each Item 11 and 12, the 40 caliber cartridge
7 case, those were fired by the same weapon and the 45
8 GAP was fired by the same weapon, just two separate
9 weapons?

10 A That's correct.

11 Q Did you also --- tell the jury --- I want to turn
12 your attention to when you refer to Items 11 and 12
13 may be suitable for identification with the firearm
14 which they were fired or with another fired cartridge
15 case or casings, what is meant by that?

16 A That means that we had enough of those individual
17 markings for me to first off compare it to another
18 cartridge case, but if a suspect weapon was ever
19 identified, I want whoever is reading the report to
20 know that they can bring it to me, and I could try to
21 potentially match it to a specific firearm.

22 Q Are all casings that you receive necessarily
23 suitable for comparison?

24 A No, ma'am, they're not.

25 Q I want to turn your attention to Items 7 and ---

1 I keep going to the wrong stack. I'm sorry. State's
2 446, your examination of Items 7, 13, and 16. Just
3 move onto State's 446.1

4 A 713 and 16 are fired bullets. They're a little
5 different to look at than the cartridge case. What I
6 do is, I measure their diameter and determine their
7 caliber. I weigh them, and we weigh in grains, which
8 we measurement where it takes 7,000 grains to equal
9 one pound. I do all that and determine if they're the
10 same caliber. It's kind of like a step ladder. I
11 have to have the same caliber first, potentially.
12 Then I look at the rifling specification.

13 Q What is the rifling specification?

14 A Rifling, first off you have to understand
15 rifling. Rifling is what's put in the gun barrel by
16 the manufacturer to put rotary motion on that bullet.
17 Very similar to a quarterback who throws a football
18 that want to get it into a tight spiral, that's so it
19 will go a little more accurate towards the target.
20 That is the premise behind rifling. They want that
21 bullet to go into a tight spiral so it will go more
22 accurately through the air instead of tumbling end
23 over end. In rifling you can have --- it's made up of
24 lands and grooves. You can have any number of lands
25 and grooves. These three bullets all had what we call

1 eight lands and grooves with right twists meaning that
2 bullet is going to spin to the right. Also, there's
3 two types of rifling. There is what we call
4 conventional rifling that uses right angles or
5 polygonal rifling, which is more of a rounded type of
6 rifling. So these bullets were polygonal rifling
7 eight lands and grooves, right twist bullets.

8 Q I want to show you State's 341 and 342, two of
9 the items, I believe, this is what was you're
10 referring to as the projectile or fired bullet?

11 A Yes, ma'am. These were solid copper projectiles,
12 as well.

13 Q And I believe you noted hollow point bullets?

14 A Yes, ma'am.

15 Q What does that mean?

16 A That means in what we call the nose area, the
17 nose area of the bullet has a hallowed out cavity.
18 Typical design of a hollow point bullet is for it to
19 hit its target, extend its energy in that target and
20 stay. That's why it has the open nose cavity.

21 Q So it expands almost upon impact essentially?

22 A When it hits something it's supposed to expand or
23 mushroom, is what we call it.

24 Q And with respect to 7, 13, and 16, what did you
25 find as far as what they would be loaded into for

1 purposes of being loaded into. They were consistent
2 with being a 45 caliber bullet. The thing is,
3 45 caliber bullets can be loaded in 45 GAP or 45 auto,
4 so without a cartridge case, without it being loaded
5 in a cartridge case, I cannot tell you specifically it
6 was loaded in a 45 GAP or 45 auto.

7 Q Did you notice something with respect to once the
8 rifling characteristics, the type of firearms that
9 could have fired Items 7, 13, and 16?

10 A Yes, ma'am, when I went to my computer program
11 and plugged in 45 caliber eight right polygonal, the
12 only known manufacturer at this time to use that is a
13 Glock firearm.

14 Q Okay. So a Glock would have been the only gun
15 that could have fired this at the time of manufacture?

16 A At the time, yes.

17 Q And then with respect to fibers on 13.21, I guess
18 they were just collected?

19 A Yeah, they were embedded in the nose and I just
20 collected them.

21 Q And those were not actual analyzed?

22 A No.

23 Q Okay. Actually moving on to Item 14, the one
24 fired bullet jacket fragment, what was your finding
25 with respect to that one?

1 A First off, when I had this fragment, it was not
2 consistent with the fired bullets that I have because
3 the fired bullets, like I said, were a solid copper
4 projectile. This was a drawn copper jacket, so at
5 some point in time, it had a lead core. When I talk
6 about jacketed bullet, I think the easiest way for me
7 to describe it is an M M. You have your chocolate
8 inside and your hard candy shell on the outside. Very
9 similarly, you have your lead on the inside and your
10 copper jacket on the outside. So right away I knew
11 that this was different from the solid copper hollow
12 point bullets that I had and my Items 7, 13, and 16,
13 but it was so badly damaged that I couldn't --- let me
14 check my notes. I couldn't determine its caliber or
15 say that it was suitable, so it was unsuitable for
16 identification because of the limited markings from
17 the rifling that were on it.

18 Q And with respect to Item 15, the lead fragment, I
19 believe you also found that was unsuitable for
20 identification, as well?

21 A Yes, like I said, that lead core doesn't come in
22 contact because it has that jacket or that coating on
23 the outside so it never comes in contact with anything
24 that would mark it for identification purpose.

25 Q And then Item 17 one fired bullet jacket

1 fragment.

2 A Yes, this fragment was also more consistent with
3 being a part of a jacket instead of a solid copper
4 projectile. It did have markings on it that I could
5 use for identification purposes, but it was
6 inconclusive with any of my other bullets and also I
7 could not determine the caliber.

8 Q And that was just the nature of the condition you
9 received that item in?

10 A Yes, ma'am.

11 Q Moving on to State's --- I did it again. State's
12 447 and Item 20, the one fired bullet labeled as from
13 the deceased victim, Kelly Hunnewell. Tell us about
14 that item and your results?

15 A This is a copper jacketed hollow point bullet.
16 It was consistent with being either a 40, S&W or ten
17 millimeter auto caliber. Again, the same size bullet
18 could be loaded in either cartridge case. That's why
19 I have to say I can't differentiate.

20 Q But it is consistent with a 40 caliber Smith and
21 Wesson?

22 A Yes.

23 Q Similar to what you examined earlier with respect
24 to the casings?

25 A I'm sorry, I don't understand the question.

1 Q The same type caliber as the casings?

2 A Yes, ma'am.

3 Q Is that correct?

4 A Yes, ma'am.

5 Q And what were your findings?

6 A This --- let me review my notes really quick.
7 Okay. I found first off that this may be suitable for
8 identification. It was not fired by the same firearm
9 that fired those 45 GAP. I'm sorry, the 45 caliber
10 bullets that I had and spoke about earlier. This was
11 a 40 and like I said before very specific in size. I
12 tried to compare it to, I believe it was my Item 17,
13 that bullet jacket and then also with inconclusive
14 results.

15 Again, there was just not enough what we call
16 individual matching characteristics for me to say yes,
17 this was fired by the same firearm, but I also
18 couldn't rule it out. I did give them a list of
19 potential firearms that could have fired this bullet.

20 Q And what were those potential firearms? Are we
21 referring to manufacturers of the gun?

22 A Yes, we're referring to manufacturers, Glock,
23 Heckler and Koch, or H and K, IMI is military
24 industries, Carr and Bender.

25 Q Okay. Now you also, moving to Item 36, had an

1 unfired 45 GAP caliber cartridge?

2 A Yes, ma'am.

3 Q What were your findings, with respect to that
4 item?

5 A Again, I was asked to look at that cartridge to
6 see whether or not it was loaded into and extracted
7 out of the same firearm of the fired 45 GAP cartridge
8 cases that I had at the scene. I did not have enough
9 individual marks on this unfired piece of ammunition
10 to say that it was loaded into the same firearm. It
11 could have been because they were the same caliber,
12 but I could not say.

13 Q So it was with respect to Items 6, 8, 9 and 10,
14 which would have been the 45 GAP fired, still
15 consistent in caliber and construction, what is meant
16 by that?

17 A When I say consistent in caliber and construction
18 first off I'm talking caliber the 45 GAP.
19 Construction I'm talking about talking about the
20 material that makes that makes up that case. Is it
21 brass, is it nickel. In this case they were brass
22 cartridge cases. Primers also can be brass or nickel.
23 They were brass primers, premarked primers with a seal
24 on them, but they were consistent in construction from
25 the fired cartridge cases that I had.

1 Q And then on State's 449, your Item I believe
2 36.2, just a swab, that was actually returned without
3 analysis?

4 A Yes, I had 36.1 and 36.2, which items --- Item 36
5 came to me, and it was the only piece of they'd did
6 not go through evidence processing first, so I just
7 went ahead and swabbed it myself.

8 Q And then moving to Item 45 the unfired Smith and
9 Wesson cartridge case, and we'll talk about these
10 because you received both Item 35 and 37 which are the
11 same, correct?

12 A Correct. Again, 35 and 37 were unfired 40
13 caliber S&W cartridges. I was asked to look at them
14 to see whether they were loaded in and extracted out
15 of the same firearm as --- from evidence at the scene.
16 What I found were matching striations, but I could not
17 give an origin for them. So I cannot say where these
18 tool marks came from. Could it have been from being
19 in the same firearm? Yes. Could it have been from
20 the ammunition manufacturing process or when they're
21 the loading the powder or when they're loading the
22 cartridge into the cartridge trays from the
23 manufacturer? Yes. I just could not tell you where
24 these marks were, but I found matching striations tool
25 marks on 35, 37 and my Items 11 and 12 fired cartridge

1 casings from the scene.

2 Q So let's get to that. You actually learned
3 during the course of this that 11 and 12 were actually
4 collected from the scene itself?

5 A Yes.

6 Q And then these matched those items or excuse me,
7 matched with respect to striated tool marks?

8 A I found matching striated tool marks on all four
9 items.

10 Q And as I said your only other options, while you
11 can't be specific, would have been in the
12 manufacturing process with respect to loading,
13 handling or packaging?

14 A If it was from a firearm which I cannot rule out,
15 it could have been from the ammunition manufacturing
16 process.

17 Q And then finally getting to that Item 38 the one
18 Magtech First Defense ammunition box.

19 A Yes.

20 Q Tell us what you observed and what you did with
21 respect to that item.

22 A That ammunition box was consistent with the
23 ammunition that I received in this case, and the 45
24 caliber bullets that I had were all consistent with
25 the 160 grain solid copper hollow point projectiles.

1 Q These are the 45 GAP?

2 A Yes, ma'am.

3 Q And this box is actually consistent with that
4 type of ammunition, the Magtech First Defense.

5 A Yes.

6 Q Thank you. You can have a seat. And with
7 respect to all of your items, is that the extent of
8 your testing of the actual physical evidence that was
9 presented to you?

10 A Yes, ma'am. The only other thing I did is I put
11 Item 12, which is one of the fired 40 caliber
12 cartridge cases into the integrated ballistics
13 identification system.

14 Q And again the Glock, I guess 45 GAP, you said is
15 pretty rare to see with respect to outside of law
16 enforcement?

17 A That's correct and also I did not put one of
18 those into the IVIS and the integrated ballistics
19 identification system because at this time it wasn't
20 recognized by IVIS.

21 Q And I want to turn your attention --- were you
22 asked to also review a video in this case?

23 A Yes, ma'am, I was.

24 Q A video that contained a firearm.

25 A Yes, ma'am, I was.

1 Q And I'm going to show you what I believe has been
2 introduced as State's 425, 426 and 232. Do you
3 recognize those photos?

4 A Yes, ma'am, I do.

5 Q And you actually reviewed --- what are these
6 photos first?

7 A Yes. What are they of?

8 Q Yes.

9 A This is a photograph of what is State's 425.
10 This firearm is consistent with a Glock firearm.
11 It appears --- as you can see, it's very fuzzy, but it
12 appeared to look like the Glock symbol and that he is
13 potentially where it could be on the firearm. The
14 Glock symbol is, it looks like a big circular "c" with
15 Glock written in the middle of it. You can see the
16 Glock patented trigger safety mechanism, the slide
17 stop, the slide retainer and the grip, the grip
18 striations on this Glock.

19 Q And again you actually had a chance to review of
20 these. These are still shots from the video that you
21 reviewed, correct?

22 A That's correct.

23 Q And the video actually in addition --- was it
24 clear in the video or easier to identify?

25 A Yes, ma'am, it was.

1 Q And this weapon is consistent with a Glock,
2 correct?

3 A Yes.

4 Q And that's in State's 425 and what are we seeing
5 in State's 426?

6 A 426, again this is a picture of a firearm and it
7 is a little fuzzy, but it's consistent with a Glock.
8 Again, you have your slide stop, your Glock trigger,
9 trigger safety, your accessory rail.

10 Q That's a closer up version or, I guess, a fuller
11 version?

12 A Yes.

13 Q State's 432 actually you can see a little more
14 detail on this. You can see the Glock symbol, the
15 trigger safety, the slide stop. You can kind of see
16 writing in here. This is where the caliber of the
17 firearm would be.

18 Q Okay. And when you're pointing, you're saying
19 there is writing there, but you can't make it out just
20 due to the quality of the picture?

21 A That's correct. That's where the caliber would
22 be and what's the model would be.

23 Q And I'm going to show you --- and again this
24 firearm is consistent with?

25 A A Glock firearm.

1 Q And not having it in front of you, can you
2 actually say that this firearm is the one that fired
3 any of the items that you analyzed?

4 A No, I cannot.

5 Q But it is consistent with the firearm that could
6 have fired those items?

7 A Yes, ma'am, it is.

8 Q Let me show you briefly real quickly the video?

9 MS. BAMBACH: Your Honor, I'm going to object to
10 showing this video again. The jury panel has seen it
11 about four times now.

12 THE COURT: The still shots are sufficient. We
13 don't need to see the video again.

14 MS. SIMPSON: Okay. As long as she can refer to
15 the audio. It's also important.

16 THE COURT: It's been played three times. You
17 need to move on.

18 BY MS. SIMPSON:

19 Q With respect to the video, do you recall the
20 audio portion of it?

21 A Yes, I do.

22 Q What is being said that is of significance? Do
23 you remember?

24 A They talk about a Glock 45 which is consistent
25 with a Glock 45 caliber.

1 Q And that's consistent with shooting that Glock
2 GAP 45 ammunition?

3 A It's consistent with 45 GAP or 45 automatic..

4 Q And quickly too just to make a distinction with
5 respect to shell casings and how they're ejected what
6 is the difference between a revolver versus a
7 semiautomatic?

8 A A semiautomatic, if I may.

9 Q Yes.

10 A A semiautomatic has the slide. When you pull the
11 trigger, it releases the firing pin. The firing pin
12 strikes the primer. It strikes the ammunition. That
13 burning up of the pressure will push the slide
14 backwards. When the slide comes back, it's going to
15 eject that cartridge case. The cartridge case is held
16 into the slide by what we call an extractor and then
17 it will come back backwards, hit what we call an
18 ejector and it will turn it to come out the ejection
19 port.

20 We don't have a picture of an ejection port, but
21 it's whole other side of the slide. It's going to do
22 that. Then when the slide is under spring tension,
23 when it flies forward it's going to as, long as
24 there's other unfired cartridges in the magazine, it's
25 going to push another cartridge into the chamber so

1 you can fire again. That's a semiautomatic. One pull
2 of the trigger, it will fire a bullet, eject a
3 cartridge case and then as long as they are unfired in
4 the magazine, it will load another into the chamber.

5 A revolver is very similar to the cowboy movies
6 that you might have seen, Clint Eastwood, Dirty Harry.
7 A revolver has what we call a cylinder. It is a round
8 part that has several chambers in it that holds your
9 unfired cartridges. Those unfired cartridges rotate
10 around one and their not ejected when fired. They
11 stay in that cartridge until you dump them out or you
12 physically take them out.

13 Q Okay. So I would have to pull out the barrel and
14 essentially dump them on the floor for them to come
15 out of the revolver?

16 A Usually you push a cylinder release. Sometimes
17 you have an ejector rod or you just turn it upside
18 down and tap that.

19 Q Thank you. You can have a seat. Beg the Court's
20 indulgence.

21 (Pause.)

22 MS. SIMPSON: Thank you, Ms. Cromer.

23 THE COURT: Ms. Bambach.

24 MS. BAMBACH: Thank you, Your Honor.

25 CROSS-EXAMINATION:

1 BY MS. BAMBACH:

2 Q Ms. Cromer, you got some instructions for this
3 testing from Investigator McCoy and CPD, right?

4 A No, ma'am. I believe all of the evidence was
5 submitted by --- let me check my notes.

6 Q Well, SLED first, right?

7 A Excuse me?

8 Q SLED. I mean, through --- originally it came
9 from the investigation of the Tommy Circle?

10 A Yes. Well, it was dropped off and delivered to
11 the laboratory by an Officer Carol.

12 Q Okay. And you had --- I know you talked about
13 this before, but you had some bullets found at both 93
14 Tommy Circle and then some unfired bullets found at a
15 different location, right?

16 A Cartridges, yes, ma'am.

17 Q I'm sorry, with the cartridges, the bullets, the
18 casings. You have your reports with you, right?

19 A Yes, ma'am.

20 Q So --- and you began your testing on July 3rd,
21 right, 2013?

22 A Yes, ma'am, I did.

23 Q And at that point, you had the 45 GAP cartridge
24 casings, right?

25 A Let check my notes.

1 THE COURT: Ya'll approach real quick.

2 (WHEREUPON, a bench conference was held in the
3 presence, but not within the hearing of the
4 jury.)

5 THE COURT: Go ahead.

6 BY MS. BAMBACH:

7 Q Okay. I'm sorry. So to repeat, you knew the 45
8 GAP cartridge were found at this point?

9 A Yes, ma'am.

10 Q And the gun that shot these bullets was never
11 found, right, to your knowledge?

12 A Not to my knowledge.

13 Q All right. So you never had an actual gun to
14 compare to?

15 A No, ma'am I did not.

16 Q And then you tested some unfired bullets on
17 July 5th, right?

18 A Yes, unfired cartridges.

19 Q Unfired cartridges, sorry again. Then on
20 July 5th of 2013, you told Investigator McCoy that the
21 results were inconclusive and maybe if you had the gun
22 you might be able to do more examination?

23 A I don't recall that. Do you know the SLED
24 narrative where it says your log.

25 A Yes, ma'am.

1 Q Do you have that with you?

2 A No, I don't. Can I see that, please?

3 Q Sure.

4 Q Oh. Sorry. Permission to approach?

5 THE COURT: Yes, ma'am.

6 BY MS. BAMBACH:

7 Q I think it starts right there and goes on to the
8 next page.

9 A Okay.

10 Q I've got it on the top of page three?

11 A Yes, ma'am, I was just looking because I did not
12 specify what I was talking about with my inconclusive
13 results.

14 Q Uh-huh.

15 A That could have been for the fired bullets.

16 Q Oh, yes, this would have been before the unfired?

17 A Yes.

18 Q On your report, it's dated August 15th of 2013.

19 On page two, it states that the fired bullet is most
20 consistent with a 45 caliber sold under C.B.C.

21 Magtech, right?

22 A That's correct.

23 Q And on page three it states that the unfired 45
24 GAP cartridge was C.B.C. Magtech, right?

25 A That's correct.

1 Q Do you know you can purchase the 45 GAP Magtech
2 ammunition at Palmetto State Armory here?

3 A I'm not surprised by that.

4 Q Are you surprised you can purchase it at Academy
5 Sports and Outdoors at two locations in Columbia?

6 A I'm not surprised by that.

7 Q Are you surprised you can purchase the 45 GAP
8 Magtech at Lexington Firearms and Gun Works here in
9 Columbia?

10 A No, ma'am, I'm not surprised.

11 Q You can also purchase the 45 GAP ammo at Decker
12 Pawnshop here in Columbia?

13 A I'm not surprised. I'm not familiar with that
14 one, but I'm not surprised.

15 Q Would it surprise you that I personally spoke
16 with the district manager of C.B.C. Magtech and that
17 he was --- (talking over each other)

18 MS. SIMPSON: Objection, Your Honor.

19 MS. BAMBACH: Because ---

20 THE COURT: Sustained. Disregard that last
21 statement.

22 BY MS. BAMBACH:

23 Q Your report also states that the only known
24 manufacturer of 45 GAP caliber and all the 45 auto
25 caliber is Glock, right?

1 A The only potential firearm with those rifling
2 specifications that is known at this time is Glock.

3 Q Okay. And there are four different models of
4 Glock that can fire a 45 GAP, right?

5 A There's the 37, there is the Gen IV 37, which is
6 just a newer model of the 37. There is the 38 and the
7 39.

8 Q Okay. And all of those models have similar
9 external dimensions, don't they?

10 A Well, actually the 37 is the larger frame.

11 Q Uh-huh.

12 A The 38 is what they call the compact and then the
13 39 is the subcompact, the smallest.

14 Q And the 37 and the 37 Gen IV do have a few
15 inches --- a few millimeters difference?

16 A In size, yes.

17 Q Yes, and the 38 is not that much smaller. Seems
18 like about half an inch?

19 A I would have to check my notes.

20 Q You said that, let's see. Page three of your
21 report under Item 36, that's when you said due to the
22 limited marks, the value results of these comparisons
23 were inconclusive and that Item 36 could loaded into
24 the same firearm or firearms as 6, 8, 9, and 10 at
25 some prior time, right?

1 A Yes, ma'am.

2 Q But these were all similar to --- they're all
3 characteristics similar to Glock, right? We
4 specifically know Glock is --- has the same
5 characteristics?

6 A As fired bullets.

7 Q As fired cartridges and bullets?

8 A The fired bullets were eight right, polygonal
9 which is a characteristic with the known only
10 manufacturer at the time is Glock. The fired
11 cartridge cases had the firing pin impression
12 consistent with a Glock firing pin and that was on the
13 45 GAP caliber cartridge cases.

14 Q And the 45 auto caliber can also fire the 45
15 caliber GAP?

16 A Potentially, yes.

17 Q Okay.

18 A As long as the 45 GAP does not go further down
19 into the chamber where it will not be reached by the
20 firing pin.

21 Q So a Glock 21 could potentially fire a 45 caliber
22 GAP?

23 A Let me double check.

24 Yes, Glock 21 is the 45 caliber, 45 auto caliber
25 Glock. It could possibly fire the 45 GAP.

1 Q Also, the Glock 21 Gen IV could possibly fire ---
2 A Yes.
3 Q --- could have possibly fired it?
4 A Yes, ma'am.
5 Q The Glock 21 SF could possibly fire it?
6 A Yes, ma'am.
7 Q The Glock 30 could ---
8 A Can I finish my ---
9 Q Sure. I'm sorry.
10 A There could be problems with the loading and
11 extracting of sub sequential fires or shots.
12 Q Okay. The Glock 30 Gen IV could potentially fire
13 it?
14 A Yes, ma'am.
15 Q Glock 30 FN could potentially fire it?
16 A You said Glock 30?
17 Q SF?
18 A Yes, ma'am.
19 Q Glock 30 S could potentially fire it?
20 A Yes.
21 Q Glock 36 could potentially fire it?
22 A Potentially, yes
23 Q And Glock 41 Gen IV could potentially fire it?
24 A You said Glock 31?
25 Q Forty-one.

1 A Forty-one. I'm not as familiar with Glock 41.

2 MS. BAMBACH: I have nothing further at this
3 time.

4 MR. SCHNEE: May it please the Court.

5 CROSS-EXAMINATION:

6 BY MR. SCHNEE:

7 Q Is there anything from all the testing you've
8 done and comparisons you've done that would indicate
9 who fired any of these shots?

10 A No, sir.

11 MR. SCHNEE: Thank you.

12 MS. SIMPSON: I just have two brief redirect
13 questions, Your Honor.

14 REDIRECT EXAMINATION:

15 BY MS. SIMPSON:

16 Q Is it unusual for you not to have a firearm?

17 A No, it's not, ma'am.

18 Q With respect to everything she named out as a
19 possibility of firing that .45 GPA caliber ammunition,
20 what was the manufacturer of all those that she named?

21 A Glock Firearms.

22 Q Thank you, Ms. Cromer.

23 THE COURT: Okay. Ladies and gentlemen, we're
24 going to break for the evening. We ran a little bit
25 longer than normal tonight. I do apologize. We are

1 going to break for the evening. If you'll be in your
2 jury room tomorrow morning at 9:15 ready to go. You
3 are not to discuss the case with anyone in any way,
4 shape, or form. You are to keep an open mind about
5 the case. You have not heard all the testimony in the
6 case at this point that I know of and the lawyers have
7 not had a chance to make their closing arguments to
8 you and I have not told you what the law is, so you
9 are to still have an open mind about the case.

10 You will recall that previously I have told you
11 in great detail that you are to decide this case based
12 upon the evidence that is presented in this courtroom
13 and nothing more. Because we're about to take a
14 break, I'm going to remind you of that warning and ask
15 you to commit to each other, the parties and to the
16 court that you will not discuss this case with anyone,
17 read any news account about this cases, via print
18 paper, internet, radio, television or anything else as
19 you have done throughout this entire trial.

20 Thank you for your service. We'll see you
21 tomorrow morning at 9:15. Everyone remain seated
22 while the jury is dismissed.

23 (WHEREUPON, the jury left the courtroom at 5:44
24 P.M.)

25 THE COURT: Thank you, Ms. Cromer. You may step

1 down.

2 (WHEREUPON, there was an off-the-record
3 discussion.)

4 THE COURT: Any potential jury charges you want
5 you need get to me in the morning so I can look at it.
6 I already got copy from the State. Did you get a copy
7 of it?

8 MR. KRZYSTON: We did, Your Honor, somewhere over
9 here.

10 MR. SCHNEE: We did. I would like an opportunity
11 obviously to read through them.

12 THE COURT: Yes, sure.

13 MR. SCHNEE: I think my only objection would be
14 to any of those in terms of cumulative.

15 MS. CAMPBELL: There's a couple I've gone over
16 that are cumulative.

17 THE COURT: Some of them looked like different
18 wordings of the same issue. Anything you want to
19 submit, get that that to me in the morning so we can
20 look at it and go through it.

21 MS. GARFIELD: Judge, I just want to put
22 something on the record in response to Mr. Schnee's
23 discovery violation insinuation, as well, as having an
24 opportunity to review our notebook, I found an email I
25 sent to all counsel, including counsel for Mr. Young,

1 Barnes and Mr. Stevenson dated October 28th, 2014, at
2 11:29 A.M. where I said attached is a copy of
3 discovery that I personally did not have my notebook.
4 In that were Investigator McCoy's handwritten notes
5 where he does have entries through November and
6 December. The November entries are --- to the typed
7 entries of his report and the December entry is just
8 perceived statement from Lorenzo Young from Lieutenant
9 Williams. Mr. Schnee was provided a copy of that
10 statement. I also have a copy of an email from
11 Mr. Schnee dated October 27th, 2014, at 5:31 P.M.
12 where he acknowledges receiving it.

13 THE COURT: Okay.

14 MS. GARFIELD: Thank you.

15 MR. SCHNEE: In that regard yes, I did receive
16 the handwritten notes. My objection was purely for
17 the typed out report that I never received until in
18 court.

19 THE COURT: All right. Anything else?

20 MS. SIMPSON: Thank you.

21 MS. GARFIELD: Not from the State, Judge.

22 MR. KRZYSTON: Nothing for Mr. Young.

23 THE COURT: All right. Nine o'clock in the
24 morning.

25 NOVEMBER 18, 2014

1 THE COURT: Okay. Anything before we get started
2 this morning?

3 MS. GARFIELD: Actually, Judge, we have some
4 motions. Ms. Ambroziak and I got together last
5 evening to look at the exhibits, and I just want to
6 clarify some things. First of all, State's
7 Exhibit 379, 384 and 355 were marked and the State is
8 withdrawing those and then, just to clarify,
9 Ms. Ambroziak did not have State's Exhibit Number 398
10 into evidence. This was introduced. This was the
11 blow up of the phone log. It was introduced through
12 Sergeant Pegram and if my memory is correct, it was
13 introduced without objection from both trial counsel
14 after revisions were made before the witness
15 testified.

16 MR. SCHNEE: That's my recollection, as well.

17 THE COURT: You wanted some stuff taken off and
18 that was taken off.

19 MS. SIMPSON: And then lastly, Judge --- and I
20 think this is just simply my fault, Ms. Ambroziak had
21 426 marked. I moved 428 into evidence. That's
22 because I thought this was an eight. Ms. June tells
23 me it's her six, so that just needs to be corrected.

24 THE COURT: Let me see it.

25 MS. SIMPSON: This was introduced through

1 Investigator VanHouten. It was the still shot of the
2 firearm that was seen in the video taken from the cell
3 phone from Lorenzo Young.

4 THE COURT: So it's 426 not 428?

5 MS. GARFIELD: That's correct.

6 MR. SCHNEE: If I may ask, which is the other 428
7 --- is just to be sure?

8 MS. GARFIELD: I'll have to find it.

9 THE COURT: Okay. So 426 is in over defendant's
10 objections. What else I?

11 COURT REPORTER: So 426 is in. in addition to 428
12 or instead of?

13 MS. GARFIELD: Just 426.

14 (WHEREUPON, State's Exhibit Number 426 was
15 admitted into evidence replacing State's Exhibit
16 Number 428 due to unreadable exhibit number.)

17 MS. GARFIELD: Our records indicate that there is
18 not a 428 that's in. The number was ---

19 Judge, we believe with our next witness or one of
20 our next witnesses, Sergeant Reese, defense counsel
21 yesterday in their examination of Investigator McCoy
22 and counsel, being Mr. Young's counsel, did do into
23 questioning about still photos taken at Lexington
24 County. Your Honor ruled that's not admissible.
25 There's now been reference to those. We now believe

1 we can go into those.

2 THE COURT: Let me see them.

3 MS. GARFIELD: I don't want to go against any
4 prior rulings. Those are not marked.

5 THE COURT: Mr. Krzyston.

6 MR. KRZYSTON: Yes, Your Honor.

7 THE COURT: What's your position?

8 MR. KRZYSTON: I've not seen the photos.

9 THE COURT: The still photos from the bakery,
10 inside the bakery.

11 MR. KRZYSTON: What are they, just like a
12 snapshot, if you will?

13 (Pause.)

14 Judge, my position would be that I object to the
15 introduction of those photos based on the fact they
16 are cumulative evidence at this point. I believe they
17 were originally excluded based on their cumulative
18 nature, furthermore the only reason I mentioned
19 Lexington County is because Investigator McCoy brought
20 it up in answering one of my questions, so I don't
21 know that our referencing them defeats the fact that
22 they are still cumulative. The entire video is in
23 evidence and I tend to think that is the best evidence
24 of the actual event and again just no reason to throw
25 this additional evidence up there.

1 MR. SCHNEE: Judge, my recollection of McCoy's
2 testimony is essentially that it was brought to
3 Lexington County to attempt to enhance the quality to
4 see if they could get any more useful information. I
5 think he even testified that could not get anything
6 useful out of it, and I would also say that these
7 photos are cumulative and that's what I remember, Your
8 Honor, declaring as to why they are inadmissible. I
9 don't see how anything has changed.

10 THE COURT: Well, it changes because the
11 impression is out there that there's all these photos
12 that exist that the State hasn't bothered to put in of
13 the crime scene.

14 MS. GARFIELD: That's our contention.

15 THE COURT: I mean it was brought up in cross-
16 examination with little to no evidentiary basis in any
17 way, shape, or form, but the jury is left with the
18 impression that the government is in possession of all
19 these photos of the crime that haven't been admitted,
20 so all of them are in. Mark them.

21 MS. GARFIELD: Thank you, Your Honor.

22 THE COURT: All right. What else?

23 MS. GARFIELD: Judge, this is more of a asking
24 for guidance. There's been questioning by defense
25 counsel through our witnesses about several people

1 that were never interviewed and there's also a mention
2 of a Marcus Brown. As Your Honor is aware, Marcus
3 Brown is on our witness list. He was living at the
4 home of Lorenzo Young, I believe, in a relationship
5 with his mother at the time of this incident and did
6 give information to law enforcement. As Your Honor is
7 aware or as I will remind you, you signed a bench
8 warrant for his arrest last week. He is under
9 subpoena and has failed to come to court at this
10 point. I'm just seeking guidance, before I ask any
11 questions. I'd like to be able to ask Sergeant Reese
12 if Mr. Brown gave him information and has he appeared
13 in court so the jury is not just wondering where is
14 this person that's been referenced.

15 THE COURT: Okay.

16 MR. KRZYSTON: Judge, I believe the only
17 reference to Mr. Brown was the fact that it was a
18 question to a SLED agent. I believe that question
19 was, were you aware that Mr. Brown wears a size 12
20 shoe. That in no way alludes to the information that
21 Mr. Brown provided to police and simply points how
22 that another individual in the house could have been
23 the person to whom those shoes belong. I just do not
24 see any purpose at this point ---

25 THE COURT: Well, McCoy was cross-examined

1 extensively on Marcus Brown as being a witness and
2 Marcus Brown not being talked to.

3 MR. SCHNEE: No, Judge, we were talking about
4 Marcus Johnson.

5 THE COURT: Marcus Brown was mentioned too,
6 because there was a whole conversation where McCoy was
7 talking about that may be the stepfather or the
8 stepdad or the boyfriend or the old boyfriend or the
9 current boyfriend.

10 MR. KRZYSTON: I believe that was ---

11 MR. SCHNEE: That's Marcus Johnson.

12 THE COURT: That's Marcus Johnson?

13 MR. SCHNEE: That's Marcus Johnson, Your Honor.
14 Marcus Brown is Lorenzo Young's stepfather, who did
15 talk to law enforcement and did give a statement. We
16 haven't talked to any of the witnesses, but for
17 reference to shoe size, about Marcus Brown.

18 THE COURT: We may need pull up that testimony.
19 There's so many Marcuses that I may be a little lost.

20 MS. GARFIELD: And I certainly don't want to
21 mislead the court, but that was my recollection.

22 THE COURT: I thought that was all about ---

23 MR. KRZYSTON: No, Judge.

24 THE COURT: There's multiple Marcuses and there
25 is a Marquis, who people say his name wrong.

1 (WHEREUPON, the Court Reporter accessed the
2 requested testimony relating to Marcus Brown.)

3 THE COURT: It's not in Mr. Krzyston's cross.
4 It's in your direct that it comes up. In the litany of
5 people you were talking to, you did not go talk to
6 him. His name is not mentioned.

7 No, it's not that I don't believe anybody or
8 didn't believe anybody, there's just so many Marcuses.

9 MS. GARFIELD: I understand.

10 MR. SCHNEE: I understand, Judge.

11 THE COURT: The part about the stepfather or
12 father or dad or what ever he was, was on direct.
13 That's where my mind was triggering from. All right.
14 What else?

15 MS. CAMPBELL: Your Honor, at this point based on
16 things that developed yesterday, we would ask for a
17 Denno hearing and we would be intending on asking to
18 offer parts of Trenton Barnes' statements limited to
19 his participation in the crime.

20 THE COURT: Okay.

21 MS. CAMPBELL: Your Honor, I'll call up Sergeant
22 Reese, and it would hand up this up to the court, Your
23 Honor, since it would be easier at this point to
24 follow transcripts.

25 THE COURT: Okay.

Direct of Reese by Campbell
(Denno)

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1 MS. CAMPBELL: And I would also hand them to
2 defense counsel. I marked them (1), (2), (3).
3 They're all the same transcripts.

4 HE COURT: I'm confused as to what one, two, and
5 three are. Three different people transcribed ---

6 MS CAMPBELL: They are all the same, from one
7 interview. Those are just the order to keep them ---

8 MR. SCHNEE: Judge, there are three separate
9 portions. If you look at the titles, it says on
10 number(1) there is no title. On number (2) it says
11 Trenton Barnes' confession number two.

12 THE COURT: All right.

13 MR. SCHNEE: That is the second interview.

14 THE COURT: Okay.

15 MR. SCHNEE: Trenton Barnes' second recorded
16 transcript, that actually is a copy of one of them
17 essentially and the two ---

18 MS. CAMPBELL: There are two recorders, right.

19 THE COURT: I understand it now.

20 MR. SCHNEE: But I think they all picked up sight
21 different things.

22 MS. CAMPBELL: There were multiple different
23 recorders used.

24 SERGEANT KEVIN REESE,

25 after being duly sworn, testified as follows:

DIRECT EXAMINATION:

(DENNO)

BY MS. CAMPBELL:

Q Sergeant Reese, I want to turn your attention to Friday July 5th, did you come in contact with Trenton Barnes in this case?

A Yes.

Q Was he transported down to Columbia Police Department?

A Yes, he was.

Q At that point, did you and Investigator McCoy interview him?

A We did.

Q Prior to interviewing him or asking questions about what happened, were you present when he was advised of his rights?

A Yes, ma'am, I was.

Q Who actually was talking as far as the advice of rights went?

A It would have been Investigator McCoy.

Q McCoy?

A That's right.

Q And while you were there, referring to page two of the transcript, were those the rights that were advised to Mr. Barnes?

1 A It is.

2 Q And what rights specifically did Mr. McCoy advise
3 him of?

4 A His Miranda rights. Do you want me to read them?

5 Q Yes, for the record.

6 A Okay. McCoy told him that before we ask any
7 questions, you must understand your rights. He said,
8 "You have the right to remain silent." He said,
9 "Anything you say can and will be used against you in
10 court. You have the right to talk to a lawyer for
11 advice before we ask you any questions and to have him
12 with you during questioning." He also advised him
13 that him, "If you cannot afford a lawyer, one will be
14 appointed for you before any questioning if you wish.
15 If you decide to answer questions now without a lawyer
16 present, you still have the right to stop answering
17 questions at any time. You also have the right to
18 stop answering questions at any time until you talk to
19 a lawyer." He asked him, "Do you understand that?"

20 Q Did he then ask him to acknowledge that?

21 A Yes, he did and I also asked him did he
22 understand that and his reply --- Mr. Barnes' reply
23 was, "Yes, sir."

24 Q At that point what did Investigator McCoy ask him
25 to do?

1 A At that point he asked him to put his initials on
2 each line before each right that was read to him.

3 Q And at that point, did Trenton Barnes ask you a
4 series of questions about going to jail and things of
5 that matter?

6 A Yes, ma'am.

7 Q Were those answered for him?

8 A They were.

9 Q And on the next page, did he indicate that he
10 used to be in classes but he worked his way up?

11 A Yes, he did.

12 Q And then did Investigator McCoy read him a
13 statement of his rights?

14 A That's right, he did.

15 Q And what was that?

16 A He said, "I have read this statement of my
17 rights. I know what my rights are. I am willing to
18 make a statement and answer questions. I do not want
19 a lawyer at this time. I understand and know what I
20 am doing. No promises or threats have been made me
21 and no threats or coercion has been used against me."

22 We asked him do you agree with that? If you do,
23 sign right here. McCoy was showing him where to sign.

24 Q Now, at that point did you tell him to take his
25 time?

1 A I told him to take his time and read it.

2 Q Did Trenton Barnes then ask you a question?

3 A Yes, he did.

4 Q And what question did he ask you?

5 A He asked, "Instead of a lawyer, can I have my
6 mama." Those were his words.

7 Q What did you tell him?

8 A I told him as soon as she gets there he could see
9 his mama.

10 Q And at that point were you waiting on his mom to
11 show up?

12 A We were waiting on his mom.

13 Q During that period of time, did he also ask you,
14 on the top of the next page, about whether he would
15 wait and sign it when his mother got there?

16 A Yes, he asked, "Can I sign it when my mama gets
17 here."

18 Q What did you indicate to him?

19 A I told him you can sign it when your mama gets
20 here. Do you want --- and I asked him, "Do you want
21 to talk to us now."

22 Q And was his mother brought into the room with him
23 when you all interviewed him?

24 A Yes, she was.

25 Q And I'm going to show you State's Exhibit Number

1 464. To you recognize this?

2 A I do. That is waiver form of the rights we
3 normally read.

4 Q And the rights that you read to him, do those
5 come off of this form at that point?

6 A Yes.

7 Q Did Trenton Barnes ever want to sign that form?

8 A No, he didn't want to sign it.

9 Q Did he agree to talk to you all once his mother
10 got there?

11 A Yes.

12 Q Was his mother made aware of what was going on?

13 A Yes, she was. She was informed.

14 Q Was Trenton Barnes, I believe, he was 16 at the
15 time of this interview?

16 A Sixteen.

17 Q Did he make the decision to talk to you?

18 A Yes.

19 Q And that was recorded?

20 A Yes, it was.

21 Q I want to move on to the reported transcript that
22 I've got marked number (2) on the top.

23 (this is not on the exhibit.)

24 And we're going to limit this specifically to
25 what Trenton said about his involvement in the robbery

1 was. Did he indicate to you what the plan was that
2 night, on page two?

3 A Yes, he did.

4 Q And what was the plan initially?

5 A The plan was they were going rob the Ale House.

6 Q Then was he asked what happened?

7 A When that question was asked, his answer was the
8 cars started pulling out.

9 Q Pulling out?

10 A Meaning the parking lot. The large parking lot
11 in front of the Ale House and that's what he was
12 talking.

13 Q And then was he asked what happened after that?

14 A Yes, and his answer was --- we're still on page
15 two?

16 Q Yes, sir. What was his role in the actual
17 robbery of the bakery?

18 A He said all he had to do was sit at the door and
19 to yell if he saw anybody. He just needed to yell.

20 Q Then he said --- and you can't go any further in
21 front of the jury about what he said everybody else
22 did --- moving on to page four. Did you ask him if he
23 watched what happened?

24 A McCoy asked him that and his answer was, "Yes,
25 sir."

1 Q And then finally moving to the third transcript,
2 did y'all ask him if he knew if anybody was inside
3 building?

4 A What page?

5 Q Page four.

6 A I asked him did he know if anybody was inside of
7 the building.

8 Q What did he indicate to you?

9 A He just said, "I was just supposed to sit and
10 lookout."

11 Q And then finally on page 17 of that transcript?

12 A Seventeen?

13 Q Uh-huh. Limit it to what he said he did?

14 MR. SCHNEE: Did you say 17?

15 MS. CAMPBELL: Seventeen of number three.

16 MR. SCHNEE: Oh, number three.

17 MS. CAMPBELL: I'm sorry. I'm on the next one.

18 I apologize.

19 BY MS. CAMPELL:

20 Q Did he indicate what the plan was?

21 A The plan was to rob the Ale House.

22 Q And then what happened?

23 A They argued and start to pull out.

24 Q And then at the top of the next page, does it
25 indicate what he was supposed to do in the bakery

1 robbery?

2 A Again, he indicated that he was just supposed to
3 sit by the door. If he saw anybody, yell.

4 Q And that was the statement that he gave you
5 back --- or the substance of what he said his
6 participation was back on July 5th when you
7 interviewed him?

8 A That's right.

9 Q And this was all audio recorded?

10 A Yes, ma'am.

11 MS. CAMPBELL: Your Honor, that would be the
12 substance of what we would be asking him. We will try
13 to be very careful about the Bruton issues here. We
14 would limit it to only his role in the robbery.

15 BY MS. CAMPBELL:

16 Q The person that you interviewed, do you see him
17 in the courtroom?

18 A I do.

19 Q Can you point him out for the judge?

20 A He is at the end of the defense table with a
21 black and white grayish shirt.

22 Q Sitting next to his attorney?

23 A That's correct.

24 MS. CAMPBELL: Thank you.

25 MR. SCHNEE: May it please the Court.

CROSS-EXAMINATION:

1
2 BY MR. SCHNEE:

3 Q Investigator Reese, you were handed up State's
4 464. That's the advice of rights form?

5 A Yes.

6 Q If I understand you correctly, Trenton Barnes
7 never signed the a waiver of rights?

8 A That would be correct.

9 Q Now these recorders that you have, there are
10 actually two separate interviews, were there not?

11 A Yeah, that would be right.

12 Q Okay. So the first interview ---

13 A I'm sorry, one was just a continuation of the
14 beginning of the interview.

15 Q Okay. Well, the first very one is when you do
16 the advice of rights and he doesn't sign them?

17 A That's right.

18 Q At that point you and McCoy wait for his mother
19 to get there?

20 A Yeah, but while we were in the room with him, his
21 mother showed up downstairs.

22 Q Right. Okay. And there is a pause, right?

23 A Okay.

24 Q And if I'm understanding this correctly, there is
25 quite a lengthy pause in the recording itself. There

1 was an error with recording; is that right?

2 A An error, I believe so.

3 Q There is a huge chunk missing from essentially
4 the middle of this extended conversation?

5 A I don't really recall that.

6 Q You don't recall that?

7 A I don't know how much of a chunk that you're
8 talking about. I don't recall.

9 Q Well, let's see. You ended the first one while
10 still waiting for his mother, right. The first
11 recording ended while you're still waiting for his
12 mother to show up, right?

13 A I don't know when it ended, but here is how it
14 went. He asked again about his mom. At that point, I
15 got on the phone to start calling the officers that
16 were on the scene at the house that we picked him up
17 from ---

18 Q Uh-huh.

19 A --- to find out where his mother was, and then I
20 was informed that she was on the way. I then called
21 downstairs and realized that she had been there or she
22 was there at that time, but she was sitting out in the
23 lobby, and the officers didn't know what she was there
24 for. That was my understanding.

25 Q Okay.

1 A They said there was a lady sitting in the lobby.
2 I asked them to ask her name. Once we found out that
3 was her name, that would be that block that you're
4 probably talking about. Either I or McCoy went
5 downstairs to get her. I'm not sure.

6 Q Okay. In the first transcript I'd like you to
7 turn to the third to the last page. At the very top
8 it starts with you. It says you're on the phone. It
9 says this kid Trenton, has --- his mom left? Do you
10 see that?

11 A What? What page are you saying?

12 Q Third to the last. They're not actually
13 numbered, three from the end. Yeah, that's the one.
14 Okay. It even starts actually before that. You're at
15 this point calling to find out where Trenton's mother
16 is?

17 A Yes.

18 Q And while you're doing that, Investigator McCoy
19 is talking to Trenton about him being a Christian?

20 A Right.

21 Q And asking if he believes in God?

22 A Right.

23 Q Now, that conversation kind of continues for
24 awhile, does it not?

25 A It does, but the conversation wasn't going

1 anywhere.

2 Q Okay. The conversation between McCoy and Barnes
3 about God and religion continues for awhile, doesn't
4 it?

5 A Uh.

6 Q At the bottom of the next page, Investigator
7 McCoy asks are you a Baptist?

8 A Right, a couple minutes.

9 Q So it goes on for a couple of minutes. At that
10 point the first recording ends?

11 A I would assume so if that's what you're getting
12 at. Without sitting down and listening to where it
13 ended and where it picked up again, I'm not that sure.

14 Q Okay. That's the end of this transcript, though,
15 right?

16 A That would be correct.

17 Q And after that, there is a pause in the recording
18 for however long it is and then the next recording
19 starts. At this point, Mr. Barnes' mother is already
20 in the room?

21 A Yeah, she is.

22 Q I'd like ---

23 A Again, that would have been the time when you're
24 talking about the blank space where we went to get his
25 mother.

1 Q Okay. You don't remember if you went downstairs
2 or McCoy went downstairs?

3 A I'm not exactly sure. I don't recall which one.

4 Q Okay.

5 A I think it might have been me.

6 Q Okay. I'd like you to take a look at the
7 transcript that the State has written number (3) on?

8 A Okay.

9 Q During the time that there was no recording, did
10 Investigator McCoy continue to talk to Trenton Barnes?

11 A I'm sorry, say that again.

12 Q During the time that there was a pause in the
13 recording or a malfunction in the recording, you went
14 to get his mother or someone went to get his mother.
15 Was there still a conversation going on?

16 A I don't know what McCoy was saying to him, if
17 anything ---

18 Q Okay.

19 A --- while I was gone.

20 Q I'd like you to turn to page 12?

21 THE COURT: Of which one?

22 MR. SCHNEE: What's numbered (3) at very top,
23 second line, McCoy says, "We prayed together, didn't
24 we?" Barnes says, "Yes, sir," and McCoy says, "We
25 sure did. I told you what repent means, right,

1 repentance, means, right.

2 Barnes, Yes, sir," McCoy, "okay." Reese, you
3 asked, you cold?" You're asking him if his microphone
4 is turned off, aren't you?

5 A That's right.

6 Q Because you know this is an improper line of
7 questioning, don't you?

8 A No, I asked him that because --- I didn't know
9 about this conversation. I don't know what he talked
10 about while I was gone. There was no way I could have.
11 I didn't ask him when I got back there. When I ask
12 another investigator, "Are you cold, are you hot?"
13 Yeah, there's no secret about that. I'm asking him if
14 he says he's cold, he doesn't have the recorders on.
15 If he says he's hot, he's got it on.

16 Q So you asked him specifically, "You cold, you
17 cold, are you cold?"

18 A Right.

19 Q Okay. You're trying to confirm whether he has
20 his recording on?

21 A Right.

22 Q Now, McCoy says he prayed with my client. You
23 weren't there for that, were you?

24 A No.

25 Q And somehow that's not on an audio recording, is

1 it?

2 A Apparently not.

3 Q And he never signed that waiver of rights?

4 A No, he didn't.

5 MR. SCHNEE: Judge, I have no further questions.

6 I do have some legal arguments about this.

7 THE COURT: All right. Redirect?

8 MS. CAMPBELL: No redirect on this witness, Your
9 Honor.

10 THE COURT: All right. Thank you very much. You
11 may step down.

12 THE WITNESS: Thank you.

13 MS. CAMPBELL: The State calls Investigator
14 McCoy.

15 THE COURT: All right.

16 INVESTIGATOR MATTHEW MCCOY,
17 after being duly sworn, testified as follows:

18 DIRECT EXAMINATION:

19 (DENNO)

20 BY MS. CAMPBELL:

21 Q Investigator McCoy, I want to turn your attention
22 back to July 5th. You were the one that advised
23 Mr. Trenton Barnes of his rights that day?

24 A That's correct.

25 Q Those were indicated in the transcript?

1 A That's correct, I read it off the form.

2 Q You read off the form?

3 A I read directly off the form, yes.

4 Q Which is State's Exhibit Number 464?

5 A That's correct.

6 Q And when you read him those rights, did he
7 indicate whether or not he understood them?

8 A He did. He indicated he understood.

9 Q In fact, instead of asking for a lawyer, he
10 actually just asked to see his mom?

11 A Correct, he just wanted his mom.

12 Q At that point this was being recorded; is that
13 correct?

14 A That's correct.

15 Q At some point, did the recorder quit working?

16 A It did. The recorder actually failed. In fact,
17 Sergeant Reese and I interviewed him for a length of
18 time without knowing the recording failed. When I
19 realized that, I pulled Reese out, let him know that
20 the recorder had failed and shut off, which is why I
21 brought two recorders in the next time when I came in
22 to interview him.

23 Q In fact, though, during the time that you were
24 interviewing him after he asked for his mother before
25 his mother got there, did you all ask him any

1 questions about the case?

2 A None whatsoever.

3 Q But did you mention religion to him?

4 A Yes, I did.

5 Q And at that point was his mother brought into the
6 room?

7 A She arrived shortly. While I was waiting ---
8 Reese, to my recollection, Reese went down to get his
9 mother. I was in the room with him waiting. The
10 recorder was still running at that point. Then when
11 Reese got back, we talked to his mother for some time
12 shortly, and then we talked to him. He agreed to talk
13 to us, and we began the interview.

14 Q Did he ever sign the waiver form?

15 A No, he didn't want to sign the waiver form.

16 Q Is that unusual?

17 A It's not unusual. I had a conversation. I said,
18 "Hey, you need to sign the waiver form if you want to
19 talk to us." He agreed that he understood and wanted
20 to talk.

21 Q And his mother was present during the time you
22 were interviewing him about the facts of the case?

23 A Yes, she was present the entire time we were
24 interviewing him.

25 Q At any point did he ever invoke any of his

1 rights?

2 A No, he did not.

3 Q At any point did he ever ask for a lawyer?

4 A No, he did not.

5 Q In fact, when he asked for his mother, did you
6 get his mother there?

7 A Yes.

8 Q At any point did he say he didn't want to talk
9 anymore?

10 A No, no, he never did.

11 Q Did anyone threaten him in any way?

12 A No, we did not.

13 Q Did anyone deprive him of any creature comforts?

14 A No, we did not.

15 Q In your opinion as an investigator, was he
16 talking to you voluntarily?

17 A He was.

18 Q Did he seem to understand his rights to the point
19 when he didn't want a lawyer, but instead wanted his
20 mom?

21 A That's correct, he did.

22 Q During the time period when he was there both in
23 the nonrecorded and recorded time, did he at any point
24 ever invoke any rights?

25 A No.

1 Q In fact, do you hear his voice and him telling
2 you what happened that night in the recordings that
3 have been transcribed?

4 A Yes.

5 Q And his mother was present?

6 A That's correct, she was there.

7 MS. CAMPBELL: That's all I have, Your Honor.

8 MR. SCHNEE: May it please the Court.

9 CROSS-EXAMINATION:

10 BY MR. SCHNEE:

11 Q If I'm understanding you correctly, you say you
12 realized at some point the recording had stopped
13 working?

14 A That's correct.

15 Q You left and came back?

16 A To the best of my recollection, as we're talking
17 and interviewing there's a button on the recorder that
18 I can press on it to see if it's still recording. It
19 wasn't on. It was turned off. I don't know if the
20 battery had died. We had many interviews that day,
21 but the recorder had stopped working. I went and
22 pulled Reese out, made some kind of excuse, hey, we
23 need go outside real quick. I advised him that the
24 recorder had quit working, I got two other recorders
25 and brought them back in as I recall, right.

1 Q Okay. So when you started a new recording, did
2 you put an introduction on the recording at all?

3 A Not that I recall.

4 Q Most of the recordings, you say this is
5 Investigator Matt McCoy, the Columbia Police
6 Department, the day and time and who your about to
7 interview, right?

8 A That's correct.

9 Q You do that most of the time before you even walk
10 into the interview room?

11 A That's correct.

12 Q But you didn't do that with the recordings here?

13 A No, because they were --- it was a continuation
14 of the same interview. I believe I introduced the
15 first interview or the first recording. So it was
16 just the same interview. When I realized the recorder
17 had quit, I went and got another recorder and came
18 right back.

19 Q Okay.

20 A I have didn't need to introduce it because it was
21 the same incident, just three different files.

22 Q So on the first interview, which is the first
23 part of your interview, you started talking to Trenton
24 about religion and God.

25 A Yes, I did.

1 Q If he believed in God?

2 A Yes.

3 Q If he's a Christian?

4 A Yes, I believe I noticed a cross on his neck he
5 was wearing, which is why I brought that up.

6 Q Okay.. You started talking about going to
7 St. Baptist?

8 A I think he brought up. He brought up the church,
9 I believe is how that happened.

10 Q Now, during the time that the recording is not
11 working, that's apparently the time when you prayed
12 with him?

13 A I don't recall when exactly the recording shut
14 off.

15 Q Okay. But at some point you prayed with him?

16 A At some point, I asked him if he wanted to pray,
17 and he acknowledged, yes, yes, he did.

18 Q Okay.

19 A To the best of my recollection.

20 Q And this is before the second recording starts?

21 A It would have been during the original recording
22 if it had continued to operate.

23 Q So it was during the time the recorder
24 malfunctioned?

25 A That's correct. During the time the recorder was

1 malfunctioning with his mother there, we talked about
2 the whole incident. It was a good solid chunk that's
3 missing out of that first recording. That was the
4 operation of it.

5 Q Okay. So you don't have on audio that he ever
6 waived his rights, do you?

7 A I do --- I believe the first part of audio he
8 waives his rights. He is waiting for his mom.

9 Q He signs his rights, but he never actually waives
10 his rights, does he?

11 A He waives his rights. He agreed to talk to us
12 after being advised of his rights. All he wanted was
13 his mother.

14 Q Can you show me anywhere that he says, yes, I
15 agree to waive my rights?

16 A I don't have a copy of the transcript at all. If
17 you don't mind. I don't know if he ever said those
18 exact words.

19 Q Well, did you ever ask him specifically, do you
20 wish to talk to us, and he says I want my mother?

21 A Let's see, page two, I was talking to him. I
22 read him his rights. If you understand you have to
23 acknowledge. Reese asked, "Do you understand?" He
24 said, "Yes, sir." I asked him to put his initials on
25 the form indicating that he understood the rights.

1 Q Uh-huh. Okay.

2 A Which he did. He then asked about going to jail,
3 and I went on. I had advised him, you know, you're
4 not under arrest. Did I tell you were under arrest?
5 What did I say when we were at the house. I asked did
6 you mind coming down to headquarters. He answered
7 some questions, right, he acknowledged that's what
8 happened. I then advised him, did you ride in the
9 back of a police car? No, you rode in the front seat
10 with me. You were in an unmarked car. You weren't
11 handcuffed in a cage behind your back. He
12 acknowledged that I was correct in correct in saying
13 that he had voluntarily came down to headquarters to
14 answer some questions.

15 Then I read the statement, asked him to read
16 along with me the statement of the waiver of rights,
17 that's off the form. Reese tells him to take his
18 time. Then he says, "Instead of a lawyer, can I take
19 my mom. He is advised as soon as she got there he
20 could. We asked does he have to sign it. I
21 acknowledged if he wanted to talk to us, then yes, I
22 would like him to sign.

23 Q You said you have to sign this if you want to
24 talk to us?

25 A Let me finish. Let me finish.

1 Q I'm asking you is that what you said?

2 A My exact quote was "If you want to talk to us,
3 yes."

4 Q His question was, "Do I have to sign this?" That
5 was his question?

6 A His question was, "Do I got to sign this?" Was
7 his exact --- I acknowledged that if you want to talk
8 to us, yes.

9 Q Do you have a signed form?

10 A No. The form --- he refused to sign the form.

11 Q Okay. Well, he asked you do I have to sign this,
12 and you said yes and you don't have a signed copy?

13 A Well, there's nothing legally requiring him to
14 sign the form. He just has to acknowledge and agree
15 to talk to us, which he did.

16 Q He asked you a very specific question and you
17 told him yes, you needed to sign this. This is a
18 16-year-old?

19 A Yes.

20 Q That's what was said --- those are your words in
21 the transcript?

22 A That's correct.

23 Q Well, continue?

24 A Reese advised him, "No, you don't have to sign
25 it, just as long as you understand your rights. If

1 you want to talk to us, let us talk --- let's talk.
2 If you don't want to sign it, you don't have to worry
3 about signing it. Just write on there that you didn't
4 want to sign it." Then he asked does it mean that
5 I'll go to jail. I talked to him about that nobody in
6 this room told you that you were under arrest. He
7 acknowledged that we didn't tell him he was arrest.

8 He asked, "Can I sign it when my mama gets here,"
9 and Reese acknowledges, "Yes, you can sign it with
10 your mom when gets there."

11 Q Well, his mama got there?

12 A Yes.

13 Q Did ne ever sign it?

14 A No, he never signed it.

15 Q Did you ever ask him to sign or tell him about
16 his rights again with his mother present?

17 A I don't recall if we did or not.

18 Q Well, do you have it on audio that you did?

19 A On the audio recording, no, the recorder failed.

20 Q Oh, the recorder failed. Just like the recorder
21 failed while you were praying with him. What exactly
22 did you tell him that repent means?

23 A I don't recall. I don't recall what my exact
24 words when we talked.

25 Q What do you think you said?

1 A You're asking me ---

2 Q To paraphrase what you might have explained to a
3 16 year old kid what the word repentance means?

4 A Might have said?

5 Q What you would have explained to a 16-year-old?

6 A Well, I probably would have said taking
7 responsibility for your actions and asking for
8 forgiveness.

9 Q Okay. In relation to religion?

10 A Yes.

11 Q And as soon as you asked that question and talked
12 about --- I'm sorry, we're in the second transcript.
13 Is there anything else in the first transcript dealing
14 with an agreement to waive rights?

15 A I don't see anything on the first transcript, no.

16 Q Go to ---

17 A I don't have a second transcript. Can I get a
18 copy?

19 Q I don't have an extra copy.

20 A Go ahead. I'll give you your copy back. Thank
21 you, sir. Appreciate it.

22 Q Start with one that's titled number (3) I believe
23 that's actually the

24 A Got you. The number (3) on the top.

25 Q I believe that's actually the longer version just

1 because for some reason that one ---

2 A Yeah, it's front and back, so I got you.

3 Q We'll keep going, all right?

4 A Okay..

5 Q All right. Now, when this picks up, you're
6 talking about the incident, right?

7 A When this picks up, Reese and Mr. Barnes are
8 talking about the incident.

9 Q Okay. Are you in the room?

10 A I'm --- when I walked into the room, Reese and
11 Mr. Barnes are having that conversation.

12 Q So you are not in the room at this point?

13 A Well, when the first line picks up, "Why did they
14 tell you to --- what happened to make you start
15 shooting? You understand that better?" That's when I
16 had just walked into the room. That's when the ---
17 I'm wearing the recorder; it picks that up.

18 Q Okay.

19 A I'm not in the room prior to that. I was going to
20 get the recorders.

21 Q And you have both recorders in your hand at that
22 point?

23 A Yes, I have both. One is not in my hand, it was
24 --- I was wearing it on my shirt and the other one is
25 attached to a notebook, I believe.

1 Q Okay. So you go to get recorders and

2 Investigator Reese is sitting in there?

3 A Sergeant Reese, yes.

4 Q Okay. He is the one sitting in there talking to
5 Trenton?

6 A That's correct.

7 Q Okay. Can you show me anywhere in here where you
8 actually get a waiver of his rights, whether he says
9 it orally or ---

10 A Well, on this transcript, this was midway through
11 the interview, so you're not going to have anything
12 about --- he has already waived his rights before
13 this, so you're not going to have anything on this
14 transcript.

15 Q Who did he waive the rights to?

16 A Myself and Reese.

17 Q And we have your word to take for that?

18 A You have myself and Sergeant Reese.

19 Q Now you talked to him about repentance on page
20 12.

21 A That's correct.

22 Q You said you prayed together at some point?

23 A Like I said, yes.

24 Q Okay. And then Investigator Reese asked if
25 you're cold, meaning is your microphone off?

1 A What he's asking me is, if I have the recorders
2 and they're working properly, that they're hot,
3 basically. That's how I took what his statement was.

4 MR. SCHNEE: Well, when you walked in ---

5 MS. CAMPBELL: I'm sorry, what page are you on?

6 MR. SCHNEE: Page 12 and number three.

7 BY MR. SCHNEE:

8 Q You say you walked --- that number three starts
9 with you walking in the room while they're talking,
10 right?

11 A Yes.

12 A That's my ---

13 Q And Sergeant Reese knows that you left the room
14 to get working recorders, right?

15 A Right. He is aware the recorder had stopped
16 working. I had already advised him of that. I was
17 going to get --- I had to find some.

18 Q Okay.

19 A It took me some time. Everybody was out --- a
20 large group us were out doing search warrants. Reese
21 and I were the only two at headquarters. I had to
22 find somebody who had a recorder sitting on their desk
23 that was charged and ready to go. It took some time
24 to do that.

25 Q So you walked back in the room with recorders,

1 right?

2 A Yes, two.

3 Q This conversation that I'm talking about when he
4 asks are you cold or hot, that's on page 12?

5 A Right.

6 MR. SCHNEE: Judge, for the record, that
7 conversation starts, and we are more than happy to
8 provide the actual recording, that starts at --- that
9 question of what I told you about the age of
10 repentance for your sins, we prayed together ---that
11 starts at 12 minutes and 32 seconds into that
12 recording. Explain why it took 12-and-a-half minutes
13 for Sergeant Reese to even ask you if the recordings
14 are on?

15 A You want me to try to make some kind of
16 conjecture as to what was going on through his mind at
17 the time, why it took him so long?

18 Q He is in there with you?

19 A Uh-huh.

20 Q Coming back in with working recorders for 12 and
21 a half minutes and yet somehow he only asks are you
22 cold, are you cold as soon as you start talking about
23 the fact that you prayed together with a 16 year old?

24 A I believe that's my first --- where I begin
25 talking to him or if it's further back. I have no

1 idea why he would ask that.

2 Q You have no idea why he would ask that?

3 A No.

4 Q At that point in time?

5 A Well, you can't see the recorders. They're
6 small, so we hide them. We don't make it obvious that
7 we have a huge recorder sitting there.

8 Q That's the first time you remember talking?

9 A No, no, I said that was not --- I was wondering
10 --- and that's why I went back and was looking through
11 the transcript. That's not the first time I started
12 talking, no.

13 Q Because you start on page seven?

14 A Correct, I think it's six or seven, correct.

15 Q You're telling me in 12-and-a-half minutes the
16 fact that you were going specifically to get new
17 recorders that Reese didn't have the time to even ask
18 you this?

19 A I'm telling you that I have no idea why he asked
20 me that and you asked me to make some kind of
21 conjecture as to why he would ask me that. In my mind
22 that's why he asked me that. We ask that question
23 quite a few times, are you hot, are you cold just to
24 make sure, hey, are you recording now. He was aware
25 the recorder had stopped earlier. He was more than

1 likely trying to get me to check. When he asked me
2 that question, I checked the recorders to make sure
3 they were operating. We didn't want what happened
4 earlier to happen again where we missed his confession
5 and it was lost due to the recorder failure. We
6 wanted to make sure the recorders were still
7 operating.

8 Q It just happens to be right around the exact time
9 you start talking about religion, repentance and
10 praying. Very convenient. I have no further
11 questions?

12 A Was that a question you want me to answer?

13 MR. SCHNEE: No.

14 THE WITNESS: All right. I wanted to be sure.

15 REDIRECT EXAMINATION:

16 BY MS. CAMPBELL:

17 Q At this point --- on page 12 he asks if you're
18 cold, you tell him you're hot, right?

19 A I'm telling him the recorder is on, it's working,
20 it's functioning.

21 Q And after that on page 12, you also say are you
22 sorry for what happened?

23 A That's correct.

24 Q And you follow up on that and said, "Are you
25 sorry about what happened to that lady?" He says, "I

1 hate it. I wish it never happened."

2 A "That's right."

3 Q You follow up with, "What do you mean; do you
4 repent for what happened to that lady?"

5 A "Yes, sir."

6 Q "And are you sorry you went with those boys?"

7 A "Yes, sir."

8 Q So there is nothing about him asking about
9 whether the recording was working that stopped any
10 line of questioning?

11 A That's correct. I went on with it. There was
12 nothing to hide with the audio recorders. There's
13 nothing to hide here.

14 Q Then he asked you --- and then cut you off before
15 he got the part on the first transcript about whether
16 or not he waived his rights?

17 A Correct.

18 Q Going to the ---

19 A This is the one with the number (1) at the top?

20 Q Yes. And it's the fourth page?

21 A Okay.

22 Q He stopped you when you asked about you can sign
23 it when your mama gets here. Reese clearly told him
24 he doesn't have to sign anything as long as he
25 understands his rights, right?

Redirect of McCoy by Campbell
(Denno)

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1 A That's correct.

2 Q In response to that question, understanding his
3 rights, he even goes so far as to say instead of a
4 lawyer, can I have my mama so that's who he wants?

5 A That's correct. He makes the statement, he is
6 sniffing. He says, "Can me and my mama talk to you?"

7 Q Uh-huh.

8 A "...to talk to y'all," is what he says.

9 Q And then the next thing is Investigator Reese
10 says, "What did you say?"

11 A And then he says, "Can me and my mama --- I'll
12 talk to you when mama gets here."

13 Q And then Investigator Reese says what?

14 A "Okay. I don't have a problem with that, but we
15 are going to talk when your mom gets ---"

16 Q That's not how it reads --- read it specifically
17 what it says.

18 A I'm sorry. "Investigator Reese: okay. I don't
19 have a problem with that, but you are going to talk
20 when your mom ---"

21 Q That's not how it reads. Read it word for word.
22 "But are you going to talk ---"

23 A "But are you going to talk when your mom get
24 here, son?"

25 Q And what is his answer?

1 A "Yes, sir."

2 Q At that point, what does Reese do?

3 A He goes and makes a phone call --- according to
4 the transcript, makes a phone call trying to get ahold
5 of his mom.

6 Q And do you get his mom there?

7 A Yes, we do. We made every effort to make sure
8 she was there.

9 Q I already asked you about what Trenton Barnes
10 himself --- did his mother ever say she didn't want
11 you to talking to her son?

12 A No.

13 Q Did he ever tell her son to quit talking to you?

14 A No.

15 Q In fact, was his mother fully cooperative?

16 A She was. She even encouraged him to tell the
17 truth while we were in there.

18 MS. CAMPBELL: That's all I have.

19 THE COURT: You can step down.

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

21 THE COURT: All right. Call your next witness.

22 MS. CAMPBELL: The State has no further witnesses
23 on this issue.

24 THE COURT: All right. Do you have anything on
25 this issue?

1 MR. SCHNEE: Just give me one minute, Your Honor.

2 (Pause.)

3 MR. SCHNEE: Judge, I don't have any witnesses.

4 THE COURT: Okay. Any arguments, Mr. Schnee?

5 MR. SCHNEE: Yes, Your Honor, I have a few
6 arguments. First of all, I believe this is a
7 completely inappropriate time to be having a Denno
8 hearing considering Investigator McCoy has already
9 finished his testimony. The State presented him as a
10 witness. He was the main investigator on this case.
11 He was doing --- you go through the substance, the
12 vast majority of his interview, he is conducting it.
13 At this point he has been called to the jury. He has
14 been cross-examined, redirected, recross-examined and
15 I would certainly object to him even being recalled at
16 this point to testify in front of the jury. However,
17 at this point now, I'm essentially prohibited from
18 being able to question Investigator McCoy in front of
19 the jury about it. Absent them recalling him, which
20 is a very odd and inappropriate thing for them to do
21 at this stage. If they wanted a Denno hearing, they
22 should have done this yesterday or the day before or
23 last week or three weeks ago when we had other
24 pretrial hearings. They've had more than enough
25 opportunities and I think at this stage in the trial

1 when they have announced that they have either two or
2 three witnesses left, they're going to just magically
3 illusion of, oh, by the way, we actually got a
4 statement from Trenton Barnes. I think that's
5 incredibly inappropriate.

6 If that's their intent and they think it's
7 necessary for their testimony and their efforts, then
8 they should ask for a mistrial and try to redo this.
9 If this evidence comes in, I'm going to be asking for
10 a mistrial. Specifically in terms of the Denno
11 issues, they are required to advise my clients of his
12 rights, make sure he understands them, get a valid,
13 free --- and have him waive them freely and
14 voluntarily absent coercion, threats or anything else.
15 In terms of coercion, I would direct your attention to
16 Bruder v. Williams, it's a US Supreme Court case.
17 It's commonly known as the Christian burial speech
18 case where the Supreme Court said essentially that
19 police were riding around in a car with a suspect
20 talking to him and what the Supreme Court said is the
21 content of the conversation dealing with religion and
22 saying you need to allow this family to bury their
23 loved one completely de-Mirandized him, and, Judge, I
24 would argue a very similar thing has happened here if
25 he ever been fully Mirandized and waived his rights.

1 I don't believe they presented evidence that he
2 actually waived his rights. He refused to sign that
3 document and magically, of course, the recorder breaks
4 when they say they do it and they never advised him
5 again knowing they have recording failures. After
6 12-and-a-half minutes, Investigator McCoy brings up
7 praying together and then Sergeant Reese says are you
8 hot, are you cold asking if the recording is on
9 because even Sergeant Reese knows the topic of praying
10 together and religion is completely inappropriate is
11 coercive and has been told by the US Supreme Court is
12 inappropriate and denies a fair opportunity for reason
13 and logic and that's why it counts as a de-Mirandizing
14 aspect. It eliminates the waiver.

15 For all of those reasons, I would object to any
16 of this testimony coming in. I don't believe they
17 have met they're burden of proof.

18 THE COURT: Just focus on the prayer.

19 MS. CAMPBELL: The prayer, Your Honor. Just
20 looking at State v. Hill, it's a South Carolina case
21 604 S.E. 2d 696.

22 THE COURT: Hold on. Let me find it.

23 MS. CAMPBELL: Or it may be State v. Crawlly.

24 THE COURT: What year is the Crawlly?

25 MS. CAMPBELL: Crawlly is 2002, but Hill is 2004,

1 Your Honor, and I would also talk about in the
2 interest of Tracy v. --- which is a 2010 case as far
3 as juveniles talking about allowing a defendant to
4 speak with his mother.

5 MS. CAMPBELL: And then State v. Clinton.

6 THE COURT: Do you have a copy of the pursuer
7 case?

8 MS. BAMBACH: No, I don't, Judge. Frankly, I'm
9 not even getting a wi-fi signal that's working for me
10 certainly. If I can go back to my office, I'm more
11 than happy to start printing them, but I would like an
12 opportunity to read any of the cases that the State
13 mentioned since I don't know what they are.

14 THE COURT: Okay. This Christian burial case has
15 nothing to do with this issue at all. I mean, the
16 Christian --- the Brewer v. Williams --- in Brewer v.
17 Williams, this case is very clear. The defendant in
18 that case was accused or --- I guess he was convicted,
19 of kidnapping that began in one state and went to
20 another state, and he had been --- he already had a
21 lawyer. In fact, he already had two lawyers. Both of
22 which his Des Moines lawyer and his Davenport, Iowa
23 lawyer had both advised him not to make any statements
24 and he had already been arraigned and he had already
25 asserted his right to counsel, and the police officer

1 who had knowledge that the defendant was a former
2 mental patient and deeply religious sought to obtain
3 an incriminating remark from him by telling her he
4 should give the parents --- the parents were entitled
5 to a Christian burial for the victim. I mean, that's
6 in no way shape or form, in any way, shape, or form in
7 any way goes to the situation that we have here.

8 Okay. Tell me why you think recalling McCoy is
9 appropriate.

10 MS. CAMPBELL: I don't know that we have to
11 recall McCoy. We were planning on offering it through
12 Reese.

13 THE COURT: Okay.

14 MS. CAMPBELL: If you would like me to recall
15 McCoy, I can.

16 THE COURT: I don't think it's necessary.

17 MS. CAMPBELL: I don't think it's necessary to
18 put a statement in front of the jury to call McCoy.

19 THE COURT: Here is what concerns me. The
20 statement was given freely, knowingly, intelligently
21 and voluntarily. He was clearly advised of his
22 rights. He is having a very clear and intelligent
23 conversation with law enforcement, with two law
24 enforcement officers. There is no concept that you're
25 required to sign the waiver form. People refuse to

1 sign the waiver form all the time.

2 The issue is not do you sign the form or do you
3 not sign the form. The issue is did you know what was
4 going on. Were you aware of your rights? Do you
5 freely, voluntarily, knowingly and intelligently
6 without threat, coercion, force or pressure give a
7 statement to the police.

8 Mr. Barnes indicated to the police that he
9 clearly did understand his constitutional rights
10 because he said, "Instead of a lawyer, can I have my
11 mama?" So that means that he knew and understood that
12 all he had to say was, can I have a lawyer and the
13 questioning would have stopped. He didn't. He asked
14 for his mother, which I'm not even sure the police are
15 required to give him. I haven't read that line of
16 cases in a while, but they did, which was more than
17 appropriate in the situations --- under the situation
18 that they found himself in. He continued to talk with
19 his mother present. So this idea of whatever prayer
20 happened has violated, you know, makes a Miranda
21 waiver invalid based on the Brewer case, the Brewer
22 case is completely and totally different. The person
23 had two lawyers, had been arraigned, and the person
24 and the police had been advised by the lawyers not to
25 talk to the defendant. I mean, that's a completely

1 and totally different situation, I mean --- than the
2 situation we have here. At no point do I see him
3 saying, I don't want to talk anymore. I don't want to
4 answer your questions. I want a lawyer or anything of
5 that nature in any way, shape, or form. So the
6 statement is in based upon the totality of the
7 circumstances. Jackson v. Denno and its progeny.

8 Now, here is my bigger concern. My bigger
9 concern is what exactly is coming in, because we can't
10 use the word 'we,' so ...

11 MS. CAMPBELL: We would agree with that.

12 THE COURT: The word 'we' is out. There is no
13 'we.' There is no 'they.' There is no 'us.' There
14 is no 'them.'

15 I mean, we need --- we're going to have to go
16 through this with a fine tooth comb on what you want
17 to put in to make sure that we're not violating
18 Bruton.

19 I assume you don't want them to say we either; is
20 that right, Ms. Pinnock? Is that why you're standing
21 up.

22 MS. PINNOCK: Yes, Your Honor. That is part of
23 the reason. The concern we had is the State has
24 already introduced a letter that was written by
25 Barnes. That was introduced over our objection

1 because it fully implicates and pretty much places all
2 the blame on Lorenzo Young. That letter is already
3 into evidence. What our concern is now, with the
4 State trying to introduce a statement given to law
5 enforcement, with looking at the totality of
6 everything, the circumstances, the inference is going
7 to be even stronger against Mr. Young. Introducing a
8 second statement by Mr. Barnes when they already have
9 one in evidence. It was our understanding that was
10 their solution to, you know, any sort of Bruton issues
11 that did come up was they elected to use a written
12 letter to his mother instead of a statement through
13 law enforcement, but now it's going to be two separate
14 statements introduced against Mr. Barnes and I fail to
15 see or understand how the jury would not be making the
16 inference against Mr. Young, not using that evidence
17 against Mr. Young when it's not admissible against
18 him.

19 So that's our bigger concern is that they already
20 have that statement in there against them. It's
21 already in evidence. Through Ms. Barnes, you know,
22 she identified the handwriting. They call a
23 handwriting expert up there to identify the
24 handwriting again. It was published to the jury.
25 They already heard a statement by Mr. Barnes. Again,

1 that statement fully implicates Mr. Young, and so I
2 just --- at this point, I think it's --- it doesn't
3 get past a 4003 analysis for Mr. Young because that
4 inference is going to be so strong, he is going to be
5 prejudiced by it. So aside from them saying we were
6 going to do this or this was our plan, yes, we have an
7 obvious problem with that, but the inferences that are
8 going to be created towards Mr. Young is our bigger
9 issue and I don't know how we can avoid that from
10 happening.

11 THE COURT: What about that argument?

12 MS. PINNOCK: I'm sorry?

13 THE COURT: I was talking to the State.

14 MS. CAMPBELL: Your Honor, she references the
15 other thing, but I mean, you directly told this jury
16 you can't consider that letter against Mr. Young in
17 any way. We've already addressed you can't use that
18 against Mr. Young. You can only use that against
19 Mr. Barnes.

20 THE COURT: What she is saying is that because
21 that letter is out, the inference is going to be well,
22 it depends on --- let's start with you can't make that
23 argument until you understand what we're --- I can't
24 process through that argument until I understand what
25 you plan on introducing or want to introduce.

1 MS. CAMPBELL: If you can refer to the
2 transcript, Your Honor, page two, number (2).

3 THE COURT: Tell me which one.

4 MS. CAMPBELL: Instead of saying, we was planning
5 to rob the Ale House. It would be the plan was to rob
6 the Ale House. What happened? Okay. The car started
7 backing ---

8 THE COURT: Hold on.

9 MR. SCHNEE: I'm sorry. I'll completely lost.

10 MS. CAMPBELL: Oh, I'm sorry, number (2), page
11 two.

12 MR. SCHNEE: What exactly are you proposing to
13 introduce, a transcript of this or have just one.

14 MS. CAMPBELL: Have Sergeant Reese testify to
15 what was said.

16 MR. SCHNEE: Well, I have a real problem with him
17 reading from a transcript that's not actually a
18 transcript.

19 THE COURT: Okay.

20 MS. CAMPBELL: Well, then I would be glad to ---

21 THE COURT: We're not on that issue.

22 MS. CAMPBELL: I'll get to that issue.

23 THE COURT: Keep going.

24 MS. CAMPBELL: The car start pulling out. Then
25 on that page --- the only thing I had to do was sit by

1 door. If I saw anybody, yell. Or, if I see anybody
2 yell.

3 MR. SCHNEE: What's your proposal to that last
4 one that you just read?

5 MS. CAMPBELL: Limit it to, the only thing I had
6 to do was just sit by the door. If I see anybody
7 yell, and we would be very specific with Sergeant ---
8 you can only talk about what he said his role was.

9 MS. PINNOCK: Judge, that ---

10 THE COURT: She is not finished.

11 MS. PINNOCK: I'm sorry. I thought she was.

12 MS. CAMPBELL: Page four. Did you watch what
13 happened?

14 Yes, sir.

15 MR. SCHNEE: Where are you on page four?

16 THE COURT: Near the bottom.

17 MS. CAMPBELL: Near the bottom, did you watch
18 this happen, yes, sir.

19 MR. SCHNEE: Did you watch what happened, yes,
20 sir.

21 MS. CAMPBELL: And then finally, Your Honor,
22 moving to transcript (3) top of page four, did you
23 know if anybody was inside the building. I don't
24 know, I don't know. I was supposed just sit as
25 lookout.

1 MS. PINNOCK: I'm sorry, what page?

2 MS. CAMPBELL: Page four, the top of number
3 three, sorry, and then I was going to do something on,
4 but I think that just repeats what he said earlier.

5 THE COURT: Okay. I am not allowing Trenton
6 Barnes' statement in, not because it is not in
7 voluntary or not freely given or in violation of
8 Miranda. I'm not letting it in because I believe that
9 it's a Bruton violation. Here is my explanation.
10 This jury knows that there are three people who are on
11 video committing this crime, okay. I mean, that fact
12 is not in dispute. Everybody has seen the video. The
13 jury has seen the video, all the lawyers have seen the
14 video. All the parties somewhere seen the video.
15 Even with the --- I'll use, and this is my word, but
16 even with the sterilization of Mr. Barnes' statements
17 to law enforcement, I believe they were freely given,
18 they were voluntarily given. They were not in
19 violation of Jackson v. Denno, or Miranda or anything
20 else. That is not my basis of this argument. My
21 basis of this argument is --- "the only thing I have
22 to do is sit by the door. If I see anybody, yell."
23 Well, the jury clearly knows that two people went in
24 and somebody was by the door. So that implies two
25 other people are involved. There's only one other

1 person sitting in the room. "If I see anybody, yell."
2 Well, who would he be yelling to if he wasn't yelling
3 to the other people involved, and so the plan was to
4 rob the Ale House. The plan --- I don't know that it
5 100 percent means there's more than one person, but
6 that's certainly a leap, but the plan was to rob the
7 Ale House and maybe that's making too much of a leap,
8 but the plan was to rob the Ale House. We see three
9 people. We've seen three people from the Ale House
10 video. "You watched what happened, didn't you?"
11 "Yes, sir, that means that somebody else was
12 following." It's just implication after implication
13 that there were other people involved; and I don't
14 know that there is a way to sterilize it. So
15 Mr. Barnes' statement is out based upon Bruton and the
16 confrontation clause.

17 MS. PINNOCK: Thank you, Your Honor.

18 MS. CAMPBELL: Your Honor, is that --- and my
19 concern would be at this point, is based on
20 cross-examination yesterday of Investigator McCoy,
21 this jury is also fully aware that each defendant was
22 interviewed and the defense would be arguing in front
23 of this jury that you didn't get to hear all of what
24 the police interview and what you didn't get to hear.
25 That's my concern. Clearly they went in and based on

1 rulings, they went into --- and each defendant came
2 out --- Troy Stevenson was interviewed, you know,
3 specifically and they elicited part but not all of
4 what Troy Stevenson told police. Our concern is that
5 this jury now is aware that these three defendants ---
6 it's been testified that have been interviewed and
7 they don't have that information before them.

8 THE COURT: Well, there's a jury charge out there
9 on the State's failure to call witnesses and that the
10 State doesn't have to call every single witness that
11 has potential information to prove their case. If you
12 want that charge, I'll give it to you. I mean,
13 Mr. Barnes' statement is a Bruton violation, clear as
14 day.

15 MS. CAMPBELL: I'm not arguing with your ruling.

16 THE COURT: I know you're not arguing with the
17 ruling. There's no other person for the jury to think
18 was involved but Lorenzo Young based on the letter
19 that's already been admitted which, I told them to
20 disregard, and based upon just the nature of the
21 statements. The nature of the statements are that
22 other people are actively participating. So what ---
23 tell me what you.

24 MS. CAMPBELL: My concern is at this point, the
25 jury knows all three codefendants were interviewed.

1 That came out on cross examination.

2 THE COURT: Did it come out that Mr. Young was
3 interviewed?

4 MR. KRZYSTON: I don't believe so.

5 MS. PINNOCK: We never did.

6 MS. CAMPBELL: There was a reference to someone
7 being threatened with the death penalty, which was in
8 violation of your order.

9 THE COURT: Right. A suspect, right.

10 MR. SCHNEE: I believe the testimony was even
11 brought out on direct that they were all brought to
12 headquarters. I don't know that that's really much of
13 a dispute.

14 MS. CAMPBELL: No. We don't dispute they were
15 all brought to headquarters, but at this point they
16 know there was a statement by Troy Stevenson. They
17 know another suspect in the case was questioned and
18 quote unquote threatened with the death penalty. I'll
19 get back to that issue in a minute, so they know that.
20 My concern is that they're going to get up here and
21 argue that basically the State hadn't brought forth
22 all the evidence. The State has brought forth all the
23 evidence we can against these. Of course, Troy
24 Stevenson, and we can bring that out, has pending
25 charges and we can't, you know, he will have his day

1 in court. And that's testimony elicited by the
2 defense, and that was part of our argument just
3 yesterday as far as our concern that they hear part of
4 what was talked about with the Troy Stevenson
5 interview, but not the rest of it, and I guess I'm
6 just ---

7 THE COURT: What's your plan on arguing for
8 closing with to respect to what the State has done and
9 not done, Mr. Krzyston?

10 MR. KRZYSTON: What's my plan?

11 THE COURT: Yes.

12 MR. KRZYSTON: I'm not going to talk about Troy
13 Stevenson at all. I don't know that I even mentioned
14 any witnesses by name.

15 THE COURT: Are you gang to say there were
16 witnesses they were not interviewed?

17 MR. KRZYSTON: That there were people with
18 potential information about this crime that were not
19 interview.

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

21 MR. SCHNEE: I'm certainly not going to mention
22 any specifics about Troy Stevenson or his interview.
23 I mean, I think the only questioning I did with
24 Investigator McCoy that got into that was in direct
25 response to answers to questions that I had asked him

1 that were trying to avoid bringing up who said what
2 and when. I'm certainly going to need bring up what
3 witnesses the State has not brought in or not
4 interviewed.

5 Certainly, I'll tell you right now, my plan is to
6 read off probably 3-quarters of the names on here that
7 they haven't called that are on their witness list.
8 They are all law enforcement. That's closing
9 argument. You know, the State has the burden of
10 proof. I'm certainly allowed to tell the jury that
11 they haven't proved their case. That's my general
12 plan.

13 MR. KRZYSTON: Judge, I'm not totally sure what
14 the issue is. I think there's an inference before the
15 jury that that Troy Stevenson was, in fact,
16 interviewed. Mr. Young, myself, and ---

17 THE COURT: But they haven't heard what that
18 interview was.

19 MR. KRZYSTON: Correct. We have alluded to the
20 fact that he was interviewed and there's been
21 discussion. ---

22 THE COURT: You've done more than allude.

23 MR. KRZYSTON: There were discussions as to what
24 Investigator McCoy learned in March of this year. I
25 think they've gotten the bulk of that information in

1 through investigative hearsay. I don't think there is
2 much of an issue.

3 MS. CAMPBELL: What?

4 THE COURT: What? No one is allowed to say the
5 word investigative hearsay anymore. It doesn't exist.

6 MR. KRZYSTON: Yes, sir.

7 THE COURT: It doesn't exist. Okay.

8 MR. KRZYSTON: Okay. Your Honor.

9 THE COURT: So I don't understand what you just
10 said. They didn't get up there and ask Investigator
11 McCoy --- the State did not get up and ask
12 Investigator McCoy about Troy Stevenson's interview.
13 You and Mr. Schnee did.

14 MR. KRZYSTON: The Troy Stevenson interview?

15 THE COURT: Yes.

16 MR. KRZYSTON: Right, the substance of what he
17 was interviewed was discussed.

18 THE COURT: Right.

19 MR. KRZYSTON: That's the information that
20 they're seeking to admit through Trenton Barnes'
21 statement? I mean, I'm confused as to what we're even
22 arguing about at this point.

23 THE COURT: Here is the argument: The defense
24 and, that is both defendants, brought up the fact that
25 Troy Stevenson gave all these names to the police and

1 the police didn't do anything with them, okay.

2 MR. KRZYSTON: Yes, sir.

3 THE COURT: You did that, right?

4 MR. KRZYSTON: Yes, sir.

5 THE COURT: Okay. And Mr. Schnee did that,
6 right? So the jury is left with this fraudulent
7 impression. You have committed a fraud upon the jury
8 that Troy Stevenson sat down and gave all these names
9 and didn't give any other information, which is not
10 true, because Troy Stevenson has told police that both
11 of your clients actively participated in the crime.

12 So the issue is that the jury is left with this
13 impression that Troy Stevenson gave this statement to
14 police, but the impression of what the statement is
15 not accurate or even truthful.

16 MR. KRZYSTON: And, Your Honor, to remedy that
17 very assertion that we just made, Your Honor allowed
18 them great latitude on redirect yesterday.

19 THE COURT: As to why they did not interview
20 those people.

21 MR. KRZYSTON: Correct.

22 THE COURT: Right.

23 MR. KRZYSTON: So I think to an extent that issue
24 has been addressed.

25 THE COURT: Are you going to stand up and say

1 that Investigator McCoy didn't interview all those
2 people when he should have?

3 MR. KRZYSTON: I will not say all those people's
4 names, no. I will say that there are people who
5 potentially had information regarding this crime that
6 Investigator McCoy failed to investigate.

7 THE COURT: Okay. What about you, Mr. Schnee?

8 MR. SCHNEE: If Your Honor instructs me not to
9 list off those names, I won't. I'm also similarly
10 confused as to exactly what we're discussing. Cross
11 examining Investigator McCoy about information he
12 received about potential witnesses does not mean that
13 the State gets to somehow introduce Troy Stevenson's
14 statement or the content.

15 THE COURT: We're already past that. We already
16 ruled they couldn't do that.

17 MR. SCHNEE: I just don't understand because I
18 don't believe the jury has been misled.

19 THE COURT: Oh, the jury has been misled, but I
20 have allowed that to happen.

21 MR. SCHNEE: Well, I think the jury has been
22 informed about what Investigator McCoy did or did not
23 do in his investigation in that entire line of
24 questioning. I don't think that --- some of the
25 people that were even mentioned were discussed by

1 other witnesses, such as Latoya Barnes, Marcus Haley
2 Johnson. That came up in August of last year and that
3 witness has never been interviewed. Clearly there was
4 a lot of other content in Latoya Barnes' conversation
5 with McCoy, much of which came out. A lot of it
6 didn't, but I don't even believe there is an inference
7 to the jury that Troy Stevenson said anything other
8 than just a list of names.

9 THE COURT: Ms. Campbell?

10 MS. CAMPBELL: May it please the Court, Your
11 Honor. As you have noted, the jury has been misled
12 somewhat about what Troy Stevenson was saying.
13 Basically, he was saying --- to put it in context, he
14 was trying to give names of people who would put him
15 staying at the house longer than Trenton. That's the
16 extent of what those witnesses could have said, but
17 the inference before this jury, clearly, is completely
18 different. We did try to rehabilitate it somewhat,
19 but at this point --- and we tried to introduce the
20 entire statement to show. We aren't trying hide
21 anything, but at this point the jury thinks there is
22 all this information from Troy Stevenson that they
23 don't have and that he was giving these witnesses ---
24 and I believe the word alibi was even shown at one
25 point as far as that goes. We would just be --- I

1 don't know quite how to handle that, because we need
2 to cure the misinformation that's in front of this
3 jury to whatever extent we can.

4 I am concerned about how they plan on arguing
5 this to the jury since there is additional information
6 which they clearly know that these defendants were
7 interviewed and, you know, that that's not before
8 them. I don't know if we can do some ruling that's
9 basically --- I mean, if you can address it to the
10 jury that you have ruled what is admissible to be
11 presented in this case, but you know, the other thing.
12 Your Honor, with Sergeant Reese, too, basically all
13 the information that the police got in this case point
14 towards these three individuals, including all the
15 information that they got from two out of the three
16 codefendants. The only one that ever denied being was
17 Lorenzo Young and all the physical evidence, as well,
18 as the evidence from the witnesses they interviewed
19 point to these three individuals.

20 THE COURT: What are you asking? That's my
21 question.

22 MS. CAMPBELL: I guess I'm asking for some
23 guidance. We intend to offer through Sergeant Reese
24 the fact that they interviewed multiple people in this
25 case and that all the information they got indicated

1 that these were the three people that committed this
2 crime and they were the only three people there. And
3 the problem is, as much as they would like to, to say
4 somebody else was there, even with Marcus Johnson, the
5 only information they got was that he was going around
6 saying that these two people did it, but that's not
7 been presented to the jury and in Investigator McCoy's
8 defense, he was somewhat limited on what he could say
9 as to why he did not interview these people. One was
10 because they didn't have any additional information or
11 any information contradicting what we already had.
12 Two, his experience in dealing with people in gangs is
13 they just simple don't want to talk to the police, and
14 I believe that's why he was asking for defense counsel
15 to --- for Ms. Zmroczek to help him in trying to make
16 these people you know, talk to him, but I don't think
17 that's really come out before the jury.

18 THE COURT: Yes, sir?

19 MR. KRZYSTON: Judge, I would just repeat that
20 this very issue was discussed and addressed yesterday.
21 Again, she was allowed great latitude in redirecting
22 Investigator McCoy. To another extent, he did not go
23 into interview these --- this list of people. I don't
24 know what information he would have had, and I think
25 it's improper for us to speculate at this point.

1 Without knowing what relief she is granting and
2 really on what grounds she is requesting it, I don't
3 know how to respond.

4 MR. SCHNEE: Judge, I may be misunderstanding,
5 but I might be able to --- it seems the solicitor is
6 asking to call Investigator Reese to the stand and
7 question him about all the various witnesses that were
8 interview and then follow up with a question " ...and
9 then they all told you these are the three people that
10 did it. I can't imagine how that would remotely be a
11 valid question under any circumstances.

12 MS. CAMPBELL: No.

13 MR. SCHNEE: So I don't even understand what the
14 relief is that the State is asking if that's not it,
15 so I'm not sure how to respond, Judge.

16 THE COURT: I mean, the bottom line is McCoy
17 didn't go out and interview these witnesses, period.

18 MR. SCHNEE: Right. And that's the only --- I'm
19 sorry, Judge.

20 THE COURT: Right. The bottom line is McCoy
21 didn't go out and interview these witnesses. I don't
22 know what I'm supposed to do about that. He has his
23 reasons for not doing it. I would allow him to
24 explain more than 90 percent of his reasons for not
25 doing it, but he just didn't do it. I just can't fix

1 that. His decision to not go interview witnesses
2 whose names he was given is his decision and his
3 investigation of the case, period. I mean, I can't
4 imagine a scenario where a defense attorney can't say
5 he was given witness names and he didn't go interview
6 them. I mean, that's a fact.

7 MS. CAMPBELL: I understand, and I'm not trying
8 to say that. I mean, the bottom line is, we did try
9 to introduce and I understand the ruling. All we're
10 saying is that --- and I think you alluded to it
11 earlier, Your Honor, there is somewhat of a fraud in
12 front of this jury. I'm just try calculate to what
13 extent I can try to ---

14 THE COURT: Well, and I --- the misled statement
15 earlier --- I don't know that that was the best word,
16 but I mean that's one of the issues in having joint
17 trials is that there's codefendant statements out
18 there that are not going to be admissible under Bruton
19 if their made to law enforcement. That's just a
20 reality of life that we deal with when we're dealing
21 with --- when you want to try more than one person and
22 I don't know a way around that other than to sever
23 trials.

24 MS. CAMPBELL: Okay. Your Honor, moving on.

25 THE COURT: Okay.

1 MS. CAMPBELL: As far as yesterday, I believe you
2 instructed defense counsel, Mr. Schnee, not to mention
3 the death penalty.

4 THE COURT: I did.

5 MS. CAMPBELL: And then he asked a question and
6 he followed up with " ...you were threatening with the
7 death penalty," or something to that effect. I could
8 be paraphrasing.

9 THE COURT: Correct.

10 MS. CAMPBELL: We would ask for some kind of
11 instruction to this jury that this is not a death
12 penalty case and they are not to consider any kind of
13 sentencing on that.

14 THE COURT: Okay. I've been searching for ---
15 there is an instruction out there. I've used it
16 before. I've been searching for it since last night,
17 and for whatever reason, I cannot find it. There's an
18 instruction out there that tells the jury that they
19 are not allowed to consider sentencing in any way,
20 shape, or form. That is completely in the Court's
21 discretion. If you make it that far, if you find it,
22 you can add in any portion, anything that's relevant
23 about the death penalty.

24 MS. CAMPBELL: Thank you.

25 THE COURT: Mr. Krzyston.

1 MR. KRZYSTON: We would obviously get to a charge
2 conference and object or, you know, be happy with the
3 State's jury charge.

4 THE COURT: You'll get to see it, right.

5 MR. KRZYSTON: Right. Making sure. Thank you,
6 Your Honor.

7 THE COURT: All right, what else?

8 MR. SCHNEE: Judge, since we're on what's
9 apparently an extended break, do you want to address
10 the issue of jury charges now or do you want to deal
11 with that later?

12 THE COURT: We'll deal with that later.

13 MR. SCHNEE: I have nothing further.

14 THE COURT: Let's get through the testimony and
15 deal with all that stuff.

16 MS. PINNOCK: We put our request to charge up on
17 your bench. Just wanted to make sure you got that,

18 THE COURT: I did. Thank you. All right. Bring
19 them in.

20 (WHEREUPON, the jury entered the courtroom at
21 10:49 A.M.)

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

23 THE COURT: All right. Thank you very much.
24 Welcome back, ladies and gentlemen. I apologize for
25 the delay. I accept full responsibility for it. No

1 inference in any way, shape, or form should be drawn
2 against any of the parties in regard to the delay that
3 we had this morning, and I do apologize and thank you
4 for being on time and ready to go. You may call your
5 next witness.

6 MS. GARFIELD: Thank you, Your Honor. The state
7 calls sergeant Kevin Reese.

8 SERGEANT KEVIN REESE,
9 after being duly sworn, testified as follows:

10 THE CLERK: Please have a seat. State your full
11 name for the record.

12 THE WITNESS: My name is Kevin Reese. R-E-E-S-E.

13 DIRECT EXAMINATION:

14 BY MS. GARFIELD:

15 Q Sergeant Reese, where are you from?

16 A Where am I from?

17 Q Uh-huh.

18 A Columbia.

19 Q You've lived here all your life?

20 A Yes, ma'am.

21 Q And Sergeant Reese, where are you employed?

22 A Columbia Police Department.

23 Q And what are your duties for the Columbia Police
24 Department?

25 A I am a sergeant supervisor with the criminal

1 investigations division of the department.

2 Q How long have you been with the Columbia Police
3 Department?

4 A I started in 1980, left in '85 and came back in
5 '91, and I've been there ever since.

6 Q And Sergeant Reese, were these your same duties
7 back in the summer 2013?

8 A I was in investigations, yes.

9 Q And were you an on call supervisor on the morning
10 of July 1, 2013?

11 A I was.

12 Q And specifically did you have an occasion to
13 receive information concerning a homicide?

14 A Yes.

15 Q And do you know what about time you received the
16 information?

17 A Let me refer to my notes.

18 Q Yes, sir. Are those your notes you made back
19 when this happened?

20 A Yes, ma'am.

21 MS. PINNOCK: I'm sorry, Your Honor, would your
22 instruct the witness to speak up? I am having a hard
23 time hearing him.

24 THE COURT: Would you'll speak up, Sergeant
25 Reese?

1 THE WITNESS: Yes, sir.

2 THE COURT: Thank you.

3 THE WITNESS: At 4:05 A.M. on the 1st of July, I
4 received a call from the street sergeant, Sergeant
5 Smalls of the Metro unit. He did not inform me that
6 this was a homicide. He just told me that someone had
7 been shot, and that would be the reason I did not call
8 out anybody until I arrived on the scene myself.

9 Q So you just understood that someone had been
10 shot?

11 A That's right. I'm battling a cold, but that's
12 right.

13 Q But you didn't know if it was suicide or homicide
14 or anything?

15 A Not at that time, no.

16 Q And based on the information you received from
17 Sergeant Smalls, what did you do?

18 A I left my house, and I went to the scene. I
19 arrived there about five o'clock.

20 Q And I apologize. When you said you arrived on
21 the scene, where did you arrive?

22 A The scene is 93 Tommy Circle.

23 Q And ---

24 A And that's off of Beltline.

25 Q And what type of business is that that you

1 arrived to?

2 A It is a bakery, and they --- it's an offsite
3 bakery. They cook items for another bakery that's
4 located in the downtown area.

5 Q And Sergeant Reese, you can refer to your notes,
6 can you just share with the jury what were your
7 initial observations when you arrived?

8 A First of all when I arrived there, it was raining
9 very hard. From the outside I observed a Dodge van,
10 and I noted the license tag number, and this van was
11 parked --- I'm sorry, a Dodge van, and this van was
12 parked right out in front of the business. I also
13 observed that there was a Ford van and that was parked
14 outside of the business, as well, and right at the
15 doorway of the business.

16 The door, the front door to the business, was
17 standing open. You can --- it was propped wide open.
18 You can clearly see from the outside on the inside.
19 When I went into the building, prior to going into the
20 building, I talked to some of the officers and
21 particularly the supervisor, the street supervisor, to
22 get an overview of what they found when they got
23 there.

24 I went inside, and one of the first things I
25 noticed, there was a chair overturned. I also noticed

1 that there were pots and plastic containers that
2 appeared to have been knocked over onto the floor.
3 When I say it appeared they had been knocked on the
4 floor, it's because it was clear that are those items
5 did not belong on the floor. They weren't just
6 sitting there in an orderly fashion, they were strewn
7 all over the place.

8 There were several shell casings on the floor.

9 I noticed Ms. Hunnewell's --- observed
10 Ms. Hunnewell's body and she was lying on the floor
11 near the sink, and I also noted that her body was
12 partially underneath the sink.

13 The gas to the equipment had been --- there was
14 some large stoves and I ascertained that --- you could
15 smell the gas. It was very strong, and I made sure
16 that that gas wasn't on. That was simply by my asking
17 and I was informed that the fire department had
18 already been there, and they had turned the gas off.

19 I also noticed what appeared to be bullet holes,
20 several bullet holes in the walls of the business, and
21 the lights were on in the inside of the business, as
22 well. I started to check around further, and I
23 realized that there were at least five cameras,
24 ceiling cameras. Of course, I just mentioned that the
25 smoke was --- the gas was pretty heavy in there. They

1 could also smell the smoke. That was an indication
2 there had already been some sort of activity going on
3 into that --- inside that business and you put it all
4 together, it just appeared that Ms. Hunnewell had
5 already been at work for some time period, and I also
6 noticed that there was a cell phone that we found, and
7 it was on a cookie rack that was just on the other
8 side of a large table that was about in the middle of
9 the business.

10 I walked around and at this point I had cleared
11 out the building because this now --- I arrived on the
12 scene. This is now an official crime scene. Not
13 everybody is supposed to be in this crime scene, so
14 I'm pretty much at this time walking around by myself
15 jotting down what I noted.

16 Inside an adjacent office, the lights were off.
17 It was --- you can see in it, but the only way you can
18 see in it, there was light from the part of the
19 building, the room where Ms. Hunnewell's body was
20 found.

21 I noticed on a desk of some sort, some time
22 cards, the punch time cards. One did belong to
23 Ms. Kelly, Ms. Hunnewell, I'm sorry.

24 I know that because it had her name on it. It
25 showed the stamp-in time was around three o'clock A.M.

1 There were other employee time cards that was also
2 found on this table near the punch clock. That at the
3 time would have been significant, important to me just
4 in case there had been any employees whose names came
5 up as a person of interest at some point in the
6 investigation.

7 I noticed that there were some keys to a Ford
8 vehicle. I found those on the counter. Inside that
9 room there was another room. Inside that room, there
10 was a security monitoring system.

11 Q And was that in relation to those cameras you had
12 initially scene?

13 A That's right.

14 Q And Sergeant Reese, you said when you arrived ---
15 are there many officers there?

16 A There were quite a few, yes.

17 Q Also, employees of the coroner's department?

18 A Yes, the coroners, a couple, few of the officers.

19 Q And eventually did Investigator McCoy arrive?

20 A Yes, I telephoned McCoy and told him that I
21 wanted him to come to the scene, and I'm not sure
22 whether I informed him over the phone that he was
23 going to take the lead. I believe I did or waited
24 until he got there, but I wanted him to be the lead on
25 this, so I assigned it to him.

1 Q Sergeant Reese, did you yourself engage any
2 canvassing of any the area neighborhoods?

3 A I did.

4 Q I'm sorry?

5 A I did, yes.

6 Q Do you recall what area you canvassed?

7 A I'm not sure of the block of Beltline, but we
8 canvassed the area of this street where this incident
9 happened at. We went there. We went to businesses
10 along Beltline, a nursing home.

11 We also crossed --- we actually crossed over to
12 other businesses. Of course, it had stopped raining.
13 After we had regrouped, we went across Beltline.
14 There's a community right across Beltline. From this
15 street here, we went to as many houses and talked to
16 as many people back up in that community as we could.

17 Q Just explain to the jury when you're walking
18 around knocking on these doors, what are you telling
19 residents in this community?

20 A I'm not giving them any information other than to
21 say there was a homicide that happened down the
22 street. I don't give them where it happened at or how
23 it happened or who was killed. They don't need know
24 that, but what they need to know, if you're going to
25 generate any kind of positive response, people want to

1 know well why are you asking us that information, so
2 we would knock on doors or we would simply see people
3 in their yards, backyards sitting down, side yard,
4 even if you walked down the street, we approached you.

5 Q You're not giving them any specific details of
6 what happened?

7 A No.

8 Q Why not?

9 A You --- if you do ---

10 MS. PINNOCK: Objection, Your Honor. He was
11 speculating.

12 THE COURT: As to why he said something?

13 MS. PINNOCK: Yes.

14 THE COURT: All right. Overruled.

15 BY MS. GARFIELD:

16 Q Go ahead.

17 A If you tell the public anything, you know, you
18 run the chance of diminishing the integrity of the
19 investigation.

20 Q Do you do that to preserve the investigation?

21 A I do.

22 Q Do you do that with all of the investigations you
23 participate in?

24 A I've been investigating homicides for nearly 15,
25 16 years. I don't change. It's always been that way.

1 Q And Sergeant Reese, did you continue to work on
2 this case or did you end that night?

3 A Because --- I was in investigations, but this was
4 what's called a VCAP case, a crime against persons.
5 In violent crimes against persons, Sergeant Pegram who
6 at that time --- now, I was at one time, I worked in
7 that unit for several years and I was the supervisor
8 in that unit.

9 I moved on from that unit to another unit at this
10 time, but I'm still in investigations. Sergeant
11 Pegram was the sergeant over that unit.

12 Generally, if one of the supervisors was gone on
13 vacation, you know, he has to find somebody else that
14 would be willing to take his place, and I was on call
15 anyway. So I also took his place while he was on
16 vacation.

17 I worked, supervised this case until Sergeant
18 Pegram got back. After that, I got back to the unit I
19 was assigned to.

20 Q At that time you were in a supervisory role with
21 the Columbia Police Department?

22 A Uh --- I'm sorry.

23 Q At that time were you in a supervisor role with
24 the Columbia Police Department?

25 A Yes, I was.

1 Q And you are today, as well?

2 A Yes, I am.

3 Q And do you recall about when Sergeant Pegram came
4 back from vacation?

5 A I believe it was sometime after the 5th.

6 Q July 5th?

7 A Fifth of July.

8 Q And let me just ask you so you can inform the
9 jury, when you're working this kind of case, is it a
10 nine to five job?

11 A Absolutely not. You ---

12 Q Explain to the jury what kind of manpower and
13 workload day-to-day is?

14 A I put the guys that was working, not only on this
15 case, but since we're talking about this case, they
16 put you --- for instance, I got this call at --- four
17 something in the morning. That first day, I believe
18 it was like three o'clock the next morning, when I
19 finally got home. You never know how --- where your
20 investigation is going to take you, or how long you
21 got to be out there. Trust me when I say it pays to
22 have a good family when you have a job like this
23 because you're never home.

24 Q Sergeant Reese, is that the way it is with all
25 investigations that you participate in?

1 A All of them, yes.

2 Q So with that, Sergeant Reese, and you've been in
3 the courtroom this entire trial; is that correct?

4 A That's correct.

5 Q And you were there when Investigator McCoy
6 testified; is that correct?

7 A That's correct.

8 Q So, Sergeant Reese, you were also a party to the
9 interviews that were conducted in this case?

10 A Yes, I was.

11 Q Were you also present for the search warrants
12 that were conducted in this case?

13 A I supervised all that.

14 Q And you were obviously at the crime scene; is
15 that correct?

16 A Yes.

17 Q And you reviewed the video that was taken from
18 the bakery?

19 A Yes.

20 Q And were you also a party to viewing the video
21 from the Ale House?

22 A Yes.

23 Q And were you at a later time shown data
24 information, pictures, videos taken from cell phones
25 that were collected, from a cell phone that was

1 collected in this case?

2 A That's right.

3 Q I want to direct your attention a couple of
4 those. First of all, obviously the subjects of
5 Trenton Barnes and Lorenzo Young came into your
6 investigation; is that correct?

7 A That's right.

8 Q I'm sorry --- between the two of us. What was
9 your answer?

10 A That's correct.

11 Q And did you discover where Lorenzo Young lived?

12 A I did.

13 Q And did you also discover where Trenton Barnes
14 resided?

15 A I did.

16 Q And where did Trenton Barnes live?

17 A Trenton Barnes lived on Lucille Drive. I'm not
18 sure of the numbers right at this moment.

19 Q You're not sure what?

20 A Of the numbers, but he lived on Lucille.

21 Q And those homes, are they in close proximity to
22 the bakery?

23 A Across Beltline. Easy walking distance.

24 Q Did you in fact walk between Lucille Drive to the
25 bakery?

1 A I did.

2 Q And about how long does it take you to get there?

3 A From Lucille to the bakery, under ten minutes.

4 It doesn't take you long.

5 Q And you did that yourself?

6 A I just drove.

7 Q Were you also there when --- first let me back
8 up. You canvass a neighborhood. Do you provide
9 information on how anybody with information can get in
10 touch with law enforcement?

11 A That's right. Sometimes I will maybe give out
12 card or ask then to call Crimestoppers, that kind of
13 thing or any of the other investigators that might
14 have been with us when I came in contact with any
15 specific persons.

16 Q And so were you there when Donald Moore was
17 interviewed?

18 A I was.

19 Q And when Donald Moore came to the Columbia Police
20 Department and talked with you and investigator ---
21 other investigators, what was his demeanor like?

22 A Well, I found him to be very candid.

23 MS. BAMBACH: Objection, Your Honor. Bolstering.

24 MR. KRZYSTON: Bolstering.

25 THE COURT: She asked what his demeanor was. You

1 can answer that.

2 MS. PINNOCK: It was the answer that our
3 objection was on.

4 THE COURT: All right. Re-ask the question. I
5 thought the question was what was Donald Moore's
6 demeanor.

7 MS. GARFIELD: What was Donald Moore's demeanor
8 like?

9 THE COURT: You may answer that question.

10 THE WITNESS: I didn't find his demeanor to be
11 anything out of the ordinary.

12 BY MS. GARFIELD:

13 Q And he came to you on his own will?

14 A Yes, he did.

15 Q And in your experience in investigations,
16 sometimes witnesses change their cooperation?

17 MR. SCHNEE: Objection.

18 MS. PINNOCK: Objection, speculation.

19 THE COURT: Overruled.

20 MR. SCHNEE: Relevance.

21 THE COURT: You may answer.

22 THE WITNESS: I've had that to happen a few
23 times, yes.

24 BY MS. GARFIELD:

25 Q Now, you also had an opportunity to review

1 photographs taken from a phone associated with Lorenzo
2 Young. I'm going to hand you what's been marked as
3 State's Exhibit 392 and 435. Do you recognize these
4 those photographs?

5 A I do.

6 Q And do you know who the person is in those
7 photographs?

8 A It would be the defendant sitting in the middle
9 table, Lorenzo Young.

10 Q And you have personally knowledge concerning
11 Mr. Young?

12 A I do, yes.

13 Q Did you also have an opportunity to review a clip
14 of a video taken off that same phone?

15 A That's right.

16 Q I'm referring to State's Exhibit Number 441.
17 Sergeant Reese, were you able to review that video?

18 A Yes, ma'am.

19 Q And based on your personally knowledge, were you
20 able to identify anyone in the video?

21 A Lorenzo Young.

22 Q And as --- just kind of backtracking a little
23 bit, as Donald Moore came forward to talk to you,
24 witnesses that came forward with information, were
25 they interviewed by investigators or someone at the

1 Columbia Police Department?

2 A They were.

3 Q I'm going to direct your attention back to you
4 were testifying --- I believe you said that there were
5 several officers at the bakery who indicated they were
6 people from the coroner's office; is that correct?

7 A That's correct.

8 Q And besides that particular day, are there are
9 numerous officers involved?

10 A Beside that day?

11 Q Sure.

12 A That morning?

13 Q Yes, sir.

14 A Yeah, there were other officers and/or
15 investigators that's true.

16 Q But not everybody --- although they're working,
17 not everybody produces information that can be
18 contributed to the case; is that correct?

19 A Yeah, that's correct.

20 Q And is it unusual for --- or do all the
21 witnesses --- let me backtrack. All the officers that
22 are involved in the course of this investigation that
23 took several days, in your experience of 15, 16, 17
24 years of law enforcement --- or in homicide, do they
25 all come to court?

1 A No.

2 Q And also based on your experience working these
3 violent crimes against people, in your experience are
4 all witnesses willing to talk to police?

5 MR. SCHNEE: Objection. General relevance to all
6 witnesses.

7 THE COURT: Overruled.

8 THE WITNESS: No.

9 BY MS. GARFIELD:

10 Q Now, you have reviewed the video in the case from
11 the bakery?

12 A I have.

13 Q And the subjects that entered the bakery, what
14 are they wearing as far as types of clothing?

15 A The two that entered the establishment, one had
16 on a red, looked like a pull over kind of hoodie, a
17 sweatshirt kind of thing, and the other one was
18 wearing a gray colored hoodie.

19 Q And you were a party to or there for the search
20 warrants of Lucille Drive?

21 A I was.

22 Q And Bronx Road.

23 Q Yes. And were any red hoodies found?

24 A No.

25 Q Were any gray hoodies found?

1 A No.

2 Q Were there any hoodies found?

3 A There was one hoodie found. I think it was at
4 Mr. Barnes' house and that was a dark colored hoodie,
5 a navy blue, I believe.

6 Q And was there anything --- that hoodie was wet,
7 as well, when it was found?

8 A Yes, ma'am.

9 Q Did law enforcement in any way rush to make an
10 arrest in this case?

11 A Did we rush to make an arrest?

12 Q Yes, sir.

13 A Absolutely not, no.

14 Q Did you treat this investigation any differently
15 than you would any others?

16 A No. Here is what I do when I'm instructing
17 investigations on a case. The main thing is that
18 before you take a person's liberties away, that is
19 sign arrest warrants, arrest this person, take him off
20 the street, put him in jail, you make sure that you
21 have the reasons required to do so.

22 Q Sergeant Reese, did you also take that video from
23 the bakery to the Lexington County Sheriff's
24 Department?

25 A One of the investigators did, I believe McCoy,

1 yes, ma'am.

2 Q And from taking it to the sheriff's department in
3 Lexington County, were still photos produced?

4 A Yes.

5 Q I'm going to show you what's been marked as
6 State's Exhibit Number 451 through 463. If you'll
7 just take a moment to go through these photographs?

8 A All right.

9 Q Sergeant Reese, what are those photographs
10 contain?

11 A These photographs are from the video camera on
12 the inside of the bakery and it shows the initial
13 contact, which shows the subjects coming in at a
14 certain point that entered into the room of the video
15 camera. it shows their contact with Ms. Hunnewell.

16 MS. GARFIELD: Your Honor, at this time I'd like
17 to introduce 451 through 463 into evidence.

18 THE COURT: Over defense's objection.

19 MS. GARFIELD: Thank you, Your Honor, Your Honor.

20 (WHEREUPON, State's Exhibit Numbers 451 through
21 463 were admitted into evidence.)

22 BY MS. GARFIELD:

23 Q Thank you, Your Honor. Sergeant Reese, I want to
24 show you State's Exhibit Number 451, can you describe
25 what's in this still photograph?

1 A This is a --- if the camera that took this frame
2 would be behind me, Ms. Hunnewell would be in front of
3 me, and it shows Ms. Hunnewell with her back turned
4 toward that camera.

5 She is over at the sink. There's a large stove
6 to the left, and then a couple of the tables I
7 mentioned earlier.

8 Q And I believe --- you reviewed all of those
9 photographs and the evidence. Is the time accurate on
10 the photographs?

11 A No. From what my understanding of it was, the
12 clock was off an hour or so, I believe.

13 Q Okay.

14 MS. GARFIELD: Permission to the publish to the
15 jury as we go through these, Judge?

16 THE COURT: Yes, ma'am.

17 BY MS. GARFIELD:

18 Q Can you tell what Ms. Hunnewell is doing at this
19 time?

20 A You can't tell, put you can know that she is
21 standing at the sink. I can't really tell.

22 Q And State's Exhibit Number 452. Is that another
23 angle from the bakery?

24 A Yes, it is. It would be from Ms. Hunnewell's
25 rear, from the rear to Ms. Hunnewell and over to the

1 right side of Ms. Hunnewell, and she is --- it looks
2 like she is still at the sink at this point.

3 Q State's Exhibit Number 453. What does that
4 photograph reflect that is occurring in the bakery?

5 A Okay. First of all, you notice that
6 Ms. Hunnewell is not in this frame. It's not at the
7 sink. It reflects one of the individuals, who is now
8 on the inside of the business, and it will be the one
9 with the red hoodie on.

10 Q And referring to State's Exhibit Number 454, what
11 do you see in that photograph, Sergeant Reese?

12 A This frame shows just at the entry point to the
13 door, the entry door, and I say that because the other
14 subject the one with the gray hoodie on, is just a
15 couple of feet --- appeared to be just a couple of
16 feet on the inside of the business as you step through
17 that entry door.

18 Q Moving on to State's Exhibit 455, Sergeant Reese,
19 what does that picture reflect in the bakery?

20 A Ms. Hunnewell has her back turned toward where
21 the door is opened, and it shows the subject in the
22 red. It's clear that he has a firearm in his right
23 hand.

24 Apparently he is approaching her and she doesn't
25 know it yet, because it doesn't appear that at this

1 instant it look as if she is still --- she is working
2 at the stove and not even aware of what's behind her.

3 Q Sergeant Reese, I'll hand you State's Exhibit
4 Number 456. Can you please share with the jury what
5 you observed in that photograph?

6 A This looks like Ms. Hunnewell is still at the
7 stove and now the person in the red hoodie has engaged
8 her from behind. It appears that he has hands on at
9 this point.

10 Again, if the stove and the sink area would be
11 out here and the camera would be here, it also shows
12 the back of the subject in the gray hoodie. His arm
13 is extended, as well. He has something in his hand to
14 me from the investigation, obviously, that's a
15 firearm.

16 Q Sergeant Reese, I'll direct your attention to
17 State's Exhibit Number 457, can you share with the
18 jury what you observed in that photograph?

19 A This frame also shows a hands on type situation.
20 Ms. Hunnewell is still being engaged from the rear.
21 It appears that the subject now, in the red hoodie,
22 has the firearm up in this manner pointing it at her
23 head.

24 It also appears that the subject in the gray
25 hoodie is now making his move toward Ms. Hunnewell and

1 the subject in the red shirt, sweatshirt.

2 Q Sergeant Reese, State's Exhibit Number 458, what
3 do you see in that?

4 A I don't see the one in --- I don't see the gray
5 hoodie in this frame. The subject in the red hoodie
6 is still engaging Ms. Hunnewell. He has the gun. It
7 appears to be a little closer at this point. He
8 has his --- it looks as if he has his left hand now on
9 her --- on the rear from this side of her head and
10 neck area.

11 Q And I'll show you State's Exhibit Number 459.
12 What do you observe in that picture?

13 A Frame 459 shows --- still the cameras back here
14 is showing the rear of the person that's in the red
15 hoodie. Ms. Hunnewell is now facing him. There is
16 not a great distance between the two of them. They
17 are very close. Close enough to be touching, but she
18 is facing him and it looks as if he still has the gun
19 in his right hand pointing it at Ms. Hunnewell and now
20 has her hand up like this and her arm.

21 Q Sergeant Reese, if you'll share with the jury
22 what you observed in State's Exhibit 460.

23 A This frame here shows both subjects now in the
24 gray hoodie and a red hoodie facing Ms. Hunnewell.
25 She is now turned around toward the camera that would

1 be here and her left hand is up like this at some
2 point, and I really can't make her right hand out
3 except to say that it is somewhere in this manner
4 here, around the breast area here.

5 The subject in the gray hoodie is still using his
6 right hand. He is pointing the firearm at her in her
7 mid section area. It looks like there is now a --- a
8 bit more of a physical contact made between Ms.
9 Hunnewell and the one in the red. This looks like
10 there is a physical altercation at this point between
11 the two of them.

12 Q Sergeant Reese, if you can take a look at 461?

13 A Certainly.

14 Q And share with the jury what you observed.

15 A At this point, I do not --- in this frame I do
16 not see the subject in the gray hoodie, only it still
17 appears to be in the right hand of the subject in the
18 red hoodie. It's caught in this frame. but not very
19 much of him. You don't see him, you just see his arm
20 up to this point. You still see the firearm in his
21 hand. Ms. Hunnewell is still in the frame and I
22 cannot at this point tell you'll whether at this
23 juncture there has been any shots fired at this point.
24 I can't tell that from the photograph.

25 Q You can't tell that in the photographs?

1 A No.

2 Q Okay.

3 Q Sergeant Reese, if you'll share with the jury
4 what you see in State's Exhibit 462.

5 A In 462, the subject --- Ms. Hunnewell is not in
6 the frame. The subject with the red hoodie, it's
7 clear at this point that he is in flight. You can
8 tell by the different positions of his body and he is
9 on his way out toward the area that he came in
10 through.

11 Q What did you observe about his arm?

12 A His arm is up like this and it's behind him in
13 this fashion.

14 Q In the direction towards who?

15 A In the direction toward where Ms. Hunnewell was
16 standing a few moments ago.

17 Q And lastly State's Exhibit Number 463, what did
18 you observe?

19 A 463 shows the subject in the gray hoodie. He is
20 in the frame shot. Ms. Hunnewell is in the frame
21 shot. Unfortunately, she is --- you can't see all of
22 her, but you can see her legs. One foot. She is down
23 on the floor, and she is in that same area that the
24 subjects first engaged her. The subject with the gray
25 hoodie on, he still has the gun in his hand. He has

1 it down toward the floor and again, like the other
2 shot, it's clear that he is in flight, as well. He is
3 trying to get out of it.

4 Q Sergeant Reese, I'll just direct your attention
5 to both State's Exhibits 462 and 463. Are these taken
6 from the same camera angle?

7 A I would think that it was. I'm not too sure
8 except to say in 463 it looks as if the camera ---
9 it's the rear camera that would be to my back and a
10 little over to the left. I'm not clear where the
11 camera was situated at this point, but in 462 it looks
12 as if this camera would have been further down closest
13 to the door where they first encountered the doorway.

14 Q So captured by two different cameras?

15 A Two different cameras.

16 Q What are the times on those?

17 A 463, the time is showing 0:42:32 and 462 the time
18 is showing 02:42:31.

19 Q So the cameras captured the second part?

20 A Yeah.

21 Q It was just something I overlooked. I'm sorry.
22 463 it appears to have been recorded by camera 4 and
23 462 recorded by camera 2.

24 Q Sergeant Reese, you interviewed several witnesses
25 in this case, correct?

1 A Yes, ma'am.

2 Q And in your investigation, did that lead to
3 arrests?

4 A Yes, it did.

5 Q Did that lead to people being charged?

6 A That's correct.

7 Q And can you share with the jury who all was
8 charged in this case?

9 A Who all was charged in the case?

10 Q Yes, sir.

11 A Lorenzo Young was charged, Trenton Barnes was
12 charged and Troy Stevenson was charged. Those three
13 were people charged.

14 Q And were all three charged the same offenses?

15 A Yes, they were.

16 Q And the charges against Troy Stevenson, they're
17 still pending?

18 A That's right. He was charged with the same.

19 Q And he will have his day in court; is that
20 correct?

21 A Yes, ma'am.

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

23 (Pause.)

24 BY MS. GARFIELD:

25 Q Sergeant Reese, do you see the defendant Lorenzo

1 Young in the courtroom today?

2 A I do.

3 Q Can you please point him out for the record to
4 the jury?

5 A He is in the middle of counsel table, has a blue
6 shirt on with striped tie.

7 Q Do you also see the defendant Trenton Barnes in
8 this case?

9 A I do.

10 Q Can you point him out for the record?

11 A He is sitting at the far right counsel table with
12 a black and white printed shirt on.

13 Q Thank you, Sergeant Reese.

14 MS. GARFIELD: Your Honor, may the record reflect
15 that Sergeant Reese has identified both defendants for
16 the record?

17 THE COURT: So reflected.

18 MS. GARFIELD: Sergeant Reese, please answer any
19 questions the defense counsel may have for you.

20 THE WITNESS: I will.

21 MS. PINNOCK: No questions, Your Honor.

22 MR. SCHNEE: No questions.

23 THE COURT: Have a good day.

24 THE WITNESS: Thank you, Your Honor.

25 THE COURT: Call your next witness.

1 MS. GARFIELD: Your Honor, at this time the State
2 of South Carolina rests its case.

3 THE COURT: All right. Ladies and gentlemen, at
4 this point in time, the State has rested its case in
5 chief. I have some matters of law that I have to take
6 up that I'm required to take up outside of prescience
7 so please return to your jury room. Do not discuss
8 the case in any way, shape, or form. Keep an open
9 mind and we'll be back with you in just a few minutes.
10 Thank you very much. Everyone remain seated while the
11 jury is dismissed.

12 (WHEREUPON, the jury left the courtroom at 11:38
13 A.M.)

14 THE COURT: All right. Who wants to go first?

15 MR. SCHNEE: I'll go first.

16 THE COURT: All right.

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

18 THE COURT: Yes, sir.

19 MR. SCHNEE: First I would renew all prior
20 motions and objections. Particularly all of the
21 motions dealing with the mistrial, severance,
22 804(b)(3), just all for the record. Second, Your
23 Honor, I'd move for a directed verdict on all charges
24 for my client particularly, other than the letter
25 which I would certainly argue is not really direct

1 evidence, that it's more circumstantial evidence. If
2 you look at the entire content of what we know is
3 factually untrue, compared to the video and all other
4 actual indisputable evidence, I don't believe the
5 State has gotten to the point of proving beyond a
6 reasonable doubt with any clear and convincing
7 evidence or circumstantial evidence. The standard is
8 substantial circumstantial evidence. I don't believe
9 they've gotten there. I believe they've gotten
10 Rolanda Coleman to pseudo identify my client by saying
11 that she knew it was his walk and his height. That's
12 the entire identification on the video itself and at
13 the same time refusing to admit that allegedly the
14 person in red would be Lorenzo Young, which is the
15 State's contention. Coming from Rolanda Coleman, I
16 think that highly suspect, at best. As to any other
17 direct evidence, there's no fingerprints, there's no
18 DNA There is nothing properly admitted. There is no
19 confession admitted by anyone. I just don't believe
20 the State has proved its case beyond the point that
21 Your Honor or even the jury should even consider it
22 and would I ask for a directed verdict.

23 THE COURT: All right. Who is talking?

24 MS. CAMPBELL: Your Honor, I believe in the light
25 most favorable to the State, the State has proven

1 case. There is substantial evidence as far as guilt
2 for Mr. Barnes, including his confession to which he
3 admits to going in and being one of the shooters. In
4 addition to that, there was identification by his own
5 mother, as well Rolanda Coleman as being in the video.
6 There is also his DNA at the scene. Your Honor, I
7 would respectfully ask you to deny his motion.

8 THE COURT: All right. All your previous motions
9 are noted for the record and my rulings on them will
10 remain the same.

11 As to your motion under Rule 19 under the South
12 Carolina rules of criminal procedure, for a directed
13 verdict, that motion is denied. I'm required to
14 consider the evidence in the light most favorable to
15 the State. I'm further required to view the existence
16 of the evidence and not the weight of the evidence.
17 Therefore, I'm ruling on this motion, you will be
18 denied. I believe there is --- in the case of
19 Mr. Barnes, there is direct evidence linking him and
20 connecting him to this crime and there is substantial
21 circumstantial evidence so your motion for a directed
22 verdict is denied.

23 Mr. Young?

24 MS. PINNOCK: May it please the Court, Your
25 Honor. Your Honor, at this time we would renew all of

1 our previous motions and objections as noted, Judge,
2 specifically, Judge, our objection to the introduction
3 of a letter written by Trenton Barnes. We would renew
4 all objections that we had to the trying of Mr. Young
5 and Mr. Barnes in a joint trial. We also renew our
6 objection to any items collected during search warrant
7 of Mr. Young's house and any testing done thereafter
8 on all those items and basically all of our objections
9 and motions that we made throughout the State's case.
10 We just renew all of those. We understand Your Honor
11 has ruled on them, but at this time we are renewing
12 all our objections and motions. Your Honor, we're
13 also asking Your Honor to grant a directed verdict in
14 viewing the evidence in the light most favorable to
15 the State, the standard is substantial circumstantial
16 evidence.

17 I would agree that they have introduced some
18 circumstantial evidence in this case, but I don't
19 believe it rises to the level of substantial. I don't
20 believe that they have presented enough evidence
21 against Mr. Young. The evidence that is per Your
22 Honor's ruling to be allowed to be considered against
23 Mr. Young. I don't think this case should reach the
24 jury for deliberation. We would ask Your Honor to
25 grant a directed verdict for Mr. Young on all charges

1 because the State has failed to meet their burden at
2 this point.

3 THE COURT: All right. All your previous motions
4 are noted for the record and my ruling upon them will
5 remain the same. As to the motion for a directed
6 verdict under South Carolina rules of criminal
7 procedure Rule 19 that motion is denied. In regards
8 to Mr. Young, there is both direct evidence against
9 him and there is substantial circumstantial evidence
10 against him and his case will go forth to the jury
11 viewed in the light most favorable to the State,
12 taking into account the existence of the evidence and
13 not the weight of the evidence.

14 All right. Now, we need to --- I need to advise
15 both of them, okay. Would both of you gentlemen
16 please stand up and raise your right hand, please,
17 both of you?

18 LORENZO YOUNG AND TRENTON BARNES,
19 each after being duly sworn, both testified as
20 follows:

21 THE COURT: All right. I'm going to carry on a
22 conversation with you here, okay. This is to each
23 defendant. Each defendant is standing, both with
24 their lawyers. Now, I mean, this. If you do not
25 understand what I'm saying or you're confused or you

1 need me to know explain something further just tell
2 me, that's perfectly fine. You're not going to upset
3 me or offend me or anything else. This is one of the
4 most important things we will cover. I want to handle
5 this with a full knowledge and understanding that you
6 understand what I'm saying and that you're following
7 what I'm saying. Do you understand that, Mr. Barnes?

8 DEFENDANT BARNES: Yes, sir.

9 THE COURT: Do you understand that, Mr. Young?

10 DEFENDANT YOUNG: Yes, sir.

11 THE COURT: Okay. All right. At this time, I'm
12 going to explain to both of you some of your rights.
13 If you do not understand anything that I say, please
14 let me know. If you want me to explain anything in
15 more detail to you, let me know. Do you understand
16 what I have said so far, Mr. Barnes?

17 DEFENDANT BARNES: Yes, sir.

18 THE COURT: And Mr. Young?

19 DEFENDANT YOUNG: Yes, sir.

20 THE COURT: We have now reached the stage of the
21 trial where you may present your defense. You have
22 the right to claim the protections given to you by the
23 Fifth Amendment to the Constitution of the United
24 States of America. This amendment states in part that
25 no person shall be compelled in any criminal case to

1 be a witness against himself. What this means is that
2 you cannot be required to testify in this case. You
3 have the right to testify on your own behalf, however,
4 no one can make you testify. This is a personal right
5 and no one can waive this right except you. If you
6 decide to testify, you will be subject to the same
7 rules that govern other witnesses and you may be
8 examined and cross-examined on any relevant issue in
9 this case. If you have any convictions that involve
10 dishonesty or false statement or for crimes punishable
11 by imprisonment for than one year and I determine that
12 the probative value of these --- admitting this
13 evidence outweighs its prejudicial effect, the
14 solicitor will be able to introduce your record to
15 attack your credibility. I know of none. Do you know
16 of any, Ms. Campbell?

17 MS. CAMPBELL: No.

18 THE COURT: Prior convictions that would fall
19 under 609?

20 MS. CAMPBELL: We aren't planning on using any.

21 THE COURT: Okay, so there are no criminal
22 convictions that the State would attempt to introduce
23 during your cross-examination. Do you understand
24 that, Mr. Barnes?

25 DEFENDANT BARNES: Yes, sir.

1 THE COURT: And Mr. Young?

2 DEFENDANT YOUNG: Yes, sir.

3 THE COURT: If you decide to testify this
4 decision on your part must be made freely and
5 voluntarily and intelligently with the knowledge of
6 the protections that are given to you by the Fifth
7 Amendment and the consequences of your decision to
8 testify. If you decide not to testify, I will
9 instruct the jurors that cannot give the fact that you
10 did not testify any consideration whatsoever and that
11 there is to be absolutely no prejudice to you because
12 you did not testify. It is left entirely up to you
13 whether or not you testify.

14 You may talk with your attorney or your family or
15 anyone else, but the final decision will be left
16 entirely up to you. Do you understand what I have
17 explained to you so far? Mr. Barnes?

18 DEFENDANT BARNES: Yes, sir.

19 THE COURT: Mr. Young?

20 DEFENDANT YOUNG: Yes, sir.

21 THE COURT: Do you have any questions about what
22 I have explained to you, Mr. Barnes?

23 DEFENDANT BARNES: No, sir.

24 THE COURT: Mr. Young?

25 DEFENDANT YOUNG: No, sir.

1 THE COURT: Have you discussed this --- now,
2 don't tell me what the discussion is, but have you
3 discussed this with your lawyer, Mr. Barnes?

4 DEFENDANT BARNES: Yes, sir.

5 THE COURT: Now, don't tell me what the
6 discussion is, but Have you discussed it with your
7 lawyer, Mr. Young?

8 DEFENDANT YOUNG: Yes, sir.

9 THE COURT: Do you need to talk anymore to your
10 lawyer at this time?

11 DEFENDANT BARNES: No, sir.

12 THE COURT: Counsel, do you request more time,
13 Mr. Schnee?

14 MR. SCHNEE: Can I have five seconds?

15 THE COURT: Mr. Krzyston?

16 MR. KRZYSTON: I'll just take five seconds while
17 he is, as well.

18 THE COURT: Okay.

19 MR. SCHNEE: I'm good.

20 MR. KRZYSTON: We're good, Your Honor.

21 THE COURT: So do you need any more time to talk
22 to anybody, Mr. Barnes?

23 DEFENDANT BARNES: No, sir.

24 THE COURT: And Mr. Young?

25 DEFENDANT YOUNG: No, sir.

1 THE COURT: Okay. At this point in time, do you
2 wish to testify, Mr. Barnes?

3 DEFENDANT BARNES: No, sir.

4 THE COURT: Okay. And do you wish to testify,
5 Mr. Young?

6 DEFENDANT YOUNG: No, sir.

7 THE COURT: Okay. All right. Thank you very
8 much. You may be seated.

9 THE COURT: Let's talk about scheduling. Mr.
10 Krzyston, how many witnesses are you planning on
11 calling?

12 MR. KRZYSTON: Your Honor, we're not putting up a
13 case.

14 THE COURT: Mr. Schnee?

15 MR. SCHNEE: No witnesses, Judge.

16 THE COURT: Okay. Very well. Let's talk about
17 scheduling a little bit for --- go ahead, stand up?

18 MR. KRZYSTON: Since we just formally rested, I
19 would again renew all motions and objections, pre and
20 post trial, as well as throughout the trial and just
21 everything that we brought to the court.

22 MR. SCHNEE: As officially resting, I would also
23 renew all prior motions and objections based on the
24 same issues.

25 THE COURT: All right. Those motions are noted

1 for the record, my rulings upon them will remain the
2 same. Let's talk about scheduling --- how do you
3 all --- we have to talk about charges. We have to eat
4 lunch and we have to argue and charge. Are what are
5 your thoughts?

6 MS. CAMPBELL: It takes about 20 to 30 minutes to
7 talk about the charges at least, and then whatever you
8 think is appropriate for lunch and then we'll be
9 ready.

10 MR. SCHNEE: Judge, I agree. It's probably about
11 a 15 to 20 minute discussion about actual charges.
12 The only other issue i.e. obviously we have to go
13 through all the evidence and make sure all the
14 exhibits are there. Particularly the CDs, I want to
15 through them and just stick them in a laptop and make
16 sure what's on them. I think we can do all that while
17 the jury is actually at lunch. We can do our ---
18 everything else after that.

19 THE COURT: Okay.

20 MR. SCHNEE: I don't mind not eating. It's not
21 like I have had much to eat during lunches anyway
22 during this trial.

23 MR. KRZYSTON: We're at the court's disposal,
24 Your Honor.

25 THE COURT: All right. Well, let's do this.

1 Let's take a little break because I think that
2 everybody --- the jury hasn't been in here all
3 morning, but most all of have without break and I know
4 Karen is looking at me like she really needs a break.
5 Let's take about a ten minute break. Everybody
6 stretch your legs, kind of regroup. Come back. We'll
7 do the charge conference on the record.

8 MR. KRZYSTON: Thank you, Your Honor.

9 MR. SCHNEE: Thank you, Your Honor.

10 THE COURT: We will stop the charge conference,
11 break for lunch and then argue and charge after lunch,
12 okay?

13 MR. SCHNEE: Thank you, Your Honor.

14 (WHEREUPON, a short break was taken.)

15 THE COURT: Okay. The multiple defendant charge
16 you requested is the one that's in the charge book.
17 Do you have an objection to that?

18 MS. CAMPBELL: No, Your Honor, it's appropriate.

19 MR. KRZYSTON: Thank you, Your Honor.

20 THE COURT: I'm charging multiple defendants and
21 multiple charges and so let's move to Mr. Barnes just
22 for these I and he wants the Logan circumstantial
23 evidence charge. What's your position on that?

24 MS. CAMPBELL: I think if he requested it, he
25 gets it.

1 THE COURT: So that would be the circumstantial
2 evidence charge, his charge. As to reasonable doubt,
3 I charge Victor v. Nebraska and Mr. Barnes' and then
4 malice, we're going to do malice here in just a
5 second. Criminal intent ---

6 MS. CAMPBELL: Your Honor, we would request
7 criminal intent in the charge book.

8 THE COURT: Yeah, the criminal intent that one is
9 almost identical to the one in the charge book; it's
10 very close.

11 MR. SCHNEE: Okay.

12 THE COURT: I will be charging criminal intent
13 and multiple defendants, the verdict --- I'm going to
14 tell them --- I'm going to do this at the beginning
15 and I'm going to do it at the end when I come to the
16 verdict form; which I'll show you all a copy of. I'm
17 going to say you have to consider each and every
18 single one of these independent of each other. One
19 decision can't be based upon the other decision, you
20 can acquit them all, find them all guilty, find none
21 of them guilty, find some, partial whatever it may be.
22 I will go into detail about the multiple defendants
23 and multiple charges in the beginning and at the end
24 when I go through the verdict form. Okay.

25 MR. SCHNEE: Yes, sir. Judge, there are a couple

1 of other charges that I didn't actually print out
2 because I knew they were in your charge book that I
3 would request. First, I would request a mere presence
4 charge. I think there is substantial evidence, or at
5 least there's been enough testimony that we didn't ---
6 the person, which is outside whose identity is an
7 obvious issue, could be merely present and not
8 actually a participant. I'd ask for that.
9 Additionally, based on the letter that the State
10 introduced with the actual content of that, first I
11 would be requesting a voluntary manslaughter charge
12 based on the lack of malice that's expressed in that
13 letter and second I would be objecting to any inferred
14 malice by using deadly weapon as a result of the
15 letter the State introduced.

16 THE COURT: All right. Your request for a
17 voluntary manslaughter is denied. Tell me why you
18 think Belcher applies.

19 MS. CAMPBELL: We'll withdraw that.

20 THE COURT: You'll withdraw ---

21 MS. CAMPBELL: We'll be glad to not use Belcher.
22 I'll agree to that.

23 THE COURT: You're okay with not saying infer
24 from a deadly weapon.

25 MS. CAMPBELL: Everybody know it's not --- I just

1 the it's safer to not use it.

2 THE COURT: Okay. That's fine. Do you want to
3 respond to the mere presence?

4 MS. CAMPBELL: Your Honor, the only testimony
5 before this jury is that the three of them went down
6 there and participated in this crime. Out of an
7 abundance of caution, I don't have a problem with
8 mere presence.

9 THE COURT: Okay. Say that again.

10 MS. CAMPBELL: I don't have a problem with it.

11 THE COURT: Okay, you don't have a problem with
12 it?

13 MS. CAMPBELL: With just the fact mere presence
14 alone is not enough.

15 MR. SCHNEE: It's one or two sentences. That was
16 the one I was referring to.

17 THE COURT: Yes, and it's in the --- hold on, let
18 me find that.

19 (Pause.)

20 THE COURT: Here is what I was already planning
21 on saying. However, mere presence at the scene of a
22 crime is not sufficient to convict one as a principal
23 on theory of aiding and abetting. So I was going to
24 talk about it anyway.

25 MS. CAMPBELL: That's fine.

1 MR. SCHNEE: That's fine.

2 THE COURT: That's part of the hand of one
3 charge.

4 THE COURT: Okay.

5 MR. SCHNEE: The only other thing, the reasonable
6 doubt language, really the only request I'm making is
7 the hesitate to act charge. I believe that's probably
8 in there.

9 THE COURT: It's in your request to charge. I'm
10 charging Victor v. Nebraska, which is firmly
11 convinced.

12 MR. SCHNEE: Okay. So you're not charging the
13 hesitate to act?

14 THE COURT: Correct.

15 MR. SCHNEE: Okay. Well, that's --- for the
16 record, yes, I understand. Thank you.

17 THE COURT: You can still say that. You
18 understand that?

19 MR. SCHNEE: Yes, Your Honor.

20 THE COURT: There are two charges that are
21 available for reasonable doubt. One is hesitate to
22 act, one is firmly convinced. I charge firmly
23 convinced. Hesitate to act as is correct statement of
24 the law, so you can say it.

25 MR. SCHNEE: Yes, Your Honor. I just wanted to

1 make sure that you were not saying it because I
2 normally tell the jury that the judge is about to
3 instruct you.

4 THE COURT: That's fine. I understand. That's
5 why I was telling you that.

6 MR. SCHNEE: Thank you.

7 MR. KRZYSTON: Judge, I was just wondering, are
8 you going to reissue the limiting instruction in
9 regard to the handwriting sample?

10 THE COURT: I was going to, yes.

11 MR. KRZYSTON: Okay.

12 THE COURT: Do you have an objection to me doing
13 that?

14 MR. KRZYSTON: Again, I'm in that weird position
15 where I've got this objective sufficiency of the
16 overall charge, but ask for it anyway so only to that
17 extent.

18 THE COURT: All right. Ms. Campbell. Let's go
19 through yours.

20 MS. CAMPBELL: Yes, sir.

21 THE COURT: Let's start with the kidnapping one.
22 Is there any objection to the kidnapping one? Hold
23 on. Let me go to that part of my charge.

24 MR. SCHNEE: Judge, I have no particular
25 objection to that one sentence. That's covered in the

1 elements that you're going to read anyway, but I'm not
2 going to object to it.

3 THE COURT: Mr. Krzyston.

4 MR. KRZYSTON: We have no objection, Your Honor.

5 THE COURT: All right. So the kidnapping
6 addition will be added in.

7 I have to reorganize this so that I'll have to
8 retype it out. All right. So now, the next one ---
9 let's move to the hand of one is the hand of all.

10 MS. CAMPBELL: Are you using that one or a
11 different one?

12 THE COURT: I have three hand of one hand of all
13 from you so let's start with which one? They all kind
14 of say the same thing, but they're all a little bit
15 different.

16 MR. SCHNEE: Judge, I think there's one that kind
17 of looks like a combination of some of the others. It
18 starts out with two or more combined together. Blah
19 blah blah. It's one solid very large paragraph.

20 THE COURT: Right.

21 MR. SCHNEE: Obviously out of the charged, that
22 one covers all the rest. I would ask that ---

23 MS. CAMPBELL: Are you talking about the Ralph
24 King Anderson one?

25 MR. SCHNEE: Yes.

1 MS. CAMPBELL: I have no problems with that.

2 THE COURT: How about you, Mr. Krzyston?

3 MR. KRZYSTON: Just so we're clearly talking
4 about the one --- the correct one, it's King's charge
5 as well as State v. Avery.

6 THE COURT: Yes.

7 MR. KRZYSTON: We would object to that charge on
8 the basis of the totality of the circumstances. I
9 don't know that the State has offered any evidence to
10 indicate that Mr. Young --- certainly offered any
11 direct evidence to indicate that Mr. Young is part of
12 an accomplice. Based on that, Judge, we object to the
13 charge at issue.

14 THE COURT: You're objecting to hand of one, hand
15 of all period. Is that your objection?

16 MR. KRZYSTON: Yes, Your Honor.

17 THE COURT: If I give the State's version of it,
18 then the mere presence comes out. Do you understand
19 that, Mr. Schnee?

20 MR. SCHNEE: Well, I don't understand, no, I
21 don't.

22 THE COURT: Okay. The hand of one is the hand of
23 all from the charge book includes the language of the
24 mere presence, which I read to you just a minute ago.
25 If you give the --- if I give the Ralph King Anderson

1 charge, mere presence is not in there.

2 MR. SCHNEE: Well, Your Honor, I would ask that
3 you either charge what's in your book or just add a
4 separate mere presence charge. I'm fine with Your
5 Honor doing it either way. I understand the State is
6 entitled to that charge and I'm entitled to a mere
7 presence charge, Judge.

8 MS. CAMPBELL: If he wants that mere presence
9 added in, we have no problem with you adding at the
10 scene is not sufficient.

11 THE COURT: Here is my question. On the Ralph
12 King Anderson hand of one charge. My question if I
13 say if two or more combine together to commit an
14 unlawful act, such as robbery, and then halfway down
15 it says, as for instance to break in and steal, both
16 of those, I think inserting those factors in there
17 gets close to commenting on the facts of the case
18 because that is the allegations.

19 MS. CAMPBELL: How about to commit an unlawful
20 act or a crime. Does that help?

21 THE COURT: What about that, Mr. Schnee, do you
22 have an objection to that?

23 Do you see what I'm saying.

24 MR. SCHNEE: Yes, Your Honor.

25 THE COURT: What I'm --- there's warnings all

1 over the charge book that says --- that say don't give
2 an example that fits the facts of your case.

3 MR. SCHNEE: Right.

4 THE COURT: Right. Because you don't want to be
5 in a position of commenting on the facts of your case.
6 So if I change that --- are you looking at the State's
7 request to charge on this?

8 MR. SCHNEE: Yes.

9 THE COURT: If I change, if two or more combine
10 together to commit an unlawful act and/or a crime,
11 instead of saying such as robbery, which is an
12 allegation here and then the execution of that
13 criminal act, blah blah blah, and then halfway down
14 where it says, as for instance, if it was unlawful.

15 MS. CAMPBELL: Just take out that language of,
16 for instance to break in and steal.

17 MR. SCHNEE: You take out the, as for instance to
18 break in and steal.

19 THE COURT: The common purpose may not have been
20 to kill...and if it was unlawful and in the execution
21 of this common purpose --- but, if it was unlawful and
22 or criminal, right?

23 MS. CAMPBELL: Unlawful and/or criminal?

24 THE COURT: And/or criminal, and in the execution
25 of this common purpose.

1 MS. CAMPBELL: That's good.

2 THE COURT: I think that prevents the court from
3 commenting on the facts.

4 MR. SCHNEE: I would agree with that, Your Honor.

5 THE COURT: You're objecting altogether to the
6 hand of one, hand of all, right?

7 MR. KRZYSTON: Correct.

8 THE COURT: And then where is the mere presence?

9 (Pause.)

10 Mere presence at the scene not sufficient to
11 prove someone guilty of a crime in a defendant's
12 presence where a crime is being committed or mere
13 association with a person who commits a crime does
14 make a defendant an accomplice or aider and abettor of
15 the person committing the crime.

16 MR. SCHNEE: That's pertinent.

17 THE COURT: Do you have an objection to that?
18 Okay. Do you have an objection to the mere presence
19 charge, Mr. Krzyston?

20 MR. KRZYSTON: No, Your Honor.

21 MS. CAMPBELL: So that would be the only hand of
22 one.

23 THE COURT: That would be the only hand of one,
24 yes.

25 MR. SCHNEE: Judge, as for malice, I think ---

1 THE COURT: Hold on.

2 MR. SCHNEE: I'm sorry.

3 THE COURT: I'm trying to keep everything
4 organized so when I go back and retype it so it makes
5 sense to me what I've done.

6 MR. SCHNEE: Yes, sir, I understand.

7 THE COURT: Just one second. Let me get to
8 malice in my charge. Okay. So we're all agreeing
9 that inferring malice from the use of a deadly weapon
10 is out?

11 MS. CAMPBELL: Out, yes.

12 THE COURT: Do you agree to that?

13 MR. SCHNEE: Yes.

14 THE COURT: Do you agree to that?

15 MR. KRZYSTON: Yes.

16 THE COURT: Let's talk about these other malice
17 requests.

18 MS. CAMPBELL: I was going to withdraw that one
19 anyway.

20 MR. SCHNEE: Judge, the one that I see that is
21 probably most inclusive and fits, there is one that's
22 very long and single spaced.

23 THE COURT: Right.

24 MR. SCHNEE: It includes the appropriate language
25 of essentially the inference is only a permissive

1 inference and not a requirement. I think that would
2 probably most accurately discusses this out of all of
3 them.

4 MS. CAMPBELL: I'm withdrawing that.

5 THE COURT: You are withdrawing the single spaced
6 one?

7 MS. CAMPBELL: Yes, the one that talks about
8 malice may be inferred from the use of a deadly
9 weapon.

10 MR. SCHNEE: I'm talking about the really long
11 one.

12 MS. CAMPBELL: The really long one, the second
13 paragraph.

14 MR. SCHNEE: Oh, the second paragraph. Okay. I
15 was talking about the rest of them.

16 MS. CAMPBELL: Oh. You were reading the
17 permissive inference?

18 MR. SCHNEE: Well, there is a permissive
19 inference from malice in general. I think there is
20 something in there.

21 MS. CAMPBELL: No. That's just from the use of a
22 deadly weapon.

23 MR. SCHNEE: Oh, in that case --- never mind.
24 I'm sorry.

25 THE COURT: So you're withdrawing the single

1 spaced one; is that right?

2 MS. CAMPBELL: I think most of that language in
3 is in the other ones, other than the deadly weapon.

4 THE COURT: Okay. What's the next one we to look
5 at?

6 MS. CAMPBELL: The aforethought, Your Honor..

7 THE COURT: It needs a first line.

8 MS. CAMPBELL: Malice may not exist for any
9 appreciable period of time.

10 THE COURT: Okay. Let me see what's in the
11 charge. Here's what's in the charge. Malice
12 aforethought, in the charge book, does not require
13 that malice exists for any particular time before the
14 act is committed.

15 The malice must exist in the mind just before
16 and at the act is committed. Therefore there must be
17 a combination of previous evil intent in the act.

18 MS. CAMPBELL: Okay. I'll use that language.

19 THE COURT: I can add in --- I've checked this
20 site and it's still good law. I can add in the
21 sentence, Malice may be conceived at the very moment
22 the fatal blow is given.

23 MS. CAMPBELL: That would be good.

24 THE COURT: Because the evil intended act is
25 already in there.

1 MS. CAMPBELL: Thank you.

2 THE COURT: So any objection to that?

3 MR. SCHNEE: No, Your Honor.

4 MR. KRZYSTON: No, Your Honor.

5 THE COURT: All right. What else, Ms. Campbell?

6 MS. CAMPBELL: Your Honor, the --- we can take
7 the popular sentence (unintelligible) aids in ill
8 will.

9 THE COURT: You want to take that out?

10 MS. CAMPBELL: No, I want it.

11 THE COURT: I'm sorry. I didn't hear you
12 correctly. Hold on one second.

13 (Pause.)

14 Go ahead, Mr. Krzyston.

15 MR. KRZYSTON: Judge, I think the language that
16 the solicitor seeking in this instance is probably
17 cumulative and unnecessarily repetitive, so on that
18 basis, I would object to the addition of that
19 language.

20 THE COURT: Okay. Mr. Schnee.

21 MR. SCHNEE: Judge, I'm not entirely sure what's
22 in your charge book.

23 THE COURT: Here's what it says. Malice is
24 hatred, ill will, hostility toward another person. It
25 is the intentional doing of a wrongful act without

1 just cause or excuse and with an intent to inflict an
2 injury or under circumstances that the law will infer
3 an evil intent. Then it goes on to the part that I
4 just read to you.

5 MR. SCHNEE: I think that would sufficiently
6 cover it. I think this would be a cumulative charge.

7 THE COURT: So the first line of this is already
8 in there.

9 MS. CAMPBELL: It's already in it.

10 MR. SCHNEE: Looks like the second one actually
11 has a typo in it.

12 THE COURT: Is that the typo?

13 MR. SCHNEE: I would think it should "but
14 signifies" instead of "by".

15 THE COURT: Pull up State v. Mouzon.

16 MS. CAMPBELL: It should be, "but" sorry. I
17 apologize, Your Honor.

18 THE COURT: That's okay. It says 1957; is that
19 right?

20 MR. SCHNEE: Yes, Your Honor.

21 MS. CAMPBELL: I believe there is similar
22 language in the Israel Wilds case, too.

23 THE COURT: There's a 1997 Mouzon. That's why I
24 said that.

25 (Pause.)

1 That should be "but signifies;" is that right?

2 MS. CAMPBELL: Yes, sir.

3 (Pause.)

4 THE COURT: Okay. And then move to the ---

5 MS. CAMPBELL: Last line?

6 THE COURT: Yes.

7 MS. CAMPBELL: That's what you're charge is.

8 THE COURT: So you want to --- you're okay with
9 it stopping at fatally bent on mischief?

10 MS. CAMPBELL: I believe the language after that
11 is already in your charge.

12 THE COURT: Right. It is.

13 MS. CAMPBELL: Okay. We're good with that.

14 THE COURT: Any objection other than adding in
15 that sentence other than cumulative?

16 MR. SCHNEE: No, Your Honor.

17 MR. KRZYSTON: No, Your Honor.

18 THE COURT: Okay.

19 THE COURT: All right. What else?

20 MS. CAMPBELL: I believe this was one handed up,
21 brutal conduct. I handed that one up late.

22 MR. SCHNEE: Oh, the brutal conduct.

23 THE COURT: Anybody want to take a position on
24 that?

25 MR. KRZYSTON: Certainly, Your Honor. We would

1 object and to introduction of that charge. I believe
2 the charge we just went over conveys the general
3 language contained in that charge and there are no
4 attending circumstances indicating any brutal acts
5 other than what they're charged with

6 THE COURT: Okay.

7 MR. SCHNEE: Judge, I would join in that
8 objection. I think it is cumulative. It draws a
9 little too much attention --- in terms of crimes, I
10 don't think anybody is going to actually start --- the
11 acts physically contained in here aren't significantly
12 brutal compared to any run-of-the-mill robbery,
13 homicide. This isn't a beating death. There is no
14 torture. I think it's probably the misstatement of
15 the laws that apply in this particular case.

16 MS. CAMPBELL: Your Honor, if we can go into the
17 felony inference.

18 THE COURT: Okay. I have two on those.

19 MS. CAMPBELL: I believe it's three.

20 THE COURT: Okay. I have three. I'm sorry.
21 Norris, Norris and Lourie.

22 MS. CAMPBELL: I think the short Norris is
23 included in the longer Norris, so I apologize about
24 that.

25 THE COURT: All right.

1 MS. CAMPBELL: And Your Honor, in these two, I
2 didn't even put in the words attempted armed robbery,
3 but it also applies to kidnapping and burglary. Where
4 it's underlined. Your Honor, I think the Lourie case
5 is just close to Norris case. We may have to narrow
6 it down to the longer Norris case.

7 THE COURT: And Lourie is a PCR.

8 MS. CAMPBELL: Yes.

9 THE COURT: Where they brought the jury back out
10 and just read that charge and didn't read everything
11 else.

12 MS. CAMPBELL: I think Norris would be the one
13 that's longer.

14 MR. SCHNEE: I'm sorry. For some reason I didn't
15 get a copy of that one.

16 MS. CAMPBELL: I can get it for you.

17 MR. SCHNEE: If I can just take a look at it.

18 MS. CAMPBELL: Here you go..

19 MR. SCHNEE: I just want to look at it. Thank
20 you.

21 Judge, the only thing I'd say about the longer
22 one is the attempted armed robbery would be a felony
23 under the law. I know you want to stay away from
24 charging on the facts.

25 MS. CAMPBELL: That's not factual. That is the

1 law.

2 MR. SCHNEE: I know.

3 THE COURT: That's correct. That's like
4 possession of a weapon during the commission of a
5 violent crime. If they're always charged, making this
6 up, with the burglary, you also have to tell the jury
7 the burglary.

8 MS. CAMPBELL: We would just ask Your Honor that
9 you include the kidnapping and burglary.

10 MR. KRZYSTON: And, Judge, we would join in with
11 Mr. Barnes' objection on those.

12 THE COURT: Okay. And I am going to do the
13 Norris charge. I'll add it somewhere; I haven't
14 figured out where in the definition of malice.

15 MS. CAMPBELL: As part of that, you'll charge
16 them to that a those three offenses are considered
17 felonies?

18 THE COURT: Yes.

19 MS. CAMPBELL: Thank you.

20 THE COURT: Are you withdrawing brutal conduct?

21 MS. CAMPBELL: I'll withdraw brutal conduct.

22 THE COURT: All right. Okay. I'm going to tell
23 you the headings of the sections so you know. Number
24 one, I start with this is what they're charged with.
25 The fact they're not charged or is not charged is not

1 evidence. Number two, I will go into multi
2 defendants. Each has to be considered separately and
3 independently. The next thing I'll go into is
4 multiple charges same date, separate and independent,
5 separate and distinct offenses. I'll then go on to
6 their duties. Duties of the judge, duties of jury. I
7 then go to presumption of innocence. I then go to
8 reasonable doubt.

9 I then go to direct and circumstantial evidence
10 and I'm giving the --- I'm just going to call it the
11 LOCE (phonetic) "lack of circumstantial evidence"
12 charge for lack of a better term. Is what is and
13 what's not evidence in here? At some point I'll do
14 what is evidence, what is not evidence. Credibility
15 of the witnesses, expert witnesses, failure of the
16 defendant to testify. Criminal intent. And then I'll
17 go into murder and then I'll go into --- I'm not
18 saying anything about inferring malice from the use of
19 a deadly weapon. I'm not defining deadly weapon or
20 anything else. Then I'll go into kidnapping. I'll
21 then go into attempted armed robbery. Let me read
22 this real quick.

23 (Pause.)

24 THE COURT: All right. Part of that charge does
25 contain the definition of deadly weapon. I'm not

1 charging fist as a deadly weapon or ordinary objects
2 or toy guns or B.B. guns. Any objection to me taking
3 all of that out?

4 MS. CAMPBELL: No, sir.

5 MR. KRZYSTON: No, Your Honor.

6 MR. SCHNEE: No, sir.

7 THE COURT: And then burglary second degree.

8 Again, I'm not doing ordinary objects, toy gun or
9 B.B. gun in the definition of deadly weapon and I'm
10 not going to charge if the defendant has a prior
11 record of two or more convictions of burglary; is that
12 okay with you?

13 MR. KRYZSTON: Yes, Your Honor.

14 MR. SCHNEE: Yes, Your Honor.

15 THE COURT: Ms. Campbell, any objection?

16 MS. CAMPBELL: No objection, Your Honor.

17 THE COURT: That will take out the paragraph that
18 says the prior convictions that --- I'm taking out
19 anything about prior convictions. Nobody has a prior
20 conviction so I'm taking all of those paragraphs out.
21 It explains how far you use that or how you are not to
22 use that.

23 This does define nighttime as the period between
24 sunset and sunrise, which there is not enough daylight
25 to recognize a person's face. Blah, blah, blah. Okay.

1 Hand of one is the hand of all. The State gave adding
2 mere presence at the end of it.

3 All right. I'm going to read you the limiting
4 instruction and then I go into the duty to deliberate,
5 then go over the verdict form. Okay. Somewhere ---
6 did you come up with a proposed charge on sentencing?

7 MS. CAMPBELL: Your Honor, as far as sentencing,
8 I believe the jury in a criminal proceeding may not
9 presume any punishment the court may impose and then
10 just follow up with this is not a potential death
11 penalty case or the penalty is not being sought in
12 this case, whatever the defense would rather have.

13 THE COURT: Somebody want to take position on
14 that?

15 MR. SCHNEE: Judge, I don't have a position
16 either way. I'm certainly not going to be arguing to
17 the jury that this is a death penalty.

18 THE COURT: All right.

19 MR. KRZYSTON: Judge, to clarify, we have the
20 right to talk about any of the sentences that the
21 witnesses might receive, but not specifically,
22 Mr. Young, obviously.

23 THE COURT: Here is my interpretation of what you
24 can say. This is an example. You heard from a
25 witness who was facing life without parole and that

1 can go to his credibility or his believability.

2 MR. KRZYSTON: Correct.

3 THE COURT: Certainly, but not as to Mr. Young is
4 going to be locked up for the rest of --- none of
5 those kind of comments about people are going to be
6 locked up for the rest of their lives or anything
7 else. What this says is the length of the prison
8 sentence rests in the discretion of the trial court.
9 You have heard testimony concerning the penalty a
10 person can serve for the crimes alleged in the
11 indictments. In determining the guilt or innocence of
12 the defendant, you cannot consider any possible
13 penalty for any particular crime. The punishment for
14 crimes is a matter for me to determine and should
15 never be considered by you in any way whatsoever in
16 arriving at an impartial verdict as to the guilt or
17 innocence of the defendants.

18 Tell me what you want me to add.

19 MS. CAMPBELL: The only thing is in this case the
20 death penalty --- the State not seeking the death
21 penalty.

22 THE COURT: Okay. I won't put that at the end.
23 I mean, I'm putting that line at the end. I'll slide
24 sentencing somewhere back in the middle of the charge
25 somewhere.

1 MS. CAMPBELL: Back.

2 THE COURT: Okay. Anything else?

3 MR. SCHNEE: Not with regard to charging, Your
4 Honor.

5 THE COURT: Okay.

6 MS. CAMPBELL: Your Honor, I don't think we
7 addressed was one of Mr. Schnee's --- it was one on
8 malice or did we address it and I missed it?

9 THE COURT: It's the one on the required mental
10 State is malice aforethought?

11 MS. CAMPBELL: Uh-huh. If you look at the case
12 on Findley, Your Honor, it goes back and quotes
13 basically what your criminal---

14 THE COURT: Yes, I'm not charging that.

15 MS. CAMPBELL: That's what I needed to know.

16 THE COURT: I'm going to explain to them the
17 mental state of malice aforethought.

18 Okay. The verdict form, it lists the indictment
19 numbers. It lists both defendant's names. We did
20 them in alphabetical order for lack of a better way to
21 do it. As to the charge of murder: not guilty,
22 guilty; burglary second degree: not guilty, guilty;
23 kidnapping: not guilty, guilty; attempted armed
24 robbery: not guilty, guilty, and it says by unanimous
25 consent find, and then it goes on to Mr. Young murder,

1 burglary, kidnapping, attempted armed robbery and a
2 place for the foreperson to sign, and it starts ---
3 not guilty is the first one listed in each and guilty
4 is the second. I tell them there is no significance
5 as to that. I merely --- I'll tell them that about
6 the order of the people, too. Somebody has got to go
7 first and somebody has got to go second. I have to
8 write one first and I have to write one second. There
9 is no magic to any of that, nor does that mean
10 anything, nor are they to draw any conclusion to
11 anything. Anything else?

12 MS. CAMPBELL: No, sir.

13 MR. KRZYSTON: No, sir.

14 MR. SCHNEE: No, Your Honor.

15 THE COURT: All right. Do you want to flip the
16 coin on who goes first?

17 MR. SCHNEE: I'll defer to them.

18 MR. KRZYSTON: We'll allow Mr. Schnee to go
19 first.

20 MR. SCHNEE: I think Your Honor needs to flip a
21 coin.

22 THE COURT: Okay.

23 MR. SCHNEE: Neither of us are going to agree.

24 THE COURT: I don't have a coin. I'm a judge,
25 I'm broke.

1 MR. SCHNEE: Well, I had to go first in Opening.
2 I think they should go first in Closing.

3 THE COURT: All right. I have one exhibit up
4 here. I don't want you to lose sight of that one and
5 then make sure you go through exhibits and look at
6 whatever you want to look at before anybody plays it.

7 MR. SCHNEE: Right, Judge. I've already started
8 it. I don't know if it's just this laptop, but
9 there's already one CD that's not working.

10 MS. CAMPBELL: Judge.

11 THE COURT: Oh, look at that. She has money.
12 Who did you borrow it from?

13 MR. KRZYSTON: Tails no fails, Your Honor.

14 THE COURT: You taking heads?

15 MR. SCHNEE: I'll go with heads.

16 THE COURT: All right. Whoever wins gets to
17 pick.

18 MR. SCHNEE: Fair enough.

19 THE COURT: Heads.

20 MR. SCHNEE: I'm last.

21 THE COURT: All right.

22 MR. SCHNEE: Thank you.

23 MS. CAMPBELL: Do you have a problem with me
24 opening on the law and then Ms. Simpson go over the
25 facts?

1 THE COURT: No, that's fine.

2 MS. CAMPBELL: Thank you.

3 THE COURT: All right. Anything else?

4 (There was no response.)

5 THE COURT: Okay. Now, once we're done with the
6 closing --- so when the jury comes back in, this is
7 how it's going to work. When the jury comes back in,
8 I want to say Mr. Krzyston, do you have anything to
9 present? We rest. Mr. Schnee, we rest. I'll tell
10 them that they have rested. You have rested and we're
11 at the point of closing arguments. Then we'll go
12 right into it. When we finish and they're out before
13 the jury goes back. Now, this is the lawyer's
14 responsibility, just don't get up and leave and walk
15 out of the room where I can't find you, okay. You
16 need to stay and make sure you go over with the court
17 reporter what's going back and what's not going back
18 so we don't have any dispute with what's back there
19 and what's not back there. I will tell them they
20 cannot begin deliberations until the evidence comes in
21 the room. So you need to stay and make sure that
22 what's going back there is what you believe is in
23 evidence, okay, and then you need to make sure that
24 Ms. Pendegrass has your phone numbers so that I don't
25 have to run all over the world looking for you or try

1 to find you. Okay. Anything else?

2 MS. CAMPBELL: No, sir.

3 MR. KRZYSTON: Judge, just for clarification, we
4 have already officially rested our case and renewed
5 our motions to ---

6 THE COURT: You don't need --- I will put on the
7 record that --- you all don't need to go through
8 renewing your motions. You have rested in front of
9 the court and you have renewed your motions and have
10 done so appropriately and I believe you have protected
11 the record on those issues, and that applies to
12 Mr. Young and Mr. Barnes. We don't need go through
13 that whole recitation when the jury comes back in. I
14 understand what you've done and understand that you
15 have renewed your motions and I've ruled on that.

16 MR. KRZYSTON: Thank you, Judge.

17 THE COURT: Are you okay with that, Mr. Schnee?

18 MR. SCHNEE: Yes, sir.

19 MS. CAMPBELL: Just one other thing, usually in
20 the morning you ask them if you have seen any media or
21 anything of that nature. I don't think you did it
22 this morning.

23 THE COURT: Okay.

24 MS. CAMPBELL: If we could have that general
25 question.

1 THE COURT: Okay. Two o'clock.

2 MR. SCHNEE: Thank you.

3 (WHEREUPON, a lunch break was taken.)

4 THE COURT: Yes, ma'am.

5 MS. GARFIELD: Your Honor, at the break,
6 Mr. Schnee and I went over all the videos, CDs that
7 were --- there were a couple of issues. We have
8 changed them where they do reflect what was properly
9 introduced into evidence with the exception of State's
10 Exhibit 325. Your Honor, this would be the CD that
11 was introduced with the Ale House video on it. The
12 jury did see Ale House video on the outside. However,
13 this CD contains surveillance video also from the
14 inside. It would be the inside bar with the lights
15 off. There is no activity inside the bar. I am
16 informed by Mr. Brown of our office, who much more
17 savvy in the IT area that it is impossible to take the
18 video off this. It would have to be re-recorded by
19 SLED in order to do that and I don't have in order to
20 take it off. I've informed Ms. Pinnock, as well as
21 Mr. Schnee. They are in agreement with it all going
22 back to the jury since it doesn't add or take anyway
23 anything.

24 THE COURT: It just shows the closed bar?

25 MS. CAMPBELL: It just shows inside a closed

1 establishment with the lights off, yes.

2 MS. PINNOCK: We have no problem with that.

3 MR. SCHNEE: Yes, Your Honor, I agree with that.

4 The only other option we have is to have the jury come
5 outside to the courtroom ---

6 THE COURT: Right.

7 MR. SCHNEE: --- which with that type of video, I
8 felt that would be a bad idea. I doubt they want to
9 come out just to see that.

10 THE COURT: Do we've clean computer to go back?

11 MS. CAMPBELL: We do, Your Honor. It's at
12 Mr. Schnee's desk.

13 THE COURT: What else?

14 MS. GARFIELD: Actually there are two CDs in
15 here. One CD is what you need to make the video
16 actually play on that laptop. It's just a player.

17 MR. SCHNEE: Have you tried it in that laptop? I
18 want to make sure.

19 MS. GARFIELD: We will.

20 THE COURT: Before we send it back, we need to
21 make sure it works.

22 MR. SCHNEE: We didn't try.

23 MS. GARFIELD: We will before it goes back

24 THE COURT: Anything else?

25 MS. CAMPBELL: Nothing from the State, Judge.

1 MR. KRZYSTON: Nothing from Mr. Young.

2 MR. SCHNEE: Nothing from Mr. Barnes.

3 THE COURT: All right. Everybody out here in the
4 audience, I don't want a lot of commotion, a lot of
5 moving around, getting up and down and all that good
6 stuff. These attorneys, I don't know what day of
7 trial we're on, but they have all been working very
8 diligently, very hard since this trial began. It's
9 not fair to any of the parties involved for this jury
10 to lose any focus because somebody can't sit still and
11 stay in here during the closing arguments. Nobody in
12 the room except for attorneys and me should have a
13 phone on them. Whoever has a phone on them, it must
14 be on off or on silent. I do not want to hear it go
15 off in this courtroom. That's also not fair to the
16 attorneys or the parties regardless of which side of
17 the case we're referring to.

18 Now, for those of you who don't do closing
19 arguments every week of your life, the order will be
20 that the State will go first, and then Mr. Barnes.

21 MR. SCHNEE: I chose last.

22 THE COURT: And then Mr. Young's counsel will be
23 allowed to go, and then Mr. Barnes' counsel will be
24 allowed to go. Once Mr. Schnee stops talking, okay, I
25 am then going to charge the jury on the law. That's

1 going to take I don't know, 30, 40 minutes at least,
2 okay.

3 During the time the back door will be locked and
4 no one will be allowed in or out of this courtroom
5 period. If you don't need to hear everything that I
6 have to say or you don't want to hear it, which is
7 perfectly fine with me, then when Mr. Schnee stops
8 talking, you just need to quietly walk outside. Then
9 once it's over, you will be allowed back in. The law
10 requires that I lock the back door during the jury
11 charge and no one will be allowed to stand up or
12 anything. If you don't want to hear me go on for 30
13 or 45 minutes about the law, you don't have to, but
14 you'll need to excuse yourself when Mr. Schnee is
15 finished speaking so that you can wait outside. Okay.
16 All right. So when we come back in, we're going to
17 rest and go straight into it. Who is starting?

18 MS. CAMPBELL: I am.

19 THE COURT: Who is finishing?

20 MS. SIMPSON: I am, Your Honor.

21 THE COURT: Okay. All right. Don't let me forget
22 to pull the alternates.

23 Yes, sir.

24 MR. SCHNEE: And I believe Your Honor was going
25 to inquire if they have looked at any media coverage.

1 THE COURT: Yeah, I was going to. Thanks for
2 reminding me of that. I forgot. All right. Let's
3 bring them in.

4 (WHEREUPON, the jury entered the courtroom at
5 2:19 P.M.)

6 THE BAILIFF: The jury is seated.

7 THE COURT: Thank you very much. Welcome back.
8 Thank you for being on time. Is there any member of
9 the jury panel who has viewed any media in this case
10 in any way or shape since the trial began. If so,
11 please raise your hand. That's any form of media,
12 social media, news accounts, internal, radio,
13 television, print newspaper or anything.

14 THE JUROR: Talking about just this case?

15 THE COURT: Specifically about this case,
16 correct.

17 (There was no response.)

18 THE COURT: Okay. Thank you very much.
19 Mr. Krzyston.

20 MR. KRZYSTON: Your Honor, we rest at this time.

21 THE COURT: All right. Thank you very much.
22 Mr. Schnee.

23 MR. SCHNEE: The defense of Trenton Barnes rests
24 at this time, Judge.

25 THE COURT: Thank you very much. Ladies and

1 gentlemen, at this point, you have heard the entire
2 testimony that you are going to hear in this case, the
3 evidence that you are going to hear in the case. We
4 have reached the point of the trial known as closing
5 arguments, and just the order so that you will know
6 for the afternoon of what's going to happen is the
7 State is going to go first, and they will do what we
8 call an opening on the law, and I believe Ms. Campbell
9 will be giving that to you and then Ms. Simpson will
10 be finishing their closing argument to you. At that
11 point in time, Mr. Young's lawyers will be allowed to
12 give a closing argument and then Mr. Schnee will have
13 the final argument. Now, once Mr. Schnee finishes his
14 final closing argument, you may see a mass exodus of
15 people from the courtroom.

16 That's because I have to instruct you on the law.
17 Okay. That takes about 30 to 45 minutes. There's no
18 exact science to that, but the law require that the
19 back door be locked, and no one be let in or out
20 during that time. Usually we have a group of people
21 that will get up and leave. That's normal. That
22 happens in every single case I've ever tried in my
23 whole life. I'll take a little bit of a break, let
24 you stand up, stretch your legs. Then we'll sit back
25 down and I'll tell you what the law is and what your

1 instructions are from that point forward.

2 Ms. Campbell.

3 MS. CAMPBELL: May it please the Court.

4 THE COURT: Yes, ma'am.

5 CLOSING STATEMENT:

6 BY MS. CAMPBELL:

7 Q Good afternoon. The first thing I'd like to do
8 on behalf of the State of South Carolina, the citizens
9 of Richland County and the family of Kelly Hunnewell
10 is to thank you for your service in this case.

11 I know when you showed up for court last week,
12 you might have wondered if you might be on say a wreck
13 case or a contract dispute or something of the nature.
14 I'm sure you probably envisioned that it would not be
15 a case that quite literally is as bad and as horrific
16 as this one has been, but we want to thank you for
17 your willingness and your attention and paying
18 attention to each and every witness.

19 As you know, this is a very important case for
20 the State of South Carolina, for the citizens and it's
21 a very important case for the defendants, as well.

22 Now, as the judge just told you, I'm going to get
23 up here --- if my voice doesn't go. I'm sorry. I
24 don't know what's in this courtroom. I'm going to
25 talk to you a little bit about the law in this case as

1 it applies, and then you're going to hear from
2 Ms. Simpson. That will be the last time you hear from
3 anyone on behalf of the State. You will then hear
4 arguments from Mr. Krzyston and arguments from
5 Mr. Schnee.

6 As I talk about the law in this case, if I say
7 anything, say anything or state anything different
8 from what the law is that ultimately the judge will
9 charge you on or give to you, you take it as the judge
10 gives it to you. It's not intentional on my part.
11 There may be some verbiage that's slightly different.
12 In that same vein, if either side mischaracterizes or
13 misstates facts, you remember because the roles in
14 this courtroom are very well defined and there is a
15 reason for that. The role of the prosecution is to
16 bring forth to you all of the admissible relevant
17 evidence that is allowed by law for you to consider,
18 and the defense's job is very simple. It's to defend
19 their client to the best of their ability.

20 The judge's law is to determine what actual
21 evidence you're allowed to hear. You've been sitting
22 in and out of this courtroom and I want to apologize
23 and I'll get back to that about what's admissible and
24 what's not admissible and what you can consider. No
25 one is going to get up here and say that anyone's job

1 is more important than yours.

2 Each of you've individually and then once the
3 judge charges you on the law collectively when you get
4 back there, and if anyone says any different, that's
5 simply not true, because your role, ladies and
6 gentlemen, is to determine what happened back on those
7 early morning hours on July 1st when Kelly Hunnewell
8 showed up at work at three in the morning to support
9 her children.

10 What happened that night? In this case, some of
11 that is not as much in dispute because in this case
12 there is a video. Now, you have heard all the
13 evidence that you are allowed to consider.

14 What you must base your verdict on is the
15 evidence before you. As the judge has already told
16 you, what is evidence? Evidence is the sworn
17 testimony, the exhibits that are allowed to go back to
18 you. That is evidence. More importantly, ladies and
19 gentlemen, is the judge told you what's not evidence,
20 any argument by any lawyer, opening, closing whatever,
21 questions by counsel, fishing expeditions,
22 speculation, conjecture, just plain wishful thinking
23 doesn't make it a fact.

24 If a person is asked a question and they have no
25 further knowledge, the question itself is not

1 evidence. The answer is, so that's what you must
2 consider. Now, you have all the evidence you can
3 consider in this case.

4 Now, I want to apologize if over the last week we
5 have done anything to offend you. At times there have
6 been legal wrangling back and forth. What wasn't
7 admissible, may become admissible. You've heard about
8 hearsay. You've heard all kind of legal terms. At
9 times the questioning, especially on my part, has been
10 inartful, clumsy, sloppy. Please don't hold that
11 against the State or against this victim's family. It
12 was not intentional.

13 There have been times when you have been forced
14 to go back in that jury room and sit for literally
15 hours, and I apologize on behalf of the State. It was
16 not intentional on our part.

17 Now, in criminal cases, they are unique because
18 in criminal cases, the burden of proof is on the State
19 of South Carolina. The defendant has, as he should by
20 our constitution, the absolutely right to confront
21 each and every witness that comes before him.

22 You have heard references to statements, to audio
23 recordings, to documents that were done by experts,
24 things of that nature. If you have noticed, none of
25 those have come before you. There were no depositions

1 that were read to you. There were no video
2 depositions that were played for you, and the reason
3 for the, ladies and gentlemen, is very clear because
4 that's the defendant's right, as it should be, to
5 confront each and every witness against him. So in
6 criminal cases, every witness, the pathologist, the
7 DNA expert, the responding officer, it doesn't matter,
8 they have to come before you and testify.

9 The reason for that is so that you can judge
10 credibility, because that's your role so that you can
11 actually see person that is asserting to have
12 knowledge or expertise in an area and to judge their
13 credibility. You've also heard from a number of
14 witnesses that you have heard us ask these questions
15 over and over. Did anyone tamper with anything? It's
16 our burden to prove that no one tampered with any
17 evidence, no one altered anything or comingled things
18 that weren't already comingled, so that the chain of
19 evidence is such before it's admissible for you to
20 consider that the integrity of that evidence has been
21 preserved. You've heard from a number of those
22 witnesses. You've also heard references to other
23 witnesses that may have been, say at the scene, other
24 police officers and as Sergeant Reese told you today,
25 not every police officer comes before you, but what

1 has the State done in this case. We have brought
2 before you all the witnesses that have had admissible
3 relevant testimony that can come before you.

4 Now, as I said earlier, the burden of proof is on
5 the State of South Carolina to prove this defendant
6 guilty beyond a reasonable doubt, and let me repeat
7 that. That is the highest level of proof we have in
8 our nation, and that's where it should be. We must
9 prove the guilt of Lorenzo Young and Trenton Barnes
10 beyond a reasonable doubt that's what the constitution
11 guarantees them and that's the way it should be.

12 Ladies and gentlemen, in this courtroom, in this
13 courthouse with this evidence, that is a burden the
14 State welcomes. Now, listen carefully as the judge
15 defines for you what is reasonable doubt.

16 I'm going to go through some definitions because
17 there are going to be a lot of legal terms that are
18 going to be put before you. In this case there are
19 four separate indictments. They all arise out of the
20 same event, that's not unusual, on each defendant. As
21 the judge will instruct you, you must reach a verdict
22 as to each indictment independently of each other on
23 each defendant. But what is proof beyond a reasonable
24 doubt? Our courts have defined it as such and listen
25 to the judge as he defines it for you, because proof

1 beyond a reasonable doubt is proof that leaves you
2 firmly convinced of the defendant's guilt. Let me
3 repeat that. Proof beyond a reasonable doubt is proof
4 that leaves you firmly convinced of the defendant's
5 guilt.

6 There are very few things in this world that we
7 know with absolute certainty. In criminal cases the
8 law does not require proof that overcomes every
9 possible doubt.

10 If based on your consideration of the evidence,
11 you are firmly convinced that the defendant is guilty
12 of the crime charged, you must find him guilty. If on
13 the other hand you think there is a real possibility
14 he is not guilty, you must give him the benefit of the
15 doubt and find him not guilty.

16 Firmly convinced of the defendant's guilt. The
17 law even recognizes that no one can overcome every
18 possible doubt. It is only that reasonable. In
19 listening to the judge in his charge, will use the
20 word reasonable over and over.

21 Now, before you are going to be the indictments
22 on each defendant for the first crime. I'm just
23 taking them in whatever order; the judge may take them
24 in a different order. The first crime I want to talk
25 to you about is murder. To be the most heinous crime

1 committed in our society, it has probably the shortest
2 definition, at least in South Carolina. Listen
3 carefully. You're not going to hear about different
4 degrees of murder. You're not going to hear about
5 lesser included offenses.

6 The crime charged here is murder in 16-3-10 of
7 our Code of Laws, murder is the killing of any person
8 with malice aforethought, either expressed or
9 inferred. Sometimes they refer to it as expressed or
10 implied.

11 I want to talk to you a little bit about what
12 those terms mean. The killing of another person with
13 malice aforethought either expressed or inferred. The
14 first term I want to talk to you about is what is
15 malice. What makes a killing a murder?

16 The judge will instruct you, and again he may
17 instruct you in a little bit different manner, but the
18 gist of what he's going to tell you is this. In its
19 popular sense the term malice conveys the meaning of
20 hatred, ill will, or hostility towards another. In
21 its legal sense, however, malice does not necessarily
22 mean ill will toward the individual injured, but
23 signifies a general malignant recklessness of the
24 lives and safety of others or a condition of the mind
25 which shows a heart regardless of social duty and

1 fatally bent on mischief.

2 A heart regardless of social duty and fatally
3 bent on mischief. All the State asks is that you look
4 at the events of that night. Look at the information
5 before you and I submit that when two young men
6 combine together with another young man for the
7 purpose of robbing an establishment, even if they
8 didn't intend --- and I'll get back to this, to murder
9 anyone at the onset, the fact that this occurs during
10 the robbery or the burglary or the kidnapping in this
11 case, it reeks of malice. It doesn't get any more
12 malicious. In other words, a malicious killing is
13 where the act was done without legal justification. I
14 submit nobody --- and I could be wrong --- is going to
15 get up here and argue this is not a measure. Excuse
16 or extenuation and malice has been frequently
17 substantially so defined as consisting of the
18 intentional doing of a wrongful act towards another
19 without legal justification or excuse. I submit --- I
20 could be wrong, that no one will get up here and argue
21 that going in to rob a person or kidnap them or doing
22 a burglary is a legal justification or excuse.

23 No one will get up here and say their actions
24 were not criminal.

25 The law goes a little bit further than that

1 because they're --- you remember, it says express or
2 inferred. What's the difference in that? It's not
3 that there are two different kind of malice.
4 Expressed malice is if I walk up to another person and
5 I pull out a gun and I look at them and I say I am
6 going to kill you, that is expressed malice.
7 Sometimes lying in wait to prepare ahead of time.
8 Like in this case, it is expressed malice. Even if
9 the intent, and I'll get back to that, was to do the
10 armed robbery, not the original intent was to do the
11 murder.

12 Those are ways that you can define express
13 malice, but law recognizes that generally when murders
14 occur, you may have to infer from the acts and the
15 conduct that surround what happened.

16 So you look at what the people were doing, what
17 they were trying to do. Did they act maliciously? In
18 inferring malice, you look at the conduct.

19 Very simply, as the judge will charge you, malice
20 may be inferred from conduct showing a total disregard
21 for human life. Remember the video, how they rushed
22 up on her, gun to the head. We don't know what they
23 said, but we don't need to because you can watch what
24 they did. The second young man ran up to make sure
25 she can't escape out the other side. As both of them

1 point the guns towards her, she does the only thing
2 she can think to do, and she swipes at one of them
3 with that spoon to protect herself. You heard earlier
4 about how one of the defendants was talking about the
5 Castle Doctrine. This isn't the Castle Doctrine for
6 them. She had the right to defend herself when being
7 attacked and a gun forced to her head. Is that
8 conduct showing a total disregard for human life?

9 Then when one starts shooting, the other one
10 joins in and they're shooting at her and it's not like
11 these guns, these locks where you pull the trigger and
12 it keeps firing. Remember what the experts said, one,
13 two, three, four. Is that a total disregard for human
14 life. Now, in that same definition of murder you also
15 heard the term aforethought. Malice must be
16 aforethought. Sometimes when considering murder you
17 may wonder does someone have to plan this for days
18 ahead of time. Do they have to sit and wait outside
19 for 30 minutes. No, listen carefully to the judge
20 because he will tell you malice aforethought does not
21 require that malice exists for any particular time
22 before the act is committed. Malice must exist in the
23 mind of the defendant just before and at the time the
24 act is committed.

25 Therefore, there must be a combination of the

1 previous evil intent in the act. However, malice may
2 be conceived at the very moment the fatal blow is
3 given. How dare she fight back? They showed her.
4 Malice. There is also another concept of law that
5 applies here as the judge will tell you. That's
6 felony murder rule. What is that ladies and
7 gentlemen? Listen to the judge, okay.

8 The law says if someone intentionally kills and I
9 submit pulling a trigger of a gun and pointing it at a
10 person, which ultimately dies as a result of that,
11 regardless of if you miss several times, killing
12 another during the commission of a felony the
13 inference of malice may arise if the facts are proven
14 beyond a reasonable doubt, sufficient to raise an
15 inference of malice to your satisfaction, this
16 inference would simply be an evidentiary fact to be
17 taken into consideration by you the jury along with
18 other evidence in the case and you may give it as much
19 weight as you determine it should receive. The law
20 also allows the jury to infer malice if you conclude
21 that the homicide was a proximate direct result of the
22 commission of a felony.

23 Were they in the commission of a burglary, a
24 kidnapping, a robbery being attempted? For that
25 regard, attempted armed robbery, kidnapping and

1 burglary second degree would be felonies under our
2 law. One of them is a felony. These are three
3 felonies.

4 You can imply malice existed if the person is in
5 the commission of a felony at the time of the fatal
6 blow.

7 Now, the second indictment --- there are two, one
8 on each, that's going to go before you and you're
9 going to be asked to reach a separate verdict on is
10 kidnapping. Very simply, ladies and gentlemen, our
11 definition of kidnapping under our Code of Laws is
12 very simple. Whoever shall unlawful seize, confine,
13 inveigle, decoy, kidnap, abduct or carry away any
14 other person by any means whatsoever without authority
15 of law, that person is guilty of kidnapping.

16 Now, what are all those terms? We don't have to
17 prove all of them. There's an or. So we have to
18 prove that one of these actions occurred, and the
19 judge will define either some of them or all of them
20 to you. And specifically, if you should seize or
21 confine any other person by any means whatsoever
22 without authority of law. Traditionally when you
23 think of kidnapping, you think of somebody coming into
24 the state, putting them into the trunk of a car,
25 driving them across state lines. There may or may not

1 be a ransom note, but traditionally that is what some
2 people think of as kidnapping. The law recognizes
3 kidnapping is more expansive than that. All we have
4 to prove is that for some period of time that Kelly
5 Hunnewell was not able to leave of her own free will.

6 The definition of seize confine, ladies and
7 gentlemen. Seize means to take hold of suddenly or
8 forcibly. Was she free to go once he put that gun to
9 her head? Why did she have to fight back if she was
10 free go. Confine means to limit, restrict, enclose or
11 imprison within bounds or shut to keep in. Was she
12 able to move? That's the basis of the kidnapping
13 charge. Now, with kidnapping, does it have to happen
14 over a day, a week, a month? The law is specific as
15 to that.

16 Kidnapping in our State is continuing offense.
17 It commences when one is wrongly deprived of their
18 freedom and continues until freedom is restored. So
19 from the moment that Lorenzo Young came up behind her,
20 put a gun to her head and forced her back the other
21 way toward where he thought maybe there was a safe,
22 money, her money --- when one is wrongfully deprived
23 of their freedom and continues until her freedom is
24 restored. This happened quickly. Listen carefully to
25 the judge. He will not instruct you that we have to

1 prove that it lasted for any particular amount of
2 time. One second, two seconds, three seconds is
3 sufficient if you find that her ability to leave of
4 her own free will and volition, she couldn't do it.

5 Now, getting back to the murder for a second, one
6 thing I didn't --- in this state, as far as murder
7 goes, the State of South Carolina does not have to
8 prove premeditation to the murder. I submit in this
9 case there is evidence of premeditation to the armed
10 robbery they were attempting, to the burglary they
11 were attempting, to the kidnapping, but we do not have
12 to prove premeditation to prove the elements of
13 murder. Listen carefully to that. At the same time,
14 we don't have to prove motive. However, in this case,
15 the motive is clear. It's to enter unlawfully and
16 rob. So we have murder, but we don't have to prove
17 those things.

18 The next crime I want to talk to you about and
19 there's one indictment on each defendant on this, is
20 attempted armed robbery. Now attempted armed robbery
21 is defined in our state as a person who commits or
22 attempts to commit a robbery while armed with a
23 pistol, dirk, slingshot, metal knuckles, razor or
24 other deadly weapon. In this case, ladies and
25 gentlemen, there is no dispute both of them, even one

1 of them would have been sufficient were armed or while
2 alleging either by actions or words he was armed while
3 using a representation of a deadly weapon or any
4 object which a person present during the commission of
5 a robbery reasons to be a deadly weapon. The law even
6 recognizes to be an armed robbery, they don't even
7 have to have a real pistol. They just have to use a
8 representation that they may have a weapon. The
9 reason for that is clear because the law recognizes
10 that bad things can happen when people think that they
11 are in fear of their lives. So it recognizes that
12 just the representation and in this case however, you
13 don't even have to go there, because there is no
14 dispute. There were two guns and both of them worked
15 just fine. They worked well enough to kill Kelly
16 Hunnewell.

17 Now, what is robbery? The simplest way to put it
18 and I don't know how the judge will define this to
19 you. Robbery is very simply stealing. If you think
20 of it. It's a larceny or a stealing from another
21 person. What elevates a larceny or a stealing up the
22 a robbery, it's done from the persons or presence of
23 another with some type of force or violence in order
24 to make them give up their things or this is an
25 attempt now. No one is saying this was successful

1 because she fought.

2 That makes it a robbery or a strong arm robbery.
3 What elevates it to armed robbery or an attempted
4 armed robbery is the use of the deadly weapon and
5 those are very simply the elements of attempted armed
6 robbery.

7 Now, the Judge is also going to instruct you on
8 the law of burglary in the second degree. A person is
9 guilty of burglary in the second degree. The person
10 is guilty of burglary in the second degree if the
11 person enters a building without consent and with the
12 intent to commit a crime therein. That's the element
13 of burglary. What makes it burglary in the second
14 degree is when it's dwelling involved are some of
15 these other aggravating circumstances, but a you
16 notice in the definition of this, they don't have to
17 break down the door because there was no dispute the
18 door was wide open that night. They don't have the
19 right, no one has the right to enter another person's
20 place of business, in this case the bakery, if they
21 enter with intent to commit a crime.

22 Watch the video. Not much of a dispute that they
23 enter with intent to commit a crime. Kelly Hunnewell
24 never sees them coming. She doesn't even know they're
25 there until the gun is already to her head. To make

1 it burglary in the second degree when it's a dwelling,
2 we have to also prove that when effecting entry or
3 while in the building or in immediate flight there
4 from, he or another participant because the law
5 recognizes it can be more than one, is armed with a
6 deadly weapon or explosive or we don't have to prove
7 all of these just one, although I submit all of these
8 apply, causes physical injury to any person who is not
9 a participant in the crime. There's no dispute Kelly
10 Hunnewell was shot and killed, or uses or threatens
11 the use of a dangerous instrument, or displays what is
12 or appears to be a knife, pistol, revolver, shotgun,
13 machine gun or other firearm or just if the entering
14 occurs during the nighttime.

15 Any one of those is enough to make this burglary
16 second. Nobody is going to get up here and argue this
17 wasn't a burglary second. Now, the law goes a little
18 bit further than that. I will explain that concept,
19 since Mark told you in his opening argument, the hand
20 of one is the hand of all in this state. However, let
21 me assure you that mere presence at that scene is not
22 sufficient to make a person guilty of a crime. If you
23 find that the State has proved that the defendant was
24 only present at the scene for a crime and they have
25 not proved any other participation in the crime, then

1 you must find the defendant not guilty. Along that
2 same vein, the judge are instruct you that if two or
3 more combine together to commit an unlawful act or
4 crime --- so two or more people and in this case,
5 three combine together to commit an unlawful act or
6 crime, in this case a robbery, a burglary and
7 ultimately a kidnapping with the intent and in the
8 execution of that criminal act a homicide is committed
9 by one of the actors as a probable or natural
10 consequence of the acts done in pursuant to the common
11 design and there's no dispute the two that go in, one
12 is the lookout. The two that go in, these two are
13 there for one purpose. The video speaks volumes. All
14 present participating in the unlawful undertaking are
15 as guilty as the one who committed the fatal act. So
16 it does not matter if Lorenzo Young is the shooter
17 when it comes to Troy Stevenson and Trenton Barnes.
18 Here today, you are only concerned with these two.
19 Remember Troy's charges are still pending. He will
20 have his day in court.

21 The common purpose may not have been to kill and
22 murder, but if it was unlawful and/or criminal and in
23 the execution of this common purpose a homicide is
24 committed by one as a probable or natural consequence
25 of the acts done in pursuant to the common design,

1 then all present to participate in the common design
2 are as guilty as the slayer.

3 If I join in with one or two other people and I
4 say my role is --- I'm only going to be the lookout.
5 Even if I look at the person going with the gun and
6 say no matter what you do don't shoot anybody. Under
7 the law because I am participating in a criminal act,
8 no matter what happens in there even if my role is
9 lookout, outside, down the block, the hand of one is
10 the hand of all and that's the law in our state. The
11 judge will also instruct you that in every case we
12 must prove criminal intent. Ladies and gentlemen, it
13 doesn't get any more criminal than this.

14 In order to establish criminal liability,
15 criminal intent is required. For example, the mental
16 state for a particular crime might be purpose, intent,
17 knowledge, recklessness or even just criminal
18 negligence. Let me repeat that. What must be proved
19 by the State for a particular crime might be purpose,
20 intent, knowledge, recklessness or criminal
21 negligence. Criminal intent must be proven by the
22 State beyond a reasonable doubt. It is always a
23 matter that must be determined by the jury from the
24 circumstances surrounding the situation. There is no
25 way to prove intent to a mathematical certainty.

1 There is no way medical science can dissect a person's
2 brain and determine what the person has in mind. The
3 law says that criminal intent may be inferred from the
4 circumstances shown to have existed. This is how you
5 make a determination as to whether or not the element
6 requiring intent was present. It is not necessary to
7 establish intent by direct and causative evidence, but
8 intent may be established by inference the same way as
9 any other fact by taking into consideration the acts
10 of the parties and all the facts and circumstances of
11 the case.

12 Criminal intent is a mental state, a conscious
13 wrongdoing. It's up to you to determine what the
14 defendant intended to do based upon the circumstances
15 shown to have existed. Criminal intent can be
16 determined by action or failure to act. In this case
17 and listen carefully to the judge, he is not going to
18 tell you it's okay to go in and shoot people because
19 somebody else tells you to do it. Criminal intent can
20 arise from action or a failure to act. It may arise
21 from negligence, recklessness or an indifference to
22 duty or to consequences that is considered by law to
23 be the equivalent of criminal intent.

24 Now, in our state there are two different kinds
25 of evidence that can be used to determine guilt or

1 innocence. What is said --- we refer to as direct and
2 circumstantial evidence, and what are those? Direct
3 is the type of evidence you get through the senses,
4 what you see, smell, hear, touch, what you actually
5 observe. In this case there was a review of the video
6 so people had direct evidence as to who those people
7 were and they were able to identify them. That's
8 direct evidence. Eyewitness testimony typically. In
9 addition to that, there is also circumstantial
10 evidence. In this case like the DNA evidence where
11 you see Ms. Hunnewell and these two defendants' DNA on
12 a spoon that happened to be in the center of this
13 crime. That is circumstantial evidence that you can
14 consider, and very simply the law says that direct
15 evidence directly proves the existence of a fact and
16 does not require deduction. Circumstantial evidence
17 is proof of a chain of facts or circumstances
18 indicating the existence of a fact. In this case
19 another type of circumstantial evidence is the GAP 45
20 ammunition at his home. Does that give you an
21 inference that he may have been involved in this.
22 Crimes may be proved by circumstantial evidence. The
23 law makes no distinction between the weight to be
24 given to either. There is no weight or distinction.
25 To the extent the State relies on circumstantial

1 evidence, all the circumstances must be consistent
2 with each other and when taken together point
3 consistently to the guilt of the accused beyond a
4 reasonable doubt. If they merely portray the
5 defendant's behavior suspicious, proof has failed. In
6 this case, ladies and gentlemen, luckily there really
7 isn't, not luckily, but in this case there doesn't
8 happen to be that much circumstantial evidence. The
9 majority of what the State is bringing before you is
10 direct evidence, but what circumstantial evidence is
11 there is helpful, very helpful in this case. It
12 totally and completely corroborates what other
13 witnesses were actually able to tell you, even those
14 witnesses who were so reluctant to be in here who
15 didn't want to be in here, but it was their testimony
16 or their initial statement corroborated by everything
17 else, the phone dump, the letters written by the
18 defendants later. The DNA. The gunshot residue and
19 it goes on and on. These are just a few of the
20 things. What you have is testimony from witnesses,
21 such as Rolanda Coleman who didn't want to be here.
22 Such as Donald Moore, who really didn't want to be
23 here and finally Latoya Barnes. Give her credit. The
24 circumstantial evidence corroborates what each and
25 every one of those witnesses told you. That's why

1 it's particularly useful in this case as far as that
2 goes.

3 You also heard from another witness and the Judge
4 instructed you, I think, every single time one of them
5 got up here to testify, expert witnesses. The law
6 recognizes that some people, such as myself are what
7 we call lay witnesses. We don't have any expertise in
8 any area. I wouldn't be able to get up there and give
9 an opinion about anything, but certain people because
10 of their training, because of their education are able
11 to get up there and give you information, testing that
12 they actually did. The DNA, the gunshot residue, the
13 pathologist, the bullets, the firearms expert person.
14 Those were all experts and the reason for that is very
15 simply, they have the training. They're able to do
16 it. Now, when judging their credibility, you judge
17 credibility with them the same way you do everyone
18 else and that's important. Do they have a basis? Do
19 they have the experience? Have they testified before?
20 All these are factors in considering whether a person
21 is able to render an opinion, and I submit, ladies and
22 gentlemen, if you take even just the testimony of one
23 of the lay witnesses and couple it with the expert of
24 the testimony in this case, that alone is
25 overwhelming. The judge will also instruct you that

1 in this case there has been some mention of the death
2 penalty. The State is not seeking the death penalty
3 in this case. The judge will tell you the
4 determination of any punishment should not even enter
5 y'all's mind.

6 All your role is to determine guilt or innocence,
7 and that is what your role is, but the State is not --
8 - this is not a death penalty case. The final thing I
9 want to talk to you a little bit about is credibility.
10 What is credibility or believability? The judge will
11 instruct you. You can believe one witness against
12 many, many against one. You can believe part of what
13 a witness says, none of what a witness says, all. It
14 doesn't matter. It's up to you. When considering
15 what to believe as far as credibility of the evidence
16 we put before you, do they have a bias or prejudice?
17 Do they have something to gain or something to lose?
18 Is the testimony corroborated by other testimony or
19 contradicted? Do they have some fear of testifying in
20 credibility, believability, and the defense got up
21 here in their opening statement and they talked about
22 how this courtroom is packed. There's a pressure
23 everywhere, a rush to judgment, pressure. I submit,
24 ladies and gentlemen, think about Donald Moore. He
25 had to come before you because he was under subpoena.

1 Did he want to testify? No. Do you blame him? No.
2 Did he make up, oh I just told lies those lies that
3 happened to be corroborated by all the evidence in
4 this case. Was what he told police initially the
5 truth? Even Trenton Barnes wrote his mother a letter
6 saying it was the truth. Do they have something to
7 gain or to lose? The defense will get up here and
8 argue oh you can't believe any of the witnesses. You
9 can't believe any of the evidence.

10 They will read out lists of who you didn't hear
11 from. That's all an attempt to divert your attention
12 from the relevant admissible evidence that you did
13 hear as to what happened that night because each and
14 every witness was corroborated by the physical
15 evidence, even by the telephones and give Latoya
16 Barnes credit, ladies and gentlemen. I beg you to
17 judge her credibility. She got up here and it could
18 not have been easy, and I felt horrible, but she got
19 up here and she told you what she told police about
20 what she knew and she didn't want to admit that, yeah,
21 she saw Trenton with a gray hoodie. Do you blame her?
22 I can't. But she told you everything else, but when
23 she went to the police and I think I asked her this
24 question, she just wanted to make sure the truth came
25 out, that the right people were held responsible. She

1 deserves a lot of credit.

2 Again, if I have said anything different from
3 what the judge instructs you on the law, it wasn't
4 intentional. All the State asks for is justice.
5 Nothing more, nothing else. Thank you.

6 MS. SIMPSON: May it please the Court.

7 THE COURT: Yes, ma'am.

8 CLOSING STATEMENT:

9 MS. SIMPSON: Well, I shouldn't have shot that
10 bitch. That, members of the jury, those words of
11 Lorenzo Young. I didn't mean to do it, the words of
12 Trenton Barnes.

13 No, no, no. The screams of terror heard by
14 Theresa Baskin, screams that she will never forget.
15 The final words, those pleas for mercy from the victim
16 in this case, Kelly Hunnewell. No, no, no.

17 The final words, the words, the voice of a
18 daughter, a sister, a friend and more importantly a
19 voice that her children ages 13, 10, 6 and 8 will
20 never hear again and for what? Nothing, absolutely
21 nothing because nothing is the value that the
22 defendants, Lorenzo Young and Trenton Barnes placed on
23 human life that day. Let's be clear. Make no mistake
24 about it. As Ms. Campbell alluded to earlier, the
25 only person who should have been able to come in this

1 courtroom, take this witness stand and testify that
2 she was acting in self-defense is the victim, Kelly
3 Hunnewell.

4 Unfortunately, she never got that chance. Her
5 life ended far, too soon at the young age of 33. Why?
6 Because the defendants, along with their codefendant,
7 Troy Stevenson, had a plan. They were going to rob
8 someone that night, and when the first lick went
9 wrong, they saw a crime of opportunity.

10 MR. KRZYSTON: Objection, Your Honor.

11 MS. SIMPSON: Unfortunately ---

12 THE COURT: What's your objection?

13 MR. KRZYSTON: Can we approach?

14 THE COURT: Yes.

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

18 THE COURT: You may continue. I'm sorry.

19 MS. SIMPSON: Her life ended far too soon.

20 Unarmed, alone in that building where she worked the
21 early morning shift starting at 3:00 A.M. so she could
22 spend more time with her children, but what good was
23 that metal spoon against two armed men with guns.

24 The only victim in this case is Kelly Hunnewell.

25 Now, this is contrary to what the defense might have

1 you believe because as I've listened to their opening
2 statements and the information they've attempted to
3 elicit through their cross examination, they would
4 have you believe that Lorenzo Young and Trenton Barnes
5 are the victims in this case. They are the victims of
6 police. They are the victims of the State. They are
7 the victims of SLED analysts. They are the victims of
8 their own family members, Latoya Barnes. They're own
9 friends, Donald Moore. The mother of his child,
10 Rolanda Coleman. They are victims of pressure and a
11 rush to judgment.

12 Poor, poor Lorenzo Young and Trenton Barnes.
13 Well, no, members of the jury, that just simply is not
14 true, and that is not what the facts and the evidence
15 in this case show because we are here today for one
16 reason, because when these two men armed themselves
17 and went to that bakery during those early morning
18 hours and went in, they became burglars, attempted
19 armed robbers. When they encountered Kelly Hunnewell,
20 they became kidnappers, and when they pulled that
21 trigger, each of them multiple times, ending her life,
22 causing her to drown in her own blood, they became
23 killers, murderers, and that's why we are here today.

24 Now, members of the jury, good afternoon. It's
25 been a long few weeks, and as you've learned during

1 the course of this trial, my name is Nicole Simpson.
2 I along my co-counsel, represent the State and the
3 victims in this case.

4 I want to echo my colleague, as well, because
5 this is my one and only opportunity to address you
6 directly and I want to thank each and every one of you
7 now, for your time, your patience and your service in
8 this case. It is often said that jury service is
9 perhaps the most important service that a man or woman
10 can render his or her country during times of peace.

11 Well, that's true here today, and in a few
12 moments, defense counsel is going to get up and
13 present their closing arguments. Then the judge will
14 instruct you on the law that you are to apply to the
15 facts of this case, and then it will be turned over to
16 you for a decision, so on behalf of the State and the
17 victim's family, I thank you.

18 I want to talk to you about the facts in this
19 case. First let's go ahead and get something out of
20 the way because I want to address a few things that
21 defense counsel said in their opening statements. And
22 here in this case, you have two defendants, Lorenzo
23 Young and Trenton Barnes, and you will consider each
24 of their guilt independently, but as I listened to
25 their opening statements, the essence of it all kind

1 of boiled down to the good old classic defense, when
2 you have nothing else, attack the police. Blame the
3 police and they kind of vary a little bit, and I want
4 to make sure that I get the quote right. I believe
5 Ms. Bambach, defense counsel for Mr. Young said in her
6 opening statement that you would not hear one piece of
7 evidence in the case. They had to make the pieces
8 fit. You won't see anything definitively connecting
9 Young to the shooting and the normal things you would
10 see in a murder case just aren't here. The arrest of
11 Young was based on the statement of one witness.
12 Well, that's just flat out wrong and inaccurate, and I
13 don't know exactly what a normal murder case is
14 because murder is far from normal, but I submit that
15 this is exactly what's in a murder case because here
16 what we have is defendants with time to dispose of the
17 evidence. What we have here is forensic evidence. We
18 have direct evidence linking them to it, and we also
19 have attempts to justify their actions with respect to
20 informants and I'll get to them in a moment. Even
21 this is a heinous crime and yeah, Trenton may be sorry
22 now.

23 I wasn't there, I didn't do it. That's Lorenzo
24 Young's defense and attack the police. The moving to
25 Trenton Barnes and this one was kind of all over the

1 place because I believe Mr. Schnee began along the
2 lines of police misconduct. One big conspiracy. And
3 at some point it evolved to well, Trenton did it, but
4 you won't find malice because he is only 16, and then
5 it evolved just a little bit more and changed again.
6 Well, he's really only taking the rap protecting his
7 older brother Troy Stevenson, who he loves dearly.
8 That's all he is doing and then we went to another
9 defense.

10 Again, the investigation, no forensics.
11 Threatening, coercion, I don't know. The
12 investigation. All over the place. One of the age
13 old defenses, if you can't defend it --- if the
14 actions are indefensible, if I throw enough stuff out
15 there, maybe something will stick. Maybe they'll fall
16 for one of them. Well, the problem is that the
17 evidence and the facts in this case don't support any
18 of those. We'll get to that.

19 So let's start with the grand conspiracy as I
20 like to call it. I apologize. I'll talk loud. I
21 know words are small, but I wanted to bring this up to
22 get it out of the way so we can get to the witness
23 testimony and facts in this case.

24 The defense wants you to focus on what the police
25 didn't do. Who they didn't interview. I believe a

1 list of names, such as Azo, Smiley, Marcus Shorty
2 Johnson, Marcus Haley Johnson, Ashley Carter, Marquis
3 Johnson. Darryl Samuels, Anthony Nelson, what about
4 those people. Well, you heard the information that
5 could have been obtained through those people, those
6 people whose names were primarily provided by Troy
7 Stevenson and his attorney while at Mr. Stevenson was
8 actually cooperating with the police and attempting to
9 corroborate his story that he was at the house, that
10 he wasn't with them and nicknames. What are they
11 going to do with that?

12 Azo, Smiley, how do you find those people? Well,
13 counsel for Troy Stevenson was going to do that nearly
14 a year later, but never did, and these people,
15 remember, let's go back to the initial day this
16 happened. They canvassed the area initially during
17 the early morning hours. Even Investigator Moorer,
18 the businesses weren't open yet, but they were
19 knocking on doors and they went back to those
20 businesses attempting to talk to people, to find out
21 what evidence was available.

22 And then when they found people, you know, I
23 can't give you details about what's going on, but if
24 you have any information about this incident, contact
25 police. Maybe leave a card or let you know you can

1 contact Crimestoppers, and some people came forward
2 like Donald Moore, Mary Brown and the confidential
3 informant from Richland County.

4 Azo doesn't come forward. Smiley didn't come
5 forward. Marcus Haley Johnson didn't come forward.
6 You heard that this incident happened where the
7 defendants lived. This was their neighborhood, their
8 friends, associates, family members.

9 This is where they live. People hesitant to
10 talk, and we'll get to those people. Rolanda Coleman,
11 Donald Moore, Mary Brown, the witnesses in this case
12 and you heard testimony. People generally don't talk,
13 especially in a case like this.

14 Observe and we'll get to the witness's demeanor
15 on the stand, Donald Moore, Mary Brown, Rolanda
16 Coleman and Latoya Barnes. Now, investigators didn't
17 pick these witnesses. The State didn't choose these
18 witnesses. The defendants did. These are their
19 friends, their family members.

20 If we could have picked, do you really think we
21 would have picked Donald Moore? No. But then moving
22 on, jailhouse informants. Oh, the police they coerce
23 everybody, they do these terrible terrible things.

24 Well, the Columbia Police Department didn't even
25 interview them. Those people sent letters to our

1 office and then those people came before you. No one
2 coerced or threatened them or made any promises to
3 them. Note taking and audio recording. This comes up
4 in just about every case we do, but sometimes it's the
5 reverse because a lot of agencies don't audio record
6 and instead just take notes. If that were the case,
7 they would be saying where is the audio? Why is this
8 not recorded. You have notes for it, but where is a
9 real document, but when we do have audio recordings,
10 well, where are your notes? They're irrelevant.

11 And then there's been an insinuation. This is
12 just based on what I observed and what I believe may
13 come out, because there's been kind of an inference on
14 police misconduct. Maybe they'll plant evidence.
15 They'll lie. They'll threaten, they will not
16 investigate..

17 Well, if you're going to go to all that trouble,
18 put your work, your job, everything on the line, then
19 why not make it better. If you're going to plant
20 evidence, then put the hoodies there, plant the guns.
21 If you can plant the shell casings and unfired
22 bullets, just go ahead and plant the guns. Make it
23 easy. Pick your witnesses.

24 Ms. Baskin, maybe she will identify them if we
25 press her hard enough. But no, she told you only what

1 she knew. DNA, fingerprints, plant it. Make the case
2 better. That just didn't happen, but everybody is in
3 on it, and you heard and I'm going to go --- all this
4 pressure. All this pressure. Pressure from the
5 media. Pressure from the people. Pressure from the
6 community.

7 Well, members of the jury, all this pressure, it
8 doesn't lead to a quick arrest. It doesn't help to
9 have a shoddy investigation because with all this
10 pressure, with all these headlines, you better get it
11 right.

12 What good does it do them to arrest the wrong
13 people. No good, and their job isn't just to arrest.
14 It's to keep the communities safe. So you want the
15 people that committed these crimes off the streets,
16 and that's what they did in this case. They got the
17 right people and it's not a rush to judgment. Now,
18 the incident happens on the first of July 2013. As I
19 believe Sergeant Reese may have defined it best, you
20 never know which way an investigation is going to go.
21 Your hours are not day-to-day, typical nine to five.
22 You might work 18 to 24 days, 12 hour shifts. You go
23 where it leads you. Well, the evidence is collected.
24 They find a video. Video. Do you know how rare that
25 really is? And it kind of directs their

1 investigation. It's very helpful on what evidence may
2 be relevant, on what to process. What are we looking
3 for, we get descriptions early, quickly because but
4 for that video, we might not be here, but then you had
5 more, some tips they received quickly. The tips are
6 coming in fast once this is released. They don't
7 release everything to the media. Why? Those details
8 will be important down the road. Those details for
9 witnesses like Donald Moore and we'll get back to
10 Donald Moore because he had information that was not
11 released to the media and it became very important and
12 they were able to garner more.

13 So they got search warrants, and they executed
14 them at the homes of both Lorenzo Young and Trenton
15 and Troy --- Trenton Barnes and Troy Stevenson. That
16 didn't occur until the 5th. Trenton Barnes at the
17 search warrant. He ends up going with law enforcement
18 at that time. Lorenzo Young is taken into lawful
19 custody where he was found hiding on that day in a
20 closet with a phone that will become very important in
21 this case, with a phone that the defense may try to
22 essentially distract you from, tell you to discount
23 everything that's on that phone, and we'll get back to
24 that.

25 Troy Stevenson comes to CPD headquarters and then

1 with all this information on the 6th , Trenton Barnes,
2 Lorenzo Young and Troy Stevenson are all arrested and
3 charged in this case, equally charged, same charges,
4 murder, attempted armed robbery, kidnapping, burglary
5 second degree violent.

6 Members of the jury, after the arrest, was their
7 job done? Oh, we got an arrest, all this pressure.
8 Let's just call it quits. We've got our people. No,
9 the investigation continued after the arrest and what
10 did it do? It only corroborated and further
11 implicated the defendants in this crime. DNA, GSR,
12 phone examinations, the letter from Trenton Barnes
13 himself about his conduct, the firearms report and
14 additional jailhouse informants. All that evidence
15 corroborates and implicates three individuals and only
16 those. Two that are here before you today. So you
17 can't believe the police, Azo, Marcus, Marquis all
18 these --- Ashley Carter, all these people who like I
19 said who by the testimony you heard really didn't have
20 any information about what happened, but ignore what
21 they did do. Ignore the witnesses they did talk to.
22 Ignore their investigation as a whole because you just
23 can't believe it, and you heard from another witness
24 or witnesses, and I'm going to touch on a few in
25 depth, but you remember the testimony, you heard it.

1 You heard from Officer Brayboy who responded to
2 Ms. Baskin's home because she wasn't sure where those
3 shots actually came from.

4 Ms. Baskin just gave them the information that
5 she knew, and he went on his search to find out where
6 the shots may have come from, and then he came upon
7 Kelly Hunnewell in the bakery, and at that point,
8 crime scene investigators start responding. EMS
9 responds. You heard from the EMT worker Mary Ellen
10 Swain who came in. She was dead on arrival. They
11 didn't even move her.

12 You heard from Columbia fire department Adam ---
13 I always mispronounce his name, Lofstetler, who had to
14 come in and turn off the heat, the gas, because it was
15 so hot in there. All of these witnesses and we'll get
16 to them specifically, the crime investigators, Donald
17 Moore, Rolanda Coleman and Latoya Barnes, all these
18 witnesses, just ignore them. You can't believe
19 anything that they said. So who did you hear from?
20 I'll leave this one out. Investigator Wise you heard
21 from one of the investigators in this case,
22 Investigator Valerie Moorner. What did she do? She
23 told you --- there are investigators involved in this
24 case and a number of people because manpower is
25 important in a case like this. If information is

1 coming in quickly, you need to be able to get to it,
2 and after a period of time, there is kind of a narrow
3 window. The investigation begins to go stale, so yes,
4 they were involved and this is a murder.

5 They canvassed --- she canvassed the area. She
6 is one of the ones who went to the businesses and
7 they're ultimately able to gain surveillance footage
8 from the Ale House, which you'll have before you back
9 there. So she did her job looking for evidence,
10 looking for cameras and she found some. She spoke
11 with business owners. She made contact with the
12 owners of the bakery. She attended the autopsy which
13 was conducted in this case, and the victim's cause of
14 death determined. You heard Dr. Durso's testimony.

15 Yes, they have meetings. There's kind of a big
16 deal made about VCAP, this 1:30, 12:00 o'clock,
17 whatever time. I don't know. It doesn't matter. I'm
18 glad they meet to discuss where the case is going,
19 that they stay briefed and apprised because at that
20 point things are rolling quickly. Information is
21 coming in, and people are getting assigned to
22 different tasks because it's a lot to check out.

23 Crimestoppers tips, information received
24 testified regarding Lucille Drive, which is the home
25 of Lorenzo Young and Troy Stevenson. They also get

1 information to look into Lorenzo Young, and yes, on
2 the 2nd, they hear from Officer Kai Tull --- well,
3 Sergeant Shuler, who is contacted by Officer Kai Tull
4 because Donald Moore who he had a relationship with
5 who he knew had approached him and said I have some
6 information about this case. Now, Donald Moore who
7 clearly didn't want to be here who distanced himself,
8 like I said at that hearing on November 3rd, which I'm
9 sure they're going to talk about and before you in
10 this case.

11 As Ms. Campbell said, that was the first time
12 that they had to --- he had to get up here to face
13 Lorenzo Young and face Trenton Barnes and talk about
14 his cooperating with police.

15 So judge his credibility. They reviewed the
16 video and what did they learn? Two shooters, one with
17 a red hoodie, one with a gray hoodie and another
18 person, a third person involved as a lookout at the
19 door wearing a dark in colored shirt because that
20 person never comes in. That too is important and
21 we'll get to that.

22 Wears? What does she tell you? She wears the
23 Holister brand, so she recognizes that hoodie as a
24 gray Holister hoodie. Investigator Moorer.

25 Now, you also heard from Investigator Matthew

1 McCoy who is assigned as the lead investigator in this
2 case by Sergeant Reese who is his supervisor.

3 Now, this is just general. I'm sure they're
4 going to take some time here. He was assigned. He
5 went to the crime scene. At that point things begin.
6 Investigators are coming out. He is going over what
7 we observed and clearly, this is even before the
8 video, there are two calibers of shell casings on the
9 ground, at least two guns, two firearms were used and
10 then thank goodness for that video because we also
11 have two individuals and a description of those
12 individuals and we have what happened in this case
13 because as Ms. Campbell said, for once, what happened
14 really isn't in dispute with respect to the struggle,
15 the men coming in with the guns.

16 It's on video. Video which I beg you to review.
17 So they get the video. They canvass the area, follow
18 up on tips, and he is kind of overseeing this together
19 with Sergeant Reese, who you heard from, and they're
20 interviewing witnesses, recording conversations. Once
21 they get the physical evidence, the requested testing
22 begins, and we'll get to why they did or did not do
23 certain things.

24 Then they obtain search warrants for the homes,
25 issued by a judge. We're going to talk about what

1 came about in the search warrants because what they
2 did find may not have even been as important as what
3 they didn't find.

4 As he went through the course of this
5 investigation after the arrest as I said, the evidence
6 led to these defendants' guilt. It only further
7 corroborated. It didn't point to another person, and
8 all those names just put those out of your mind, all
9 they would have done is corroborate Troy Stevenson,
10 potentially, maybe, if they're even identifiable real
11 people, they didn't have any direct knowledge of what
12 happened. Then we have the crosses and I'm not going
13 to go through this and he did and who he didn't
14 interview. I believe defense counsel for Mr. Young
15 got up here and he was like, oh, you didn't interview
16 this person; where are your notes. Where are your
17 notes? No. They can tick off a little list all they
18 want to. He didn't take notes because he didn't
19 interview them, bottom line, but he did take notes
20 from Rolanda Coleman and that's recorded. He recorded
21 the interview with Donald Moore. He recorded the
22 conversations with Latoya Barnes, but let's not talk
23 about those because that stuff isn't very helpful.
24 And again, anyone can contact the police at any time.
25 It's not like they shut down 24/7. Levels of

1 cooperation and I say this and it's been emphasized
2 and I know you're probably tired of hearing about it.
3 It does change. That is a fact. That's a reality.
4 Donald Moore, cooperative in the beginning and then
5 moving to Sergeant Reese, Kevin Reese, who you heard
6 from, the supervisor of this investigation, he
7 responded to the scene. He was one of the first
8 because he didn't even know it was a homicide. He
9 just knew that someone had been shot and went out
10 there. At that point he made his observations, which
11 he spoke to you about, the signs of a struggle and he
12 went through what he did taking down the information
13 that he had initially and then he called out
14 investigators.

15 EMTs are responding. The county coroner's office
16 becomes present. He is at the scene. There is a lot
17 going on. Keep it secure. Get the perimeter secure
18 because this is a homicide.

19 They canvass the area, knock on doors, go to
20 people's yards. Key point. No details in order to
21 preserve the integrity of the investigation. Let them
22 know who they can contact. He was present for many of
23 those interviews with Investigator McCoy and
24 witnesses. He spoke with Donald Moore and what did he
25 say, that he was cooperative. Nothing out of the

1 ordinary. He came on his own free will, and again
2 which we all know, but it must be said not all
3 witnesses want to talk to the police, especially if it
4 involves friends, family, neighbors present for the
5 execution of search warrants and we'll get back to
6 this point. I'm going to reemphasize them a good bit.
7 No firearm or hoodies were found in Bronx Road or
8 Lucille Drive and then he went through the still
9 photos of what you could observe from the crime scene
10 because they were doing everything they could to
11 identify and make sure they had the right people and I
12 submit to you the evidence supports that they did.

13 Now, the crime scene. We start with Tommy
14 Circle. What did Investigation George Wise testify
15 that he found that would become very important in this
16 case? 45 GAP caliber fired shell casings, the spent
17 shell casings, four of them, at least four shots fired
18 from that firearm. Then the 40 caliber Smith and
19 Wesson shell casings. Two of those --- at least two.
20 Projectiles, three of them. Lead projectile. I
21 believe a projectile fragment, and then also the
22 victim's time card. We knew she got there at
23 3:00 A.M. because then the timeline is also important
24 in this case. It corroborates what happened in the
25 testimony and the evidence against Mr. Young and

1 Mr. Barnes.

2 Then we move to the home of Trenton Barnes and
3 Troy Stevenson. Now, remember this search warrant,
4 July 1st, 2013. Then we move to Lucille Drive. It's
5 not conducted until nearly five days later, July 5th,
6 2013. Key evidence or that would be key, isn't found.
7 Firearms, none to be found and importantly that gray
8 hoodie. You'll hear it mentioned several times during
9 my closing right now. That gray hoodie, that gray
10 hoodie that Ms. Barnes said her son wore all the time,
11 his older brother had ripped it. That gray hoodie
12 wasn't present. No gray hoodie was present or red
13 hoodie, but they did find that dark in colored hoodie,
14 and I want to talk just a bit about it because I
15 believe it was elicited at some point during
16 cross-examination, oh, you didn't submit that one for
17 testing for DNA. The person in the dark hoodie didn't
18 go into the bakery. It wouldn't have the victim's
19 blood on there and, of course, they can claim it's
20 Troy or Trenton's DNA because it's their home. Their
21 DNA is present all over the home so what does it
22 really show, nothing. Then we go to Bronx Road.
23 Investigator Gaston. We found several --- or
24 investigators were there are first because they were
25 actually executing a search warrant which is not