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VOLUME II OF III

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

Robert E. Hood, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TRENTON MALIK BARNES,

APPELLANT.

APPELLATE CASE NO. 2014-002771

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT: STATE'S EXHIBIT # 323 (VIDEO-BAKERY); STATE'S EXHIBIT # 324 (VIDEO); STATE'S EXHIBIT # 325 (VIDEO-ALE HOUSE); STATE'S EXHIBIT # 404 (LETTER-T. BARNES); STATE'S EXHIBIT # 440 (CD)

correct?
A Thirty years.
Q So 30 years up life?
A To life.
Q And you also have a kidnapping?
A Yes, ma'am.
Q And what are you facing on that?
A 30 years.
Q Thirty years. Is it zero to 30 years for those charges?
A Kidnapping, I think it's just 30.
Q You know the maximum is 30?
A Yeah, I know the max is 30.
Q And with respect to this case, did you meet with --- you are actually represented by an attorney for your charges, correct?
A Yes.
Q Is that Mr. Victor Li?
A Yes, ma'am.
Q Is he present here in the courtroom today?
A Yes, ma'am.
Q Did you have a conversation along with Mr. Li and one of our investigators about this case?
A Yes, ma'am.
Q Was I present for that conversation?

A No.
Q Or Ms. Campbell or Ms. Garfield?
A No, ma'am.
Q Were you threatened or coerced in any way to give a statement?
A No, ma'am.
Q Did you actually write this information down and provide it to someone?
A The information that I'm speaking on?
Q Yes.
A Yes, ma'am.
Q And you did that voluntarily?
A Yes, ma'am.
Q And you haven't been made any promises or offers with ---
A No, ma'am.
Q --- respect to your testimony here today?
A No, ma'am.
Q But you are hoping for some benefit or consideration by either my office or a judge down the road?
A Not necessarily.
Q Not necessarily?
A Yes.
MS. SIMPSON: Thank you, Mr. Peterson.

MS. PINNOCK: May it please the court.

CROSS-EXAMINATION:

BY MS. PINNOCK:

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

A Ma'am.

Q You knew this case was on the news?

A Yes, ma'am.

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

A Yes.

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

A Yes, ma'am.

Q And you watched TV at the jail?

A Not too much.

Q Are there TVs in the jail?

A Yeah, there's TV in the jail.

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

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

Q So you knew?

A Yeah.

Q You were watching TV on that day?

A Yeah.
Q And you said --- one of the times you said you heard a conversation, you were in SHU, S-H-U, right?
A Yes.
Q You said Lorenzo was there?
A Yes.
Q You said Troy was there?
A Yes.
Q And that's how you overheard this conversation?
A Right.
Q And you were in the shower?
A Yes.
Q Okay. Now I want to talk about the layout of this dorm, okay.
A Okay.
Q Let's assume this is the door, the sally port door?
A Right.
Q Where is the guard shack, where the CO sits?
A The CO --- that's the sally port door?
Q Uh-huh. This is how you come in.
A Go to your --- go to your left, over there.
Q They're right here or are they a little farther up?
A It would be further up probably about 30,

40 feet.
Q Would you say about right there?
A Yeah.
Q And where are the showers?
A The showers would be before you get there, before your get to that CO post right there.
Q In this area?
A Right there.
Q But isn't there a closet, sort of storage area right there?
A Yeah, there's a smaller storage area there.
Q And that's right beside ---
A The offices, right.
Q So this is a closet and the showers you said are right there?
A Yeah.
Q How many showers are there, one or two on the first floor?
A Three at the bottom.
Q Three at the bottom?
A There's three.
Q And there's also showers upstairs, right?
A Yes.
Q How many upstairs?
A One, two, three.

Q Three upstairs?
A Yes.
Q So when your overheard this conversation, which shower were you in? We'll call this one, two and three.
A I was in the middle.
Q In the middle. Where are the cells?
A Okay. From the office ---
Q Uh-huh.
A --- over to your middle right here, yeah, it would be right here.
Q The cells are about here?
A He was in cell about five or six, right up in there, yeah.
Q Aren't the cells in SHU along the wall?
A That's coming to you right from the office.
Q Okay. Is there a stairwell between the office and the ---
A The stairwell.
Q And the ---
A There's a stairwell there, and then along the wall there in front of the stairwell would be the rooms.
Q Isn't it true there are cells on this side, kind of underneath the stairwell?

A Well, it's one, two, yeah.
Q Okay. So the cells start over here, right?
A Yeah, but that's kind of too far away from the steps.
Q Okay.
A Because the steps --- it would be approximately 3 feet to the first door --- I mean, you know, if you're going straight from the steps to the door, it's about three feet.
Q Tell me where is a good place to start the cells.
A Right there.
Q Okay.
A Coming from my left to right.
Q And they go all the way down the dorm, right?
A Right.
Q And then there are cells on the back wall?
A Yeah, I think it's 18.
Q Okay.
A It's 18 cells going straight in that straight line.
Q On this side?
A Yeah, it's 18.
Q And on this hall, this hall right here, how many cells are there?
A First you get --- or there's not anything but

like two right there in the middle.
Q Okay.
A And they turn.
Q They turn and come back this way?
A Yeah, right.
Q Isn't it true that there is a an exercise yard right about here?
A Yes.
Q Okay. So these cells don't continue all the way down?
A Okay.
Q Right.
A They start up about this direction.
Q Okay, so we'll say this is outside, right. That's a stairwell coming right here?
A Yeah.
Q Okay.
A Actually, it would be down here by the sally port. The stairs --- I mean, the rec center is to the right of the sally port.
Q Right. Underneath those stairs?
A Right.
Q When you walk in, this is the --- we'll just make this longer. Is that fair enough?
A That's still just open, it's open.

Q Okay. So where was Troy?
A Troy was.
Q In the 18 cells --- you said 18, right?
A Troy was not in a cell. Troy was in a shower next to me.
Q Which one was he in?
A That first shower.
Q This one?
A Yeah.
Q Okay. And you're here?
A Yeah.
Q And you said that they were hollering back and forth?
A Right.
Q Okay. We'll come back to that. Now, some of the things you said you spoke to Lorenzo about were that he pretty much came to you for legal advice?
A Right.
Q You said that he came to you for legal advice and the first thing he asked you was, "I heard you're good with the law." Right?
A I know a lot about the law, right.
Q And your told him, "No, not really?"
A Yeah.
Q But then he still proceeded to ask you legal

questions?
A Right.
Q All right. You said that he went --- he had an in and out job, right?
A That's what he said, he had an in and out job.
Q You said he told you he went up into the bakery and I told the lady to give me the money, right?
A Right.
Q You said that she said the money was in the back?
A Right.
Q You said, "So we go in the back," right?
A Right.
Q "We go in the back."
A Right.
Q "And it looks like she's trying to use the phone."
A Right, a phone.
Q Trying to use a phone?
A Right.
Q That's what you said Lorenzo told you?
A That's what I said he told me.
Q All right. Now, the only information that you have is from what was put on the news; is that right?
A Excuse me?
Q And the only information that you had about this

case prior to this conversation that you had with Lorenzo ---
A Uh-huh.
Q --- was what was on the news?
A No.
Q You didn't have any information from the news?
A No.
Q So now you don't know it was on the news?
A No, I seen the news, but that information wasn't on the news.
Q You're right. It wasn't on the news. Would you be surprised to know that it's not in the video they took out of this incident location either?
A I haven't heard this information from no one but him.
Q Did you know there was a video?
A Yeah, I seen the video.
Q Okay. The whole video?
A No.
Q Now, you said that you had a pending charge for murder?
A Correct.
Q You've been sitting in the Alvin S. Glenn Detention Center since 2011, right?
A That's true.

Q That's --- December it's going to be three years for you?
A Right.
Q It's a long time.
A Right.
Q Waiting to go to court?
A I don't know what ---
Q You're not trying go to court?
A You're asking me ---
Q No, I said are you waiting to go to court?
A Yes, waiting to go to court.
Q And this is not the first time you've written a letter to the solicitor's office, is it?
A No.
Q No. You tried to testify against somebody else before?
A Yeah, back in --- years ago.
Q Okay. And you want us to believe that you don't want anything out of this?
A Correct.
Q Okay.
MS. PINNOCK: Beg the Court's indulgence.
(Pause.)
BY MS. PINNOCK:
Q Now, explain to me --- I'm going to go back to

this dorm that you were in when you say you overheard this hollering back and forth. This dorm doesn't actually have bars, does it?
A Yes. Well, not at the cells but at the showers.
Q Right. The doors to the cells are closed?
A Correct.
Q There is no speaking gate. The only sliding opening on this door is for when somebody comes to bring you food or something like that, right?
A There is not a sliding open --- yeah, it has an open flap.
Q Right. But the CO has to open that?
A Right.
Q That's not sitting open?
A Right.
Q The only window on these doors is a Plexiglas?
A Right.
Q So you're not in an open cell if you're in your room?
A No, but you can holler through the door and somebody hear your though.
Q I'm sorry?
A You can holler through the door, the crack of the door, the side of the door and somebody can hear you.
Q Right. I've been in there. I know.

A Okay.
Q But Lorenzo wasn't in the shower?
A No, he wasn't in the shower.
Q Okay. But you're saying Troy was?
A Yes, he was next to me because it was our shower day.
Q Got you. And again the doors are shut?
A Yeah, the door are shut.
Q And you want us to believe you don't want anything out of this?
A No, not really.
Q Have you been to prison before?
A Yes.
Q It's not all that great, right?
A Huh.
Q It's not that great?
A No.
Q You're in a tiny cell?
A I'm in who?
Q A tiny cell?
A Yeah, it's about the same as the county jail.
Q You have at least one roommate?
A Yes.
Q Sometimes more?
A No, just one.

Q Is it bunk bed or single beds?
A Bunk beds, so if you're not lucky enough to get on the top, you're going to be on the bottom?
A Correct.
Q There is one sink?
A One sink.
Q There is one toilet?
A One toilet.
Q And that toilet is right beside your pillow, isn't it?
A No.
Q Depending on what side of the room you sleep on, right?
A No.
Q No, it's not?
A No. The toilet is on the opposite side of the room.
Q And somebody tells you when you can eat?
A Yeah.
Q They tell you when you have to sleep?
A Yeah.
Q Your can't walk around freely?
A No, in the dorm you can, but you know, they lock you down just like in a prison.
Q And you're looking at a minimum of 30 years day

for day, right?
A No, I'm looking at a minimum of life plus 30.
Q Minimum. Minimum.
A Oh, okay.
Q Thirty years day for day?
A Yeah.
Q You don't get good time?
A That's right.
Q You don't get parole?
A No, not on a life sentence.
Q When you serve ---
A Yeah, when you get you get a regular life sentence you get parole in like 20 years, I'm sure. Thirty --- they got 20 year lifes and 30 lifes.
Q Would you be surprised in South Carolina life is life.
A Well, yeah, that's natural life. They have that sentence, too.
MS. PINNOCK: Begging the Court's indulgence.
(Pause.)
I have nothing further, Judge. Thank you.
MR. SCHNEE: May it please the Court.
THE COURT: Yes, sir.

CROSS-EXAMINATION:

BY MR. SCHNEE:

Q You never talked to Trenton Barnes?
A Yes, I talked to him, yeah. We're in the same unit together.
Q I thought you testified a few minutes ago you haven't talked to him about this case.
A No, not about the case.
Q Okay.
A I talked to him, but not about the case.
Q So you know him, but you never talked about the case?
A Yeah, we ain't never talked about the case.
Q And you said you were 47 years old?
A Yes, sir.
Q You've been to prison before, a couple of times, right?
A Yes, sir.
Q How long did you serve when you were there before?
A The last time I served five years and three months.
Q That's how long you were physically in prison?
A Yes.
Q You're 47 now?
A Yes, sir.
Q And if you get convicted of murder ---

A Right.
Q --- the absolute minimum you could get no matter what any judge wanted to do, is 30 years?
A Correct.
Q Absolute minimum?
A Correct.
Q So the earliest you would get out --- and you have been there for there three years now?
A Yes, I been in county for three years now, yeah.
Q And you get credit for those three years, right?
A Yes, sir.
Q You're looking at a minimum of 27 more?
A That's right.
Q That puts you out at 74 years old at the absolute earliest?
A Yes, sir.
Q Would you be surprised to hear what the life expectancy for South Carolina is?
MS. SIMPSON: Objection, Your Honor.
THE COURT: Sustained. Move on.
THE WITNESS: Sixty-three years, isn't it?
BY MR. SCHNEE:
Q Okay. Seventy-four is past that?
MS. SIMPSON: Objection, Your Honor.
THE COURT: Sustained. Move on.

BY MR. SCHNEE:
Q Now, you are also subject to life without parole?
A Yes, sir.
Q You're subject to life without parole for your burglary charge, as well?
A That's correct --- wait, who?
Q Oh, wait, I'm sorry. You have a kidnapping charge.
A That's correct.
Q You served for a burglary before, right?
A Yes, sir.
Q You have a kidnapping charge you're facing 30 for that also?
A Correct.
Q Those can be served consecutively, right?
A Of course, they can.
Q Which means you have to serving everything for the murder and whatever it is for the kidnapping?
A Correct.
Q It could be technically life, as you said, plus 30?
A Yeah, plus 30.
Q And you understand that South Carolina law it is life is life and you get out in a box?
A Correct.

Q And you have no desire for assistance from the solicitor's office because of your testimony?
A No, sir, not for my testimony. I face my own charges.
Q Okay. So you're just doing this out of the goodness of your heart?
A Actually, my mother died when I was 13 years old, too, and I know how it feels to miss your mother.
Q Okay. So you're doing this for the victim's family?
A Yes.
Q Okay. And your testimony is that Lorenzo Young said that he went into the bakery, right?
A Yes, sir.
Q Went up to Ms. Hunnewell ---
A Right.
Q --- and demanded money?
A Yes, sir.
Q She said the money is in the back?
A Right.
Q Are you aware there's actually no back room in that bakery?
A I don't know how the bakery looks on the inside, sir.
Q Okay. And then they're went to the back room?

A That's what he said.
Q Okay. And he said that she pulled out the phone?
A Yeah.
Q Okay.
A He thought she was trying to use a phone.
Q Trying to use a phone?
A Right. He didn't say she pulled out a phone.
Q Right. And he saw, as they were walking to the back that she was trying to use the phone?
A Right.
Q That's when he got scared and shot?
A Right because he thought she was trying to tell the police.
Q That's your understanding of what he said?
A That's exactly what he said.
Q All right. I've got nothing else.
THE COURT: Redirect?
MS. SIMPSON: Nothing further, Your Honor.
THE COURT: Have a nice day, Mr. Peterson. Thank you very much.
THE WITNESS: Thank you.
THE COURT: All right, ladies and gentlemen, your lunch is here, so we're going to go ahead and take a break so that you can eat lunch.
Thank you, Mr. Peterson.

THE WITNESS: You're welcome, sir.

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

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

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

THE COURT: Everyone remain seated.

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

MR. SCHNEE: But ---

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

MR. SCHNEE: That was his understanding, Judge.

THE COURT: But you asked the question.

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

believe, also.

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

MS. SIMPSON: Thank you, Your Honor.

(WHEREUPON, a lunch break was taken.)

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

(WHEREUPON, Court was called to order.)

THE COURT: Okay.

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

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

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

MS. SIMPSON: Yes, Your Honor.

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

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

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

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

What we're actually ---

MR. KRZYSTON: Where is that?

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

THE COURT: It's in their notes.

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

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

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

THE COURT: Okay.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MR. KRZYSTON: Yes, everything he said.

THE COURT: Everything he said?

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

THE COURT: Okay.

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

MS. SIMPSON: Your Honor, what ---

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

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

THE COURT: Go ahead.

MS. SIMPSON: Your Honor, with respect to what

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

MR. KRZYSTON: Well, Your Honor ---

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

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

THE COURT: Hold on. Hold on.

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

situation."

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

THE COURT: Okay.

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

THE COURT: Okay.

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

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

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

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

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

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

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

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

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

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

right now.

MR. KRZYSTON: Okay.

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

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

THE COURT: Yeah, when he takes the stand.

MR. KRZYSTON: Okay.

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

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

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

MR. KRZYSTON: Okay.

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

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

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

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

MR. KRZYSTON: Okay.

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

MR. KRZYSTON: Okay.

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

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

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

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

THE COURT: Yes.

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

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

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

THE COURT: Hold on, let me read it.

MR. KRZYSTON: Sorry.

(Pause.)

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

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

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

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

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

THE COURT: Yeah.

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

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

MR. SCHNEE: I join in with that.

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

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

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

THE COURT: Okay.

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

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

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

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

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

THE COURT: Okay.

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

THE COURT: Okay. Even better.

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

THE COURT: Okay.

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

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

THE COURT: Where are you on DJJ?

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

THE COURT: Right, not Mr. Barnes.

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

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

THE COURT: Right. I'll tell her.

MS. CAMPBELL: Okay, thank you.

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

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

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

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

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

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

THE WITNESS: Good.

THE COURT: How old are you?

THE WITNESS: Forty-six.

THE COURT: How far did you go in school?

THE WITNESS: Twelve.

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

THE WITNESS: No.

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

THE WITNESS: Uh-huh.

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

THE WITNESS: Yes.

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

THE WITNESS: Oh yes, sir.

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

THE WITNESS: Yes, sir.

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

(WHEREUPON, the jury entered the courtroom at

1:27 P.M.)

THE BAILIFF: The jury panel is present.

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

THE JURORS: Yes.

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

MS. SIMPSON: The State calls Mary Brown.

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

MARY BROWN,

after being duly sworn, testified as follows:

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

THE WITNESS: It's Mary Brown.

THE COURT: Thank you.

THE WITNESS: Thank you.

DIRECT EXAMINATION:

BY MS. SIMPSON:

Q Ms. Brown, how old are you?

A Forty-six.

Q And do you have any children?

A Yes.

happened.

MR. KRZYSTON: Objection.

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

THE COURT: Sustained.

BY MS. SIMPSON:

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

A Okay.

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

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

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

A Uh-huh.

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

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

was gray and one was red.
Q One was gray and one was red?
A Uh-huh.
Q The one in the red hoodie, or red jacket, however you want to describe it, what was he doing? What made you remember him?
A I just remember them because it was warm that day.
Q So it was kind of odd that they had on a hoodie?
A Uh-huh.
Q Did he actually try to talk to your daughter, as well?
A One of them did, yeah.
Q And it's been awhile so you would be more familiar with this at the time you made the call?
A Right.
Q What about the individual you said was in the gray jacket, what do you remember him doing?
A I don't remember. They all was getting ready to go because I was getting ready to go and they was getting ready to leave, too.
Q You just remember seeing them.
A Uh-huh.
Q And did they eventually --- were they in a vehicle? Were they at your sister's? Where were

they?
A They was standing around this building, but I left.
Q And when you made this call to police, you didn't initially give your first name, right?
A No.
Q But you had some information that you wanted to tell them?
A Yes.
Q What made you call and give them that information about the clothing?
MR. SCHNEE: Objection, relevance.
THE COURT: Overruled.
BY MS. SIMPSON:
Q What made you call and give them the information about the clothing?
A After hearing what I heard from the --- I feel like they had something ---
MR. SCHNEE: Objection, hearsay.
THE COURT: Sustained.
MR. SCHNEE: Move to strike.
THE COURT: Stricken. Disregard that statement.
BY MS. SIMPSON:
Q Did you actually observe the video clip on the news?

A Yes, I saw it.
Q Did you tell the police you had seen it?
MR. KRZYSTON: Objection, leading.
THE COURT: Overruled.
THE WITNESS: Yeah, I think I did.
BY MS. SIMPSON:
Q And in that video, the two individuals in the video, what were they wearing?
MR. KRZYSTON: Objection, leading.
THE COURT: She hadn't asked the question yet. Ask the question.
MS. SIMPSON: In the video, what were they wearing that you saw on the news?
A Well, the red jacket stood out to me on the video.
Q And because --- why did it stand out to you?
A It was just for hearing the next day from the phone call.
Q You can't talk about what you heard.
THE COURT: I don't want to hear anything else about what anybody said to you. Do you understand that, ma'am?
THE WITNESS: Uh-huh.
BY MS. SIMPSON:
Q You can't talk about ---

A Okay. It's just looked like one of the jackets I saw that night when I was at my sister's house.
Q So it looked like the same jacket you saw at your sister's?
A Uh-huh.
Q Moving on, like I said, you didn't give police your identifying information that night?
A No, I didn't.
Q Did you make another call or have another conversation with investigators in this case some time in August?
A I don't remember. Somebody probably came out and talked to me. I don't remember. I don't recall.
Q You don't remember a phone call?
A I don't remember, no.
Q Do you remember speaking with them about the Crimestoppers tip that you called in?
A Yeah.
Q Were you actually following up with law enforcement about that?
A I don't remember how it came about exactly.
Q But you've had a chance to review the information that you told police just before ---
A Yes, ma'am.
Q --- you came into the courtroom, right?

A Uh-huh, uh-huh.
Q And so you remember that call being recorded?
MR. KRZYSTON: Objection leading.
THE COURT: Overruled.
BY MS. SIMPSON:
Q And at that time, what did you tell police about the individuals and why you wanted to remain anonymous?
MR. KRZYSTON: Objection, Your Honor. Approach?
THE COURT: Sure.
Stand up and stretch your legs.
(WHEREUPON, a bench conference was held in the presence, but not within the hearing of the jury.)
MR. KRZYSTON: Thank you, Your Honor. Your Honor.
THE COURT: All right.
BY MS. SIMPSON:
Q Did you tell police that night or on that phone call the same information that you had told them?
MR. KRZYSTON: Objection, leading.
THE COURT: Did you tell is not a leading question, overruled.
BY MS. SIMPSON:
Q Did you tell police the same information that you

told them when you called?
A Yes, I believe so.
Q Was it a little more detailed?
A I don't recall.
Q And if I showed you a copy of a transcript of that call that you just reviewed, would that help refresh your memory?
(Pause.)
In that conversation with Investigator McCoy, you were able to identify the individuals, correct?
MR. KRZYSTON: Objection leading.
THE COURT: Sustained.
BY MS. SIMPSON:
Q Were you able to identify the individuals?
A What was the question?
Q Were you able to identify the individuals in that conversation?
A Yeah.
Q Did you tell police who was wearing the red hoodie?
A Yes.
Q Who did you tell police was wearing the red hoodie?
A Well, I think by hearing.
Q Not what you heard.

MR. SCHNEE: Objection.
MS. SIMPSON: You can't go into any of that.
THE WITNESS: Because I don't know them.
BY MS. SIMPSON:
Q You didn't know their names?
A No.
Q So subsequent to that you learned their names and that was part of your conversation?
A Yes.
Q But basically what you told the police is that you observed an individual in a red hoodie?
MR. SCHNEE: Objection leading.
THE COURT: Sustained.
MR. KRZYSTON: Move to strike, Your Honor.
THE COURT: Stricken. Disregard that statement.
MS. SIMPSON: I'll move on from that.
MR. KRZYSTON: Your Honor, could we approach?
THE COURT: Yes.
(WHEREUPON, a bench conference was held in the presence, but not within the hearing of the jury.)
MS. SIMPSON: Thank you, Judge.
MR. KRZYSTON: Thank you, Judge.
BY MS. SIMPSON:
Q And Ms. Brown, you weren't actually there when

the incident occurred, correct?
A No, no.
MR. KRZYSTON: Objection leading, move to strike.
THE COURT: Overruled.
THE WITNESS: No, ma'am, I wasn't.
BY MS. SIMPSON:
Q You just gave police some information about what you thought you knew?
A Yes.
Q And you said you didn't recognize any of the individuals by their name?
MR. KRZYSTON: Objection leading.
THE COURT: Sustained.
BY MS. SIMPSON:
Q Did you recognize anyone or know their name?
A No. I didn't know their names.
Q Did you later learn their names?
A Uh-huh.
MR. KRZYSTON: Objection.
THE COURT: Overruled.
THE WITNESS: Yes.
BY MS. SIMPSON:
Q Approximately what time in the evening, going back to June 30th, the night of the cookout, did you actually see the individuals wearing the clothing you

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

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

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

MICHAEL SCHAEFER,

after being duly sworn, testified as follows:

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

State your full name for the record.

THE WITNESS: Michael Schaefer.

DIRECT EXAMINATION:

BY MS. GARFIELD:

Q Mr. Schaefer, where are you from?

A Sumter, ma'am.

Q South Carolina?

A Yes, ma'am.

Q And what kind of education do you have?

A I have some college.

Q Some college?

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

Q How long were you in the military?

A Almost nine years.

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

do?
A I was manager at a restaurant.
Q Mr. Schaefer, I'm going to direct your attention back to last year, 2013. Now, currently you are in the Department of Corrections; is that right?
A Yes, ma'am.
Q Now, back in 2013, were you at the Alvin S. Glenn Detention Center?
A Yes.
Q And there were you awaiting court on pending charges?
A Yes, ma'am.
Q We'll get into that in just a little bit. Specifically in 2013 towards the end of the year as in November, December, where were you housed in Alvin S. Glenn?
A J dorm, Juliette dorm.
Q Juliette dorm?
A Yes, ma'am.
Q And was Lorenzo Young also housed there?
A Yes.
Q And did you have an occasion at any time while you were both housed at the Juliette dorm to come into contact with Mr. Young?
A Several times a day.

Q And explain to the jury what kind of contact you had with him?
A I was playing cards, watching TV, just having a conversation outside in the rec yard.
Q Would this be in the common areas of your dorm?
A Yes.
Q And would you have considered you and Mr. Young to have necessarily been friends?
A No.
Q Why is that?
A Just different people. We just knew each other in the dorm together. We just got along. We got along.
Q Madam bailiff, if you can pull the mic up just a bit. Maybe it's me.
Thank you.
Q So Mr. Schaefer, you said you had a conversation with Mr. Young on several occasions?
A Yes.
Q And specifically did he ever talk to you about why he was in jail?
A Yes.
Q And specifically did he give you any details concerning a murder that occurred at a particular bakery?

A Yes.
Q Can you share with the jury what he told you?
A He told me that ---
MR. SCHNEE: Judge, I'm going to object based on the prior hearsay objections.
THE COURT: All right. Overruled. Go ahead.
BY MS. GARFIELD:
Q Just go ahead and tell the jury what Mr. Young told you.
A Okay, he said him and two other people by the name of Trap and Trigg went out to rob a nightclub in the area, but it was closed. They saw the bakery was opened. They took that as an opportunity to go in.
The woman was in there. He said she went for a knife and she was struggling so she shot her twice. He fled the scene. He said he was wearing a red hoodie and jeans.
Q Why was he telling you about this?
A Because we were talking about our different cases.
Q About your case?
A Yes. About mine, too.
Q And did you confide in him about your case, as well?
A Yeah, I told him that I had robbed a bank.

Q That you had robbed a bank?
A Uh-huh.
Q And you just mentioned Trap and Trigg. Did you know who those individuals were?
A No, it wasn't until later on. I just knew them by their nicknames.
Q And did you determine later who Trap and Trigg were?
A Yeah.
Q Who was Trap?
A A 16-year-old kid named Troy. Yeah, Troy.
Q A 16-year-old?
A Yes.
Q Did you understand who Trigg was?
A That's Trenton, Trenton Stevens (sic).
Q And do you recall ever giving a statement about this case?
A Yes, it was in April.
Q And that was to Investigator McCoy?
A Correct. I turned in myself, came up and did that.
Q Would it help you to have a copy of your statement to refresh your memory today?
A I know what was said.
Q Do you mind if I approach and show you?

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

THE COURT: There is no foundation for that.

BY MS. GARFIELD:

Q Did you give a statement to Investigator McCoy?

A Yes.

Q Have you ever reviewed that statement?

A I read it one time about three weeks ago.

Q That was when you were preparing for court?

A Yes.

Q And that was with investigators in my office?

A Yes.

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

A Say it again.

Q You've seen a copy of that statement?

A Yes.

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

A Yes.

Q And make any changes you wanted to make?

A Correct.

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

A Yeah.

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

have made them, correct?

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

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

BY MS. GARFIELD:

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

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

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

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

Q And you gave that information to Mr. Hodge?

A Yes.

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

A He contacted your office and set up a meeting.

Q Okay. Now, I want to direct your attention

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

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

Q And that was Mr. Young that said that?

A Correct.

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

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

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

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

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

A Correct.

Q And that was in preparation for your testimony?

A Yes.

Q Have you ever met with me before?

A No, sir.

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

A No, ma'am.
Q --- seated at the counsel table? Did you know the victim in this case?
A No.
Q And Mr. Schaefer, let's talk about why you're in the Department of Corrections. What were your charges back when these statements were being made between you and Lorenzo Young?
A Three counts of armed robbery.
Q Are those charges still pending?
A No.
Q Did you plead guilty to them?
A Yes.
Q When did you plead guilty?
A It was July, I think July 17th.
Q And what sentence did you receive?
A I received a 12 year sentence. Three sentences running concurrent.
Q Concurrent means no additional time?
A No, they're all run together.
Q And you are now at the Department of Corrections?
A Correct.
Q Where are you housed?
A Kershaw.
Q Now, you gave this information to Investigator

McCoy. Do you recall when?
A It was in April.
Q Of last year?
A Yes.
Q Were you given any promise or anything of the nature in exchange for your statement?
A No.
Q Have you been offered any kind of deal or anything of the nature?
A No.
Q Has anyone approached you about receiving a downward departure in your sentence if you testify today?
A No.
Q Now, the person that told you that around New Years that he wished he hadn't shot that bitch, do you see him in the courtroom today?
A Yeah, he is wearing blue.
Q Does he have a tie on?
A Yes.
MS. GARFIELD: Your Honor, may the record reflect Mr. Schaefer has identified the defendant?
THE COURT: So reflected.
MS. GARFIELD: Thank you, Mr. Schaefer. Please answer any questions defense counsel may have.

THE WITNESS: Thank you.

THE COURT: Ms. Bambach.

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

THE COURT: Yes, ma'am.

CROSS-EXAMINATION:

BY MS. BAMBACH:

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

A Correct.

Q And you met Lorenzo in November 2013?

A Correct.

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

A Yes.

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

A That happens quite a bit actually.

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

A Yes, the juvenile.

Q And Trigg was Trent?

A Correct.

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

A Back and forth, yeah. I broke my elbow.
Q Okay.
A Fractured my foot.
Q That was about probably 11 --- about 11 months of your time there back and forth?
A About nine or ten, nine.
Q And then you were in Juliette dorm with Lorenzo, correct?
A When --- yes.
Q And then you were back in Mike in February, from February to April 2014?
A Uh-huh.
Q And you were in the same dorm as Alfred Wright during the time?
A Yes.
Q Do you know Alfred Wright?
A Yeah, but he was in a different pod.
Q But in Mike even if your in different pods you still go out, in and out, to go to recreation?
A Occasionally. They keep them in the pods. A lot of officers do that, yes.
Q And you were in jail in July of 2013, right?
A Yes. And during this time you were in the dorm, you had access to television when you were in Mike, right.

A In July, yes.
Q And each pod had its own television, right?
A Uh-huh.
Q You wrote this statement on April 22, 2014?
A Yes.
Q And at that time you were also in Mike, right?
A I think so, yes. I don't know if it was Mike but...
Q When you wrote this statement, your attorney Mr. Hodge and Investigator McCoy were present, right?
A Yes.
Q And at that time, your armed robbery charges were still pending?
A Correct.
Q You had three counts of armed robbery and armed robbery carries ten to 30 years?
A Correct.
Q So you're facing 90 years in prison?
A Yes, ma'am.
Q And you wrote this statement on April 22, 2014?
A Yes.
Q And you plead guilty July 14, 2014?
A July 18th, I believe, but close enough.
Q And you got 12 years?
A Right, yes.

Q Well that's pretty good. Twelve is a lot better than 90?
A I think my clean background has something to do with that.
MS. BAMBACH: Thank you.
MR. SCHNEE: May it please the Court.
THE COURT: Yes, sir.

CROSS-EXAMINATION:

BY MR. SCHNEE:
Q Mr. Schaefer, did Lorenzo tell you who went into the bakery with him?
A Trigg.
Q Okay. Reading your statement, I just want to make sure I understand this correctly. There seems to be some sort of confusion. Did he tell you that Troy went in with him?
A No, Troy was ---
Q Troy was outside. Do you remember giving a statement?
MR. SCHNEE: May I approach the witness, Your Honor, to impeach him?
THE COURT: You have to establish his knowledge.
BY MR. SCHNEE:
Q In the statement that you gave to Investigator McCoy on March 30th --- I'm sorry, on April 22nd, did

you say quote, "While," he said --- meaning Lorenzo, "while him and Troy went in, Trap stayed by the door?"
A I know the juvenile stayed by the door.
Q The juvenile stayed by the door?
A Yeah.
Q So whatever ---
A The nicknames.
Q Whatever the nicknames, you know Trigg and Trap, Troy and Trenton, they're brothers, right?
A I didn't find that out until I got prepped for court actually.
Q Okay.
A Three weeks ago.
Q Okay.
A My memory is Troy Stevens not Trent Stevens. Trent is the juvenile and Troy is Troy Stevens.
Q Whatever the nicknames are?
A Yes, sir.
Q Whatever the nicknames are, your understanding is that the juvenile never came inside?
A Right.
MR. SCHNEE: That's what I want to ask.
THE COURT: Redirect?
MS. GARFIELD: Yes, sir.

REDIRECT EXAMINATION:

BY MS. GARFIELD:
Q How many people did Lorenzo Young tell you went to the bakery?
A Three.
Q And you said you were in court just this past July, correct?
A Correct.
Q Do you recall what the State recommended for your sentence?
A Twenty years.
MS. GARFIELD: Thank you.
THE COURT: Ms. Bambach.
MS. BAMBACH: Nothing further.
THE COURT: Mr. Schnee.
MR. SCHNEE: Very briefly, actually.

RECROSS-EXAMINATION:

BY MR. SCHNEE:
Q A few minutes ago, Ms. Garfield asked you about a downward departure. Do you know what that is for sentencing?
A No.
Q Your attorney hasn't told you the State could request that your sentence be reduced?
A Well, he brought something up, but after she recommended 20, he said it was very unlikely, so we

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

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

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

Q So at the time of sentencing?

A Yes.

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

A No.

MR. SCHNEE: All right. Thank you.

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

Call your next witness.

MS. CAMPBELL: The State would call Betty Butler.

BETTY BUTLER,

after being duly sworn, testified as follows:

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

THE WITNESS: Betty Walker Butler.

DIRECT EXAMINATION:

BY MS. CAMPBELL:

Q Agent Butler, where are you employed?

A I'm employed with the South Carolina Law

correct.
Q You also mentioned something a little bit, but it's not unusual to get more than one person's DNA from an item of evidence at a crime scene?
A Depending on the type of evidence it's very common to get mixtures on things that somebody wore or that multiple people might have handled.
Q You mentioned earlier that sometimes you actually do some testing for the presence of blood or other body fluids, as well as the DNA analysis itself?
A Sometimes, that's correct.
Q In this case, you saw where Agent Butler just testified. Is it unusual for a forensic technician to collect some evidence and forward it to you?
A No, it's very common. Our evidence processing technicians typically process larger items and if there's something of possible value, they will collect those items, typically it's a swab or small cutting, and send those items on for DNA testing rather than the DNA analyst receiving large items.
Q And did you receive some evidence from Agent Butler, as well as some directly from the agents themselves?
A Yes.
Q And specifically in this case, did you do any

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

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

Q And what were those items you tested?

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

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

A Yes, I did.

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

A Yes.

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

A Yes, it is.

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

A That's correct.

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

were?
A Yes, it's a summary of the results.
MS. CAMBELL: Your Honor, at this time we'd offer 422 and 424 into evidence.
THE COURT: Admitted over both defendant's objections.
(WHEREUPON, State's Exhibit Number 422 and 424 were admitted into evidence.)
MS. CAMPBELL: Thank you, Your Honor. Your Honor, may the witness step down?
THE WITNESS: May I bring up a copy of my report?
MS. CAMPBELL: Bring anything you need.
BY MS. CAMPBELL:
Q If you'll come over on this side and if you'll talk a little louder. For some reason it's really hard to hear.
Can everybody see? If you want to take this, basically this first column is labeled "Items submitted". Is that the actual evidence that was submitted to you either through evidence processing or directly to you once it was put in your evidence room?
A That's correct.
Q And then the second column we have here, what is that labeled?
A Blood indication.

Q And what does that mean?
A That refers to the testing for possible body fluids and in this particular case, blood.
Q Was every single item requested, did you test for blood?
A No, I tested the items where the testing for blood was requested and had not already been performed by evidence processing.
Q Those were the two and in addition to that Agent Butler did some?
A That's correct.
Q And in this column --- that's labeled what?
A DNA extracted.
Q And down here it's either --- it's yes on all of these. What does that mean?
A That means that I attempted to develop a DNA profile from those items.
Q And whether or not you were able to get a DNA profile?
A That is listed under the results.
Q And then this final column is the result?
A The summary of the results.
Q Okay. Whenever doing DNA testing, before you actually do the testing or at the same time you are doing the testing on the actual evidence from the

scene, you also request that certain standards be submitted?

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

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

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

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

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

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

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

A That's correct.

Q And in addition to those people?

A Lorenzo Bernard Young, Troy Stevenson and Trenton Barnes.

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

A That's correct.
Q Once you got those standards, at a later time did you request that additional standards be submitted?
A I did. If we have a DNA profile that we develop that we don't match to a standard, and it's untouched DNA, sometimes as an extra safeguard we will request profiles from individuals that may have gone to the scene to work the scene, just to eliminate them as a possible source of an unidentified profile.
Q Did you also receive profiles, known standards, from some Columbia police officers in this case?
A Yes, I did.
Q And that's what we've just been talking about?
A Correct.
Q What officers did you actually receive known standards from?
A That information would be over there. I apologize.
Q I'm sorry.
A I received swabs from a Matthew McCoy, a Tory Smalls, a Johnny Gaston and a George Wise, as well as a Christopher Bollings.
Q And you also did analysis on those even though they aren't included on this chart, as far as including them or eliminating them as possible donors?

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

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

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

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

A That's correct.

Q Okay. Sorry?

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

Q Did you do the actual swabbing in that case?

A No, I did not.

Q And that would have been Agent Butler that did

that?
A Forensic technician Butler, correct.
Q And, in fact, did you --- did anyone test for the presence of blood?
A No, there was no request for testing for blood on that item.
Q Finally, were you able to extract any DNA?
A DNA extraction was attempted. I did take it through the entire process. However, no DNA profile was developed from that item.
Q Is that unusual?
A No. Actually, it's because there is so little surface area on a shell casing and typically they're not handled --- bullets aren't handled for very long and they're exposed to a large amount of heat when they're fired, so it's actually very uncommon to develop a DNA profile from a shell casing. It does a happen occasionally, but the more expected result is no DNA profile.
Q Even in different kinds of evidence such as even when blood is indicated, sometimes you just simply don't get a DNA profile?
A That's correct.
Q What are the reasons for that?
A There are a number of reasons. It could be that

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

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

A No DNA profile was developed from that item either.

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

A No DNA profile was developed.

Q And Item 10.1, another 45 GAP shell casing?

A No DNA profile was developed.

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

there?
A 11.1?
Q Uh-huh.
A No DNA profile was developed from that item.
Q Did I skip one?
A I don't think so.
Q Okay. What he was the next item?
A Item 12.1, SLED Item 12.1 was swabs from a 40 caliber Smith & Wesson shell casing, and on that item a partial DNA profile was developed from that item. It was from an unidentified male individual. Kelly Hunnewell, Edwin Schleuter, Lauren Schleuter, Julian Lanier, Adam Siler, Lorenzo Young, Troy Stevenson and Trenton Barnes are excluded as possible contributors to that profile.
Q Can you tell how long that DNA profile may have been there?
A No, I cannot.
Q Can you tell how it got there?
A No, I cannot.
Q If a piece evidence, such as a shell casing falls onto a floor, can DNA actually be transferred on to it after it's expelled from a gun?
A It's possible. If there is DNA from an individual on the floor it's what's called secondary

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

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

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

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

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

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

A Yes, I did.

Q Did it come back positive for blood?

A Blood was indicated on that item, correct.

Q What was the result when you ran the DNA?

A The DNA profile developed from that item is attributable to Kelly Hunnewell.
Q Moving on to the next item, which is Item number 19, which is the swabs from the right arm of Kelly Hunnewell, again, did you do the testing for blood?
A Again, I performed presumptive testing and blood was indicated on that item.
Q And what was the result when you ran the DNA?
A That DNA profile was also attributable to Kelly Hunnewell.
Q Moving on to Item number 21.1, 21.2 and 21.3, where were those three swabs collected from?
A They were given to me as being collected from a large metal spoon.
Q And was any testing for blood done on those items?
A I did not perform any testing for blood on those items.
Q And once the swabs were collected and forwarded to you, 21.1, which was a swab from what area of the spoon?
A 21.1 was a --- the swab was from the back of a large metal spoon.
Q And when you ran your DNA testing, what were the results from 21.1?

A The DNA profile developed from Item 21.1 is a mixture of at least three individuals and is not suitable for comparison.
Q What does that mean?
A When we look at a profile, there's a number of things that I have to determine when I'm looking at a profile. The first is it a single source profile. If it is a complete profile and if it's not single source, then it's a mixture profile. Once I determine that it's a mixture profile, then I determine the minimum of people that have to be present in that profile. In this particular case, it was determined that at least three individuals contributed to this DNA profile. I then have to determine are there any locations where I'm confident that all information from all contributors is present. In this particular case, it was a low several sample, which means it was down at the limits of detection of my instrument and because of that, at all the locations, there were indications that I could be missing information and once that happens, it becomes impossible to definitively say that yes someone did contribute to the mixture or someone did not contribute to the mixture. At that point, the profile was declared not suitable for comparison because I would not be able to

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

Q Is that unusual for that to happen?

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

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

A That's correct.

Q What was the result of DNA testing there?

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

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

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

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

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

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

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

Q Slow down a minute?

A Okay.

Q Caucasian, Black, South --- what?

A Southwestern Hispanic.

Q And then Southeastern?

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

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

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

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

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

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

Q And the Southwestern Hispanic?
A Approximately 71 percent of the population.
Q Would be excluded?
A Correct.
Q And the Black?
A Approximately 87 percent of the population would be excluded.
Q And Caucasian?
A Approximately 76 percent of the population would be excluded.
Q And that was on Item 26.2, which is the silver spoon?
A I believe it was SLED Item 21.2.
Q I keep calling it 26; I'm sorry.
21.3, which was the swab from the handle of the spoon. What were the results of your testing?
A A partial DNA profile was developed from item 21.3. Edwin Schleuter, Lauren Schleuter, Julian Lanier, Adam Siler, Lorenzo Young, Troy Stevenson and Trenton Barnes are excluded as possible contributors to this profile. No conclusive statement can be made regarding the inclusion or exclusion of Kelly Hunnewell as a possible contributor to this profile. What that means, no conclusive statement, is that in some profiles when there is a partial profile, there's

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

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

A Correct.

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

A Correct.

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

A Correct.

Q On each one of these.

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

A Yes, I was.
Q And what was the result there?
A The DNA profile developed from 22 is a mixture of at least three individuals and it is not suitable for comparison.
Q And again, what does that mean?
A It just means that because of the amount of information that was present, because it was down on the limits of protection and I couldn't be confident the information was present in all of the locations, it was deemed not suitable for comparison.
Q Item number 23, swabs from the left side of the gray push cart, again what if any testing did you do?
A I attempted to develop a DNA profile from that item, but no DNA profile was involved.
Q Is that unusual?
A No, not with touch DNA.
Q Item number 24?
A Yes.
Q On the front site side of the gray push cart?
A A partial DNA profile was developed from Item 24. Kelly Hunnewell, Edwin Schleuter, Lauren Schleuter, Julian Lanier, Lorenzo Young, Troy Stevenson, and Trenton Barnes are excluded as possible contributors to this item. No conclusive statement can be made

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

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

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

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

A Correct.

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

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

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

Q Again, there were also swabs from the scene from

a black leather chair and I believe also a strainer pan?
A Item 26 and 27, yes. The partial DNA profile from Item 26 is a possible mixture. That was the swab from the backrest of the black leather chair. It's a possible mixture and is not suitable for comparison.
Q And again, these --- when you're talking about a partial DNA profile verses a full DNA profile, what's the difference there?
A When we test, we don't test the entire strand of DNA or all of the DNA. We test 15 locations plus another one that determines sex. In order to be referred to as a full profile, I have to have a completely result at all of those locations. If I don't have complete results at all of those locations, it's considered to be a partial profile.
Q In fact, with this there was a number of partial profiles. Is that unusual?
A No. It's very common to develop partial profiles with touch DNA standards.
Q And also item number 28 again is this the result?
A 28 the partial DNA profile developed from Item is not suitable for comparison.
Q Item 29, which were the swabs from a large silver cooker?

A No DNA profile was developed from Item 29.
Q So there's no DNA at all that could be detected?
A It was not at a level of detection for our instruments.
Q Sorry. Moving on to Item 30, which is a plastic purple cap from the scene?
A Item 30.
Q Uh-huh. The partial DNA profile developed from Item 30 is a mixture of at least two individuals, Edwin Schleuter, Lauren Schleuter, Julian Lanier, and Lorenzo Young are excluded as possible contributors to this item. No conclusive statement can be made regard ring the inclusion or exclusion of Kelly Hunnewell, Adam Siler, Troy Stevenson and Trenton Barnes as possible contributors to this mixture.
Q And again just because of the limited amount you had?
A Right. There was very limited information present and there just wasn't enough to make a definitive determination as far as the DNA.
Q I want to move to Item 35.1, which is a swab, I believe, of a 40 Smith and Wesson cartridge. It's unfired?
A No DNA profile was developed from Item 35.1.
Q And Item 37.1?

A No DNA profile was developed from Item 37.1.
Q Moving on to Item 39.1, which was a swab from the black fleece jacket?
A The DNA profile developed from item 39.1 is a mixture of at least two individuals. The DNA profile of the major contributor is attributable to Kelly Hunnewell. The partial DNA profile of the minor contributor is not suitable for comparison.
Q When you talk about major versus minor contributor, what are you saying there?
A Sometimes in a mixture, one individual will contribute more DNA than another individual in the mixture. Based on the data we're able to determine what numbers in that mixture profile belong to the major contributor. That was the case in this mixture profile and the major contributor was determined and the DNA profile from that major contributor is attributable to Kelly Hunnewell.
Q Moving on to the second swab from the back of the fleece jacket, I believe? Item 39.2.
A The partial DNA profile developed from Item 39.2 is not suitable for comparison.
Q Items 40 through 44, I believe, were items that the testing was done by Ms. Butler; is that correct?
A Right, that testing came from --- and Item 45, as

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

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

A That's correct.

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

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

Q And you also excluded the police officers?

A Correct.

Q The next one?

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

are excluded as possible contributors to this item.
Q Did you also do the calculations as to the probability of exclusion on that?
A I did upon request, yes.
Q And what were those results?
A Item 46.2?
Q Yes.
A Approximately 91 percent of the population would be excluded as a contributor to this item.
Q And there are other numbers, but that's the most conservative?
A That's the most conservative.
Q 46.3 is also a swab from the Nike shoe?
A The DNA profile developed from Item 46.3 is a mixture of at least three individuals. Lorenzo Young cannot be excluded as a possible contributor. Trenton Barnes cannot be excluded as a possible contributor to this mixture. The probability of randomly selecting an unrelated individual that could have contributed to this mixture is approximately one in five. Kelly Hunnewell, Edwin Schleuter, Lauren Schleuter, Julian Lanier, Adam Siler, Troy Stevenson and Trenton Barnes are excluded as contributors to this item.
Q So the one before this, Trenton Barnes was the only one not excluded in this one, correct?

A Correct, I was not able to exclude Lorenzo Young on this, just to make sure.
Q And then finally did you also, I believe, do the documentation to the exclusionary on that one?
A Yes, the probability of randomly selecting --- oh, the probability of exclusion?
Q Yes, ma'am.
A For Item 46.3, approximately 79 percent of the population was excluded as contributors.
Q In different databases it would be higher. That's the most conservative?
A That's the most conservative, yes.
Q Finally, 46.4, the swab?
A The DNA profile developed from Item 46.4 is a mixture of at least two individuals. The DNA profile developed from the major contributor is from an unidentified individual. The partial DNA profile developed from the minor contributor is not suitable for comparison.
Q Again, the testing for blood had been done before you got these items?
A That's correct.
Q The testing on these items, was it all done at once or was it done over time?
A It was done over time.

MS. SIMPSON: No, Your Honor.

THE COURT: Somebody just ---

MS. SIMPSON: Narrow them down.

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

MS. SIMPSON: Yes.

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

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

MR. SCHNEE: No, Your Honor.

MR. KRZYSTON: Nothing, Your Honor.

MS. SIMPSON: No, Your Honor.

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

MR. KRZYSTON: Thank you, Judge.

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

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

(WHEREUPON, Court was adjourned for the weekend.)

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

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

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

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

A I did.

Q And who was that on?

A Kelly Hunnewell.

Q What was the date and time of the autopsy?

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

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

A I was.

Q And what was that cause of death?

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

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

A Yes.

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

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

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

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

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

Q I'm going to show you ---

MR. KRZYSTON: Objection, Judge. Approach?

THE COURT: What?

MR. KRZYSTON: Approach?

THE COURT: All right.

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

BY MS. SIMPSON:

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

A I do.

Q And what is this?

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

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

A Yes.

Q And show the jury?
A Yes, it would.
MS. SIMPSON: Your Honor, at this time, I would offer State's 421 into evidence.
MR. KRZYSTON: Based on our previous objections.
THE COURT: All right.
MR. SCHNEE: One second, Your Honor.
(Pause.)
MR. SCHNEE: I have no objection to that.
(WHEREUPON, State's Exhibit Number 421 was admitted into evidence.)
THE COURT: All right. Admitted over defense objections.
BY MS. SIMPSON:
Q Additionally, I'm going to show you what's been marked as State's 3, 4, 6, and 7.
THE COURT: 346 and 347?
MS. SIMPSON: No, State's 3, 4, 6, and 7.
MR. KRZYSTON: And we would just renew our previous objection, Judge.
MR. SCHNEE: I also renew my previous objections, Judge.
THE COURT: All right. Admitted over defense objections.
(WHEREUPON, State's Exhibit Numbers 3 through 7

were admitted into evidence.)

BY MS. SIMPSON:

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

A Yes.

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

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

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

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

THE WITNESS: Yes.

THE COURT: Okay.

BY MS. SIMPSON:

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

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

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

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

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

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

A Yes.

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

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

actually see the pattern here that looks like a zipper imprint.
Q And then in State's 6, I believe, you said is the entrance wound?
A Yes, that is closer up version of the entrance wound, again on her right upper chest. This is her breast down here. Her neck is up here. This is her right arm and again this is the entrance wound where it goes in and this is the bottom part of imprint of the zipper.
Q And you noted the entrance wound. Did you see any exit wounds?
A There was no exit wound, but we were able to actually feel the bullet back underneath her skin on her left upper back, so I was able to measure where that was located. I just kind of stopped and indicated on my diagram where I was able to feel the bullet sitting right underneath her skin.
Q So other than, I guess, the zipper-type abrasion, did you see any more cuts or marks that would indicate possibly defensive wounds or anything?
A No, there were no marks.
Q And after doing your external examination, what was your second step?
A To open the body to make our incisions open up

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

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

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

the skin on her left back.
Q And with respect to the airway, the esophagus and trachea, with that type of injury, would she have suffered a significant amount of blood loss fairly quickly?
A The main complication of that injury would be immediate distress because of your airway being severed, so every breath she tried to take to get more air, she would have instead inhaled blood and possibly also things from any food or any fluid that was in her esophagus, so every time she would take a breath in, it was basically like she was drowning in her own blood. She would take a breath in and it would have filled he lungs with more blood. She would have been in extreme distress and collapsed and lost conscientious within say a minute or two and then died very quickly after that, and she did have, when we looked at her lungs, there is always a very distinct pattern when people inhale blood at the end of life. She had that pattern it looked like the lung spaces were filling up with blood.
Q So even if, I guess, lifesaving support or EMS had arrived very quickly, would they ---
A There was very little they could have done because the blood --- like I said within a minute or

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

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

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

A Lorenzo Young.

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

A I did.

Q Is that what this exhibit represents?

A It does.

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

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

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

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

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

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

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

Q The Barnes residence?

A Yes.

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

THE WITNESS: You're welcome.

THE COURT: Cross?

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

THE COURT: Yes, sir.

MR. KRZYSTON: Court's indulgence.

(Pause.)

CROSS-EXAMINATION:

BY MR. KRZYSTON:

Q Investigator or sergeant?

A Sergeant.

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

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

A No, I cannot.

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

A Yes, sir.

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

A Right.

Q No further questions.

MR. SCHNEE: No questions.

THE COURT: Redirect.

MS. GARFIELD: No, sir.

THE COURT: Have a good day.

THE WITNESS: Thank you, sir.

THE COURT: Next witness.

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

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

about ten or 15 minutes.

DEPUTY: Remain seated while the jury leaves, please.

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

THE COURT: Yes, ma'am.

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

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

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

THE COURT: All right.

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

THE COURT: Good.

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

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

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

THE COURT: Mr. Krzyston.

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

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

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

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

any sense.

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

MS. CAMPBELL: Right.

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

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

THE COURT: What?

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

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

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

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

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

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

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

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

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

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

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

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

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

THE COURT: It doesn't say that.

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

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

THE COURT: Are you reading Rule 106?

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

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

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

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

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

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

THE COURT: What are you reading?

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

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

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

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

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

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

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

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

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

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

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

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

MR. KRZYSTON: I'm just making sure.

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

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

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

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

MR. SCHNEE: Yes.

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

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

Tell me what the quote is again.

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

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

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

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

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

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

MS. CAMPBELL: No.

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

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

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

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

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

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

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

Donald Moore about a completely unrelated rape case.

THE COURT: All right.

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

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

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

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

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

MS. CAMPBELL: Which is fine with ---

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

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

THE COURT: Yeah, suspect is fine.

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

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

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

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: You may call your next witness.

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

INVESTIGATOR MATTHEW MCCOY,

being duly sworn, testified as follows:

DIRECT EXAMINATION:

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

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

THE COURT: Thank you. Ms. Campbell.

MS. CAMPBELL: May it please the Court.

BY MS. CAMPBELL:

Q Investigator McCoy, where are you employed?

A I'm employed with the Columbia Police Department.

Q How long have you been with the police department?

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

Q What do your duties include at the Columbia Police Department?
A Well, currently I'm employed in the criminal investigations division under the VCAP unit, the Violent Crimes Against Persons.
Q As part of the VCAP unit, what type of investigations do you conduct?
A Primarily I conduct homicides, suicides, kidnappings, aggravated assaults, anything along those lines, any violent crime against a person.
Q I'm going to turn your attention back to the end of June, first of July last year. Did you get called in on this case involving Ms. Hunnewell?
A Yes, I did.
Q How did you become involved, sir?
A On the early morning hours of July 1st, I was called out, which is pretty typical. I was called out by sergeant. This was case of Sergeant Reese. He was filling in for my normal sergeant, Sergeant Pegram. He called me on the telephone and said they had a possible homicide at 93 Tommy Circle and requested that I respond and take over the investigation.
Q When you refer to Sergeant Reese is that Sergeant Reese right there?
A Yes, that's him right there.

Q And he was the actual supervisor of the case?
A Yes, he was.
Q Approximately what time was it when you received a call to respond to Tommy Circle?
A If you'll let me look at my notes, if you don't mind.
(Pause.)
I received a call at 5:11 A.M. on the 1st.
Q What time did you actually respond at the scene on Tommy Circle?
A I got there at 6:17 A.M.
Q When you got there, what did you find?
A Well, when I arrived at the location, crime scene was already on the scene as well as the coroner's office. EMS had been there, but they had left. The front door was standing open. Crime scene tape was around the location and I went in. Crime scene was in the process of collecting shell casings and other items. I believe Sergeant Reese and a few others had been there for a little longer than I had and observed some other items of interest.
While I was in the location, I observed the victim who was later identified as Kelly Hunnewell at the autopsy at the coroner's office's office. She was wearing a blue zip up jacket and gray sweat pants,

black and green shoes.

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

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

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

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

A That's correct.

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

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

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

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

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

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

A We did.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Q While you're still there at the scene, did you also become aware of who had actually called in this 9-1-1 call?
A Yes, yes.
Q Who was that?
A It's --- I have a name here. I know that --- it's Theresa Baskin.
Q Okay. Was anyone sent to interview her that morning?
A Yes, I believe Investigator Hilton went over there and spoke with her and put it in his notes that he interviewed her.
Q While you were there at the bakery, did you make any attempts to contact anyone associated with the café and the catering service?
A I did. I actually located a magnetic sign that was on the refrigerator in the break room. It was the main number for the Carolina Cafe. I called that number and I got an answer from an individual whose last name was Andrew Park-Floyd. That's a hyphenated last name. He identified himself as the manager. I advised him that I was looking for the owner or someone I could speak with about who owned the bakery or who ran the bakery. He directed me to Max Schleuter. And I was provided a telephone number for

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

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

A He was.

Q And what information was he able to give you?

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

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

A Yes, he said ---

MR. KRZYSTON: Objection.

THE COURT: Stop.

THE COURT: What's your objection?

MR. KRZYSTON: Hearsay.

THE COURT: Overruled.

BY MS. CAMPBELL:

Q Go on.

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

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

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

A That's correct.

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

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

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

A That was Sergeant Rose.

Q Where did that take place?

A It took place at Columbia police department headquarters.

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

A That's correct.

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

A Yes, when Sergeant Rose hooked up video to a monitor, we were able to play the raw footage. He pulled the footage first in it's raw format. It was four files from the four camera angles. We also observed the footage from the DVR.
Q Based on that, were you able to get a description? Were you able to actually see shooting itself on the video?
A Yes, we were.
Q Were you able to get a description of the people that had come inside the bakery?
A Yes, when we observed the video as you saw earlier, we identified three people who we believe were involved. Now, obviously two of the ones that entered the bakery, one had a gray sweatshirt on and one had a red hooded sweatshirt, both had hooded sweatshirts on. Both were carrying semiautomatic handguns, from the video. We also were able to determine that were black males from their hands.
Q Were you able to get a look at their faces from the video?
A No.
Q Why not?
A It looked like the faces were covered. The one looked like he had a mask on, with the red hoodie, he

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

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

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

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

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

Q Yes.

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

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

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

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

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

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

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

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

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

A Yes. We did.

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

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

Q Okay,

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

Q Were fingerprints actually dusted there at the scene?

A No, they were not.

Q Why not?

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

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

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

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

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

A That's correct. Yes.

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

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

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

A It was, yes, ma'am.

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

near there?
A We did. Let's see. After that, we had a brief meeting at the police department, which was typical. We kind of brief about what's going on. What do we know so far, what evidence do we have so far, what needs to be done to continue and try to develop a lead. At this point we had no leads besides the video. So Sergeant Reese suggested that we go to the neighborhood, go to Tommy Circle, as well as some other neighborhoods that surround it and canvas. It's just basically walk around and knock on doors, did you hear anything or see anything that looked a little suspicious.
Q During that canvass, what areas, what streets did you actually go door to door and try to develop information?
A The areas included Bonner Avenue, Lucille Drive, Dubard Street, Beach Haven Road, North Beltline Boulevard, Tommy Circle, and those areas in those neighborhoods specifically.
Q Were you able to develop any information from that canvass?
A We did --- now, I went to 12 Tommy Circle and was able to obtain additional surveillance footage.
Q That's what I was going to ask. What is 12 Tommy

Circle?
A That's the Original Ale House, I believe it's called.
Q And where is that located in relation to the bakery?
A It's directly next door.
Q Were you able to get video from them?
A Yes, I was.
Q And did you have an opportunity to review that video?
A I did. Once we received it on several DVDs, it was large files, we were able to come back to headquarters and review it after we finished the canvass.
Q And did they have multiple cameras in the Ale House video?
A They did, multiple inside and outside.
Q But, of the ones of use, how many were actually useful for you in this investigation?
A I believe it was just one angle that faced toward the bakery. The rest were mainly interior.
Q Let me ask your this. The video that you got from the interior of the bakery, does it have any audio on it, can you hear anything?
A It does.

Q From the bakery?
A I'm sorry, from the bakery, no the bakery has no audio. Twelve Tommy Circle has the audio.
Q And that would be the Ale House video?
A That's correct.
Q In the Ale House video, what are you able to actually hear through the audio on that?
A Rain and buzzing.
MS. CAMPBELL: Your Honor, permission to publish the videos with him at this point?
THE COURT: Yes, ma'am.
MS. CAMPBELL: You may step down.
THE COURT: Can you see? Front corner, can you see?
BY MS. CAMPBELL:
Q First, pulling up the bakery video, if we could first?
THE COURT: Does that help or hurt?
THE JUROR: Help.
THE COURT: Okay.
BY MS. CAMPBELL:
Q Pull up --- tell me, how do --- inside the bakery, how do the cameras work? Do they run continuously?
A Yes.

Q Is that different from how the Ale House one works?
A Very different.
Q We'll get back to that. What area does this show, sir?
A Well, the front door would be over here. This is just entry way. That's bathroom, that's the kitchen area at the top.
Q Can you see back there? Okay.
A The main entrance would have been right here.
Q Can you fast forward to right before the entrance. Thank you. That's good. And who is that that you see in the video at this point?
A We determined that's Kelly Hunnewell.
Q What was in her hand at that point?
A That is a large metal spoon or ladle, if you will. You can see several shots that go off. The individual in the red hoodie, if you watch it where their hands move up.
Q Moving on to where they enter. Is that the extent of the time they're in the actual bakery?.
A Yes. This will be the front door. I believe that's Ms. Hunnewell's van you actually see right there in the video.
Q Who is that in the doorway? Can you back that

up?
A That would be the individual who we would call the lookout. We believe, based upon the way he is dressed ---
MR. SCHNEE: Objection.
THE COURT: What is it?
MR. SCHNEE: Drawing a conclusion.
THE COURT: Overruled.
THE WITNESS: Based upon the way he is dressed, the fact that he is covering up his face, based on my experience ---
BY MS. CAMPBELL:
Q Right there?
A Based on my experience with these kinds of crimes, a ---
MR. KRZYSTON: Objection.
THE COURT: Overruled.
THE WITNESS: A lookout is very common.
BY MS. CAMPBELL:
Q And specifically, what is that around his face that he has drawn around his face?
A I know that is hoodie. Just like the other two are dressed.
Q Is this different in color from what you can tell?
A It is. It's either black or dark blue, it's

hard because the color on the camera is not great. The camera is not a high quality.
Q And he's holding it up covering what part of his face?
A His mouth and his nose.
Q Is that the only time you actually see him on camera, as far as ---
A That's correct, as far as this video.
Q Okay. Go to the angle that shows right on to the stove and the sink. What area is this?
A This would be the kitchen. The front door is over here. That's just an extended portion. There's another camera on that side. That's going to be a straight on shot of the kitchen, as well as the actual murder itself.
Q And I see steam coming out of a pot on the stove. Do you know what's in there?
A I think it was boiling potatoes, I saw it was boiling potatoes, peeled potatoes, when I got there.
Q Who is that?
A That's Kelly Hunnewell. And there is the spoon that she had.
Q Finally, can you pull up from inside bakery, the four side by side, and inside, and again what is this?
A This is same footage you just watched. However,

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

Q And that's of the interior?

A Yes, ma'am.

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

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

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

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

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

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

Q 3:12?

A They come out here. They speak and they talk.
Q And that's all on this video?
A You'll hear them talking. You'll hear the buzzing, and that's about all you hear. You do hear them talking about the night or something.
Q On this video, how is it activated?
A Well, from my understanding, when we received the video, we were advised that it was motion activated. There was some motion detector on the camera at least for this angle.
Q This angle?
A They're able to vary it depending on where the camera is located, whether continuously or...
Q Can you fast forward to about 3:12 when they leave?
A That would be the final ---
Q Can you see anything after everyone actually leaves from the Ale House?
A See anything after they leave?
Q No, before that, as far as anything involving the bakery?
A No, I didn't observe anything involving the bakery until after they were all gone.
Q And what time do you actually observe information from the bakery?

A According to the time stamp, it would be 3:14 A.M. is the time I initially saw --- he will come from here, the individual in the hooded sweatshirt.
Q And again this distance is much further away and outside and in the rain?
A Yes, you can see the light. You can see the catering van and the light from the open door, so it's a good distance away --- the front door is over here.
Q And the bar that's running up at the top, what is this?
A This was an awning. The awning wasn't attached to it, but it's similar. The awning sits here. That would be the support bar.
Q What do you see there?
A That's a --- the first individual in a hooded sweatshirt and then second individual comes into view.
Q And then ---
A It's motion activated so it's going to skip every few seconds once motion ceases. There is ---
Q At this point, can you see the second individual?
A Yes --- the second individual was seen, I believe you saw an individual walking --- you may have to rewind it. There is another individual that walks up through there ---
Q From the left side?

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

Q That's end of the clip on this?

A Yes, ma'am.

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

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

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

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

front of the vans and go around to the other side. I don't know if he's going to come back in the frame.
Q Okay.
A At this point there's one here and one closer to that side of the wall. You can see his shadow outline there where he is.
Q And, again, as far as what's on the other side of the vans or the front side, far side of the baker, can you see can you see any of that in this video?
A No, you can't. There's no camera directed there.
Q Okay.
A You see those two individuals here, they would be in the walk towards the front here, circling the van there, that's at 3:21, 3:22, correct.
Q And at this point can you see anyone from this angle?
A No, you won't see anything until 3:36.
Q This one is timestamped separately from what's inside?
A That's correct. Whatever they set their DVR timestamped to is what you see. I'm just referring the notes with the timestamps.
Q Good. Fast forward. Do you see anything between in now and 3:36?
A No, I didn't observe anything when I watched it

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

Q You can fast forward to 3:36.

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

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

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

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

A Yes, it is on this video.

Q You can go back to the stand.

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

BY MS. CAMPBELL:

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

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

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

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

A Yes.

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

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

MR. KRZYSTON: No objection.

MR. SCHNEE: No objection.

THE COURT: State's 439 without objection.

BY MS. CAMPBELL:

Q Permission to publish it?

THE COURT: Yes.

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

A That's correct.
Q Okay.
A We left out the part where she struggles and uses the spoon to strike the individual, and the actual shooting, for obvious reasons.
Q Okay. Thank you. That day when you were in the video (sic) and you got there that morning, what was the temperature like inside video (sic)?
A Inside the bakery, it was quite warm inside the bakery. Now, I --- my understanding that the fire department had come to shut off the gas, because of the heat and the fact that the burners were on with boiling potatoes, but when I got there several hours after the discovery, you know, it was about 6:17, but it was still very hot, and I was advised it's so hot take off your jacket. You're going to start sweating.
Q That same day did you contact a man named Cary Shealey?
A I did. Cary Shealey, he runs Statewide Security Services. The city has a contract for video cameras around the city.
Q Was he able to give you any information as far as any cameras in the area?
A No, I requested any cameras he had in the area and any footage he had from them, but he later contact

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

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

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

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

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

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

A Not at that time, no.

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

A It did.

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

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

have a story like that and you get tips.
Q And those are what was called Crimestoppers tips?
A That's correct. It's done through Crimestoppers of the Midlands. We don't have access to names or phone numbers. That's all kept confidential. We get the substance of what they advised.
Q At that point --- you can't say what was in the tips, but did you start trying to follow up on leads that may have been in those tips?
A Yes, I did.
Q And during the course of the day, is that what you did?
A That's what we did almost the entire day. We had several meetings during the day, but we followed up on those leads.
Q That evening did you get some information from one of your regions?
A I did, about 5:30 in the P.M. Sergeant Shuler, he was the Metro Region supervision for the street units at that time, he called and said there was an individual who had information for us.
Q And at that point did your send somebody to go and get the witness --- the possible witness and bring him in?
A Yes. We did.

Q And who actually went and picked them up that day?
A I believe it was Investigator Moorer who went and picked him up. Yes, Investigator Moorer.
Q And once the witness got to headquarters, who was that witness?
A He was identified as Donald Moore.
Q And at that point was Donald Moore cooperative?
A He was very cooperative.
Q And was he able to give you information?
A Yes, he gave me information regarding the case. It was audio recorded.
Q And specifically was he able to give you information that had never been released to the media?
A Yeah. That's what gave him so much credibility to us. I can't say what the information was ---
MR. KRZYSTON: Objection, vouching.
THE COURT: What?
MR. KRZYSTON: Bolstering.
THE COURT: He is not allowed to vouch for the witness, but he can explain.
BY MS. CAMPBELL:
Q You can explain without --- just explain why he was --- did he know information that hadn't been released?

A He did; Moore knew information that had not been released to the media.
Q That same evening, did you get a call from Sergeant Branham?
A Yeah, Sergeant Amanda Branham, there's two of them we have, Sergeant Amanda Branham is one who called.
Q Based on her information, did you make contact or attempt to make contact with another witness in this case?
A Yes, I did.
Q And who was that witness?
A At the time she was just identified as Ms. Brown. She wouldn't give her first name.
Q She wouldn't give you her first name?
A Not at that particular time, the first time I talked to her.
Q That evening did you attempt to make contact with her?
A I did and left a voice mail.
Q Did you have her phone call?
A I did. Amanda Branham, Sergeant Branham, had the phone number from her and was able to provide it to me.
Q Were you able to get in touch with her that

evening?
A I did not get touch with her that evening.
Q The next day did you make contact with her?
A About 9:00 A.M. I made contact with Ms. Brown.
Q And you can't say what Ms. Brown told you, but was she able to give you information that was very useful in this case?
A Yes, she did.
Q And the information that she gave you, did it corroborate the information you had already gotten from ---
MR. KRZYSTON: Objection, bolstering.
THE COURT: Sustained.
BY MS. CAMPBELL:
Q Was the information she gave you consistent or inconsistent ---
MR. KRZYSTON: Objection, bolstering.
THE COURT: Let her finish the question, Mr. Krzyston.
MR. KRZYSTON: Certainly.
THE COURT: Ask the question, Ms. Campbell.
BY MS. CAMPBELL:
Q Was her information consistent with information you had already gotten?
THE COURT: Do you have any objection?

MR. KRZYSTON: Bolstering.
MR. SCHNEE: Objection.
THE COURT: Overruled.
THE WITNESS: Yes, it was consistent.
BY MS. CAMPBELL:
Q That same morning, you can't say what you --- you can't say what was said to you, but did you also receive additional information from another informant?
A I did. This was a criminal informant who worked with the Richland County Sheriff's Department.
Q Once you had received the information from Mr. Moore and Ms. Brown and the other person, what did you do?
A Well, I began obviously working on what to do with all this information. We were able to determine that we could obtain search warrants for the two homes, for the two individuals that had been identified.
Q And prior to you getting the search warrants, did you get a photo lineup in this case?
A I did.
Q And who was the photo lineup on?
A The photo lineup was for Lorenzo Young.
Q And why were you getting a photo lineup for Lorenzo Young?

A It was based upon information received during the investigation whose name came up.
Q Once you got the photo lineup of Lorenzo Young, who if anyone did you show it to?
A I showed it to Donald Moore.
Q I want to show you what's been marked as State's Exhibit Number 420. Do you recognize that?
A Yes, this is the original photo lineup I showed to Donald Moore.
Q Again, at this point was Mr. Moore cooperative?
A Very cooperative.
Q And taking these out, I notice that there are six different photographs with six different numbers; is that correct?
A That's correct.
Q And when you showed him those photographs, did they have any writing on any of them?
A No, they did not.
Q When you showed the photographs to Mr. Moore, how did you present them?
A I had photographs that were numbered one through six. We showed him --- it's actually an array, not a lineup. We call it a photo array. The photos are on a different sheet of paper. I just put them down one-by-one like this until I got to number four, at

which point he identified Lorenzo in that lineup.
Q Did he hesitate?
A Not at all. He said, that's Lorenzo; I'm paraphrasing. I don't know the exact ...
Q At any point did you tell him who to pick?
A No, I did not.
Q Did you tell him which number was the person you wanted him to pick?
A No, I did not.
Q And when he actually picked this as State's Exhibit 437, who did he indicate it was?
A Lorenzo.
Q And did he have a nickname?
A Shyne.
Q And whores writing was this on this?
A That's Donald Moore's.
Q And that's his actual handwriting?
A That's correct.
Q And who actually circled that photograph?
A Donald Moore.
Q Once he indicated to you that he recognized this person, did you memorialize that in any way?
A Yes, I did. We have a cover sheet called a this-is-what-you-handed-me. Basically, you them sign and date --- sign and give his address and phone number

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

Q That he had given you information on?

A That's correct.

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

A No.

Q Why not?

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

Q And at that point did you prepare search warrants?

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

Q And where did you prepare search warrants for?

A I prepared two search warrants. The first was 3054 Bronx Road. That's where we determined Lorenzo Young resided.

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

THE COURT: All right. Overruled.

THE WITNESS: The second search warrant we obtained was 2849 Lucille Drive. We determined that was Troy Stevenson resided and also Trenton Barnes.

Q What day was this that it you were getting these search warrants?
A This was on the 3rd at 10:00 P.M.
Q 10:00 P.M.?
A That I went and saw the judge.
Q And when you get a search warrant, what do you have to do to get a search warrant?
A Well, you have to establish probable cause. We have an affidavit form. We actually make up the search warrant in it's entirety and take it down to a ministerial recorder. She is just like a magistrate judge, but for the City of Columbia. We take the information down there. We establish probable cause in the affidavit portion of the warrant, as well as particularly describe what we're looking for and what exactly we are searching. At this point it was a residence we were searching.
Q In addition to what's on the actual search warrant itself, can you also give them additional information orally?
A Yes, we also orally supplanted portions of the affidavit, in particular that Donald Moore had given us information.
Q And in the search warrant you didn't list his name?

A No, we did not.
Q Why not?
A We feared retaliation, as did he.
MR. KRZYSTON: Objection, Judge.
MS. CAMPBELL: This is what we ---
MR. KRZYSTON: Can we approach?
THE COURT: Go ahead. All right. Ladies and gentlemen, just step out to your jury room. We'll check on lunch and be back with you in just a few minutes.
(WHEREUPON, the jury left the courtroom at 12:20 P.M.)
THE COURT: All right, Ms. Campbell.
MS. CAMPBELL: May it please the Court, Your Honor. This is --- we talked about basically going into the extent of this. I mean, this is just to explain why he did this. Defense counsel brought it up in his opening argument that he hid information. We're explaining why he hid it, and I told him, you know, the answer is because there's gang involvement. I told --- we're staying away from the gang stuff, but the fear of retaliation, I think, to protect a witness is common practice.
MR. KRZYSTON: And, Judge ---
MS. CAMPBELL: It's not that he is hiding

evidence or witnesses as been inferred.

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

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

MS. CAMPBELL: No, he didn't.

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

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

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

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

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

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

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

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

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

THE COURT: Don't use the word retaliation.

MS. CAMPBELL: Yes, Your Honor.

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

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

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

MR. KRZYSTON: No, Your Honor.

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

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

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

THE WITNESS: Yes, Your Honor.

THE COURT: Do you have any questions about that?

THE WITNESS: No, Your Honor.

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

THE WITNESS: That's correct.

THE COURT: Something along those lines would be appropriate.

THE WITNESS: Yes, Your Honor.

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

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

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

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: Thank you very much. Ladies and gentlemen, you will disregard any testimony from this witness concerning the use of the word retaliation. You may continue, Ms. Campbell.

BY MS. CAMPBELL:

Q Why did you keep his identity out of the search warrant at that point?
A We were going to keep his identity unknown at the time.
Q At that time?
A At that time, that's correct.
Q The two search warrants, one is at 3054 Bronx Road?
A 3045 Bronx, yes, ma'am.
Q What neighborhood is that in?
A That's in the Bellvedere community.
Q And who was residing at that address?
A Lorenzo Young and his family, including Rolanda Coleman.
Q And the other is 2849 Lucille Drive?
A That's correct 2849 Lucille Drive.
Q And who was residing at that address?
A Troy Stevenson, Trenton Barnes and his family.
Q The next day on July 4th, did you continue to work on the case?
A Yes, I did.
Q Did y'all make a determination as to when you wanted to execute the search warrants?
A We did. Basically it was a holiday. A lot of people were off, and we decided we would do it the

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

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

A That was S13-0293. That was 3054 Bronx Road, Lorenzo Young's residence.

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

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

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

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

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

A No, he was not.

Q Was Rolanda Coleman there?

A Yes, she was.

Q Were there other people there also in the

residence, as well?
A There were. I believe his mother was there. Marcus Brown, which was his mother's boyfriend at the time, I believe, and some other individuals. I can't recall the names.
Q Once you got into the house, was a search done?
A It was.
Q And specifically were your able to determine which bedroom was Lorenzo and Rolanda's?
A We were able to determine that, yes.
Q And were certain items of evidence recovered there?
A Yes, they were.
Q And were you present when those items were found?
A I was. I was in the room when they were found.
Q And what evidence are we talking about?
A The first were the gloves. I actually found those in Lorenzo's bedroom closet. It was in a Sirroc box along with some other items, cords and whatnot, miscellaneous items up in the box on the top shelf of the closet.
Q Why was that significant in your investigation?
A Well, like I said before, I believe that in the video you can see the individuals, at least one of them wearing a glove on his hand that he is holding

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

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

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

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

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

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

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

MR. KRZYSTON: Objection, leading.

THE COURT: Overruled.

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

40 caliber Smith and Wesson live round located.
Q During the search of that room at the time --- was there a basinet in that room?
A There was. There was a basinet, a baby's crib.
Q At the time, did you understand any significance that it might have had?
A Not at all.
Q I'm going to show you State's Exhibit Number 438, and ask if you recognize that.
A That would be the basinet. That would be the room identified as Lorenzo's room and Rolanda Coleman, I think.
Q And this is basinet that's been overturned in this picture?
A Yes.
Q And do you know who actually did that?
A I don't. I know when a SWAT team makes entry into a home, they knock things over, open doors, turn over mattresses, looking for people. They're more concerned about safety. It's possible that happened. I don't know who turned it over.
Q But this basinet later became significant in the investigation?
A That's correct.
MS. CAMPBELL: I would offer this into evidence,

Your Honor. Thank you.

MR. SCHNEE: I'd like to look at it first.

No objection, Your Honor.

MR. KRZYSTON: None here.

THE COURT: All right. State's 438 without objection.

(WHEREUPON, State's Exhibit Number 438 was admitted into evidence.)

BY MS. CAMPBELL:

Q If I point right here on that, does that show the basinet turned over?

A That's correct.

Q And again at that point did you know its significance?

A No, I did not.

Q You mentioned that crime scene was brought in to actually document what was found there?

A That's correct. I believe it was Gaston that was the officer.

Q And he would have actually collected the evidence itself?

A Yes, he is the one who would have collected it, submitted to the evidence room and maintained chain of custody.

Q While you were there and while the search warrant

was being executed, did you have any contact with Lorenzo Young?

A No, I did not. Well, I take that back. Physically, no.

Q Okay.

A An individual called the house several times and identified himself as Lorenzo Young on the phone.

MR. KRZYSTON: Objection. Speculation, Judge. No way of knowing that.

THE COURT: Overruled.

MS. CAMPBELL: Thank you.

BY MS. CAMPBELL:

Q At some point did Rolanda Coleman hand you the phone saying Lorenzo was on it?

A I don't believe Rolanda Coleman did. I'll take a look at my notes. I can tell you. I believe he was just calling. The phone was ringing, ringing, ringing, and he just answered it. He answered the phone.

Q Was Ms. Coleman taken down to headquarters to be interviewed?

A She was taken to headquarters to be interviewed, yes.

Q You can't say why, but did that interview take place that day or did it take place later?

A It did not take place that day. We actually interviewed her later on, several days later.
Q Back at headquarters then, did you interview Marcus Brown?
A We did.
Q You can't say what he --- well, what was his relationship to Lorenzo Young?
A It would be his mother's boyfriend. I don't know if it was a stepfather kind of relationship. I never got that far, but he was dating the mom.
Q And you can't say what he said, but did you show him certain evidence in the case --- and don't say what he said.
A Yes, I did.
Q That afternoon, was there a second search warrant served?
A Yes, around 4:15 P.M., we served the second search warrant S13-029 at 2849 Lucille Drive, which is Troy Stevenson and Trenton Barnes' residence.
Q And once you made entry there, who all was at the house? Do you remember?
A Ms. Barnes was there. There were several other individuals there. Trenton Barnes was there. Troy Stevenson was not present.
Q And where did you come upon Trenton Barnes in the

residence that day?
A He was in a --- it was back bedroom. If you came in through the garage area, which they converted to a little walk-in laundry room area, if you walked all the way in the back, he was in the back front bedroom with a few other individuals.
Q And what was his demeanor like when you made entry?
A Well, his demeanor --- he seemed nervous, scared. I believe he had some tears coming down his face.
Q Did he agree to go to headquarters with you?
A He did. I asked him if he would come and talk to us and he agreed to come.
Q Did anybody end up coming with him or meet him there?
A He requested his mother be present, and we obliged him, absolutely, and had her --- we actually had a police officer in a marked car, and they transported her, and him at his request, down to headquarters to be present during the interview.
Q During the search of that home, did you find any --- well, let me back up, too, at Bronx Street did you ever find a gun, any guns?
A No.
Q Did your find a red hoodie?

A No.
Q Or the dark gray hoodie?
A No.
Q At the second search warrant, did you ever find the handguns?
A No, we did not.
Q Either of the hoodies that are seen in the video?
A No, not the gray or red hoodie, no.
Q Were there a couple of hoodies that, I believe, were taken into evidence?
A There were. There were several dark hoodies that were taken into evidence. One of them was soaking wet, still wet, was wet that was obtained.
Q Later that evening after talking --- and you can't say what was said --- but, after talking with Trenton Barnes, was he placed under arrest that evening?
A Yes, he was arrested for ---
Q How old was Trenton Barnes at the time?
A He was 16 years old.
Q Was he charged as an adult?
A Yes, he was.
Q Why was that?
A When you are charged with a violent crime in this state and you are 16, that's 16-1-60, I believe, it's

enumerated in the statute for a violent crime. At sixteen you're automatically charged as an adult. You will be housed in a juvenile facility until your 17th birthday, but you'll be charged to stand trial as an adult. That's by law.

Q Did you become aware during that evening that Lorenzo Young had been found?

A Yes, during the interview, I believe, it became apparent that he was located.

Q And specifically was an item of evidence found with him that was significant?

A Yes. Once he was located, I was advised by one of the investigators that a phone had been located. It was a Galaxy S-3 or 4, I think it was a three a 2013 smart phone, and I remember seeing a box for a Galaxy S-3 smart phone at the home there at Bronx that was empty.

Q Who did you later determine who the phone belonged to?

A It belonged to Rolanda Coleman. Actually I think it was Rolanda Coleman's grandmother's or mother's. She had the account, Rolanda Coleman, it's her phone and she had allowed Lorenzo Young to possess it.

Q And was Lorenzo Young actually brought down to headquarters that night?

A He was transported down there.
Q Did you also make contact with Troy Stevenson that evening?
A Yes. Troy Stevenson voluntarily came in on his own volition.
Q After gathering all that information, were there three people charged in relation to this crime?
A Yes.
Q And two of them are here today?
A That's correct.
Q Was Troy Stevenson also charged?
A Yes, he was.
Q And are his charges still pending?
A Yes, they are.
Q Turning your attention to July 9th, 2013, did you then have an opportunity to interview Ms. Rolanda Coleman?
A Yes. About 10:12 in the A.M. on the 9th of July 2013, we interviewed Rolanda Coleman.
Q Was she alone when you interviewed her?
A No, she was with her attorney, Drelton D.J. Carson.
Q At that point was she more cooperative than she was here in court?
A Yes.

MR. SCHNEE: Objection, Your Honor.
THE COURT: Objection?
MR. SCHNEE: First of all as to relevance and the term cooperative.
THE COURT: Overruled.
THE WITNESS: She seemed cooperative. She answered our questions.
BY MS. CAMPBELL:
Q And was there an interview that was recorded from her?
A Yes, it was audio recorded.
Q Moving onto July 11th, 2013, did you get another search warrant to get certain evidence from Lorenzo Young?
A I did. It was S13-0302.
Q What were your seeking to get from Mr. Young at that point?
A A DNA standard from Lorenzo Young.
Q The next day, did you also have search warrants done and signed off to get the same evidence from Troy Stevenson and Trenton Barnes?
A Yes, on the 12th we obtained DNA standards from both individuals.
Q Did you have, I believe, Investigators Wise and Nelson collect those for you?

A Yes, crime scene Wise collected Lorenzo Young and Nelson collected Trenton Barnes then Wise again collected Troy Stevenson which was just based on the time and the day of who was working at that particular time.

Q And during this time period, were you also getting various lab reports and things back from SLED?

A Yes, we sent off numerous amounts of evidence to SLED and we were getting reports back and that type of thing.

Q I want to turn your attention to August 9th, 2013.

A Okay.

Q Are you familiar with Latoya Barnes?

A I am. She is Trenton and Troy's mother.

Q Was she the one that was actually with Trenton when he was at headquarters that first day?

A That's correct.

Q Had she tried to make contact with you?

A Yes, I believe she was calling me and I returned her phone call. She left a voice mail on my office phone.

Q And did you actually record that conversation?

A I did. I recorded that telephone conversation, yes.

Q And she testified in this case?

A She did, earlier.

Q Specifically, I want to limit it to ---

MR. SCHNEE: Objection. There's a matter of law we need take up.

THE COURT: All right. Let's step back to your jury room. We'll see if lunch is here. We'll be back with you in a few minutes. Do not discuss the case. Keep an open mind.

(WHEREUPON, the jury left the courtroom at 12:41 P.M.)

THE COURT: What is the issue?

MR. SCHNEE: May it please the Court, Your Honor. I was informed during the last break that the solicitors intend to introduce a portion of Latoya's Barnes' recorded interview with McCoy specifically dealing with a question of an identification of who was wearing a gray hooded sweatshirt. When she testified last week, she said that she knew her children and said that she did not identify who was in the gray hooded sweatshirt specifically. It's the State's contention that she does say that during the audio recordings.

Judge, my objection is twofold. First of all, this would be an improper impeachment under Rule 613. The fact is they want to impeach Ms. Barnes with what

was on that audio recording, they should have questioned her about it and played it for her. Under the rules, she is required to have an opportunity to either explain it or later agree that it was hers or go through the time and place and circumstances.

They simply said, did you say it. She said no, that's not what I said. They never played it for her or gave her an opportunity to explain it or discuss it or even find out what the context was. Now, the State is intending on going through this investigator to play a portion of her prior recorded statement. I don't believe that's proper. Additionally, I certainly in the very least, if Your Honor is going to do that, I need hear the portion they plan on playing. I believe that audio recording is inadmissible hearsay and this is not a proper impeachment. They had an opportunity to use any kind of audio as a prior inconsistent statement with Ms. Barnes and they never did.

MR. KRZYSTON: Your Honor, we would be joining in Mr. Schnee's objection.

MS. CAMPBELL: It doesn't concern your client.

THE COURT: What?

MS. CAMPBELL: It doesn't concern his client.

THE COURT: It doesn't concern your client.

MR. KRZYSTON: I'd join in any way, Your Honor.
THE COURT: Based on what? What's your legal reasoning for joining in that?
MR. KRZYSTON: Rule 613.
THE COURT: How does it affect your client in any way, shape, or form?
MR. KRZYSTON: I mean, I believe it would be improperly admitted against Mr. Young.
THE COURT: It doesn't have anything to do with Mr. Young.
MR. KRZYSTON: I understand that, but he still stands to be prejudiced by the introduction of that evidence.
THE COURT: How?
MR. KRZYSTON: He was at her house that night. I mean, negative inferences could flow from that evidence.
THE COURT: What?
MR. KRZYSTON: I mean, I can't sit here and speculate as to what negative inferences might flow, but I think one can see where it may.
THE COURT: Actually, I don't.
MR. KRZYSTON: Okay. Your Honor. I just wanted to get it on the record.
THE COURT: Your objection is overruled.

MR. KRZYSTON: Thank you, Judge.

THE COURT: My memory of what she said is, "I never told them that Trenton was wearing a gray sweatshirt. I didn't say Trenton was wearing the gray sweatshirt. I didn't tell the cops that."

MS. CAMBELL: The extent, Your Honor, was limited to one question and one answer. Here is the transcript. I've shown it to Mr., Schnee before.

MR. SCHNEE: No, I've not seen a transcript of that. I want to hear the recorded clip.

MS. CAMPBELL: We have no problem with you hearing it.

MR. SCHNEE: I object to it anyway.

MS. CAMPBELL: This is the extent what we would be playing anyway, is my understanding.

THE COURT: Yeah.

MS. CAMPBELL: We'll limit it --- that is the only thing that she denied, that I recall, and pursuant to Rule 613, Your Honor, we did inform her of what he said was given and what she told them and that would be one portion that she denied.

MR. SCHNEE: And, Judge, I think the heart of Rule 613 is the use of extrinsic evidence means you use the extrinsic evidence, and using the extrinsic with the witness that's making the denial, not days

later with someone who is not even on the stand so it can't be even questioned. I had no opportunity to be questioning Ms. Barnes at this point if I even wanted to requestion her about it based on what the actual audio says.

MS. CAMPBELL: That's not what the rule says.

MR. SCHNEE: That's a confrontation issue at that point.

THE COURT: A witness that you've already had the opportunity to cross examine?

MR. SCHNEE: This would be the admission of different testimony and new information that I clearly did not have any intention on crossing her on or need to because they didn't play the audio. She just said she didn't make the statement. They never even gave her the opportunity to confirm or deny that's what she said or anything else.

THE COURT: She would have multiple notice about this and she continued to deny it saying that she said that she said that Trenton was the one wearing the gray sweatshirt and she was informed multiple times about the substance of the statement, the time and place it was made, and the person to whom it was made and she was given an opportunity to explain or deny the statement and she denied the statement and it says

if a witness does not admit that he has made a prior consistent statement, extrinsic evidence is admissible.

All right. You need to play the portion for him that you want to play, but at this point it's admissible.

MS. CAMPBELL: Play it.

(Pause.)

Your Honor, I don't believe it was cut properly.

THE COURT: Okay.

MS. CAMPBELL: Can we come back and do lunch and then ---

THE COURT: Yes, unless lunch is here. Can you check, Jackie? Is Jackie here?

THE BAILIFF: It's not here yet, Your Honor.

THE COURT: You can deal with that, fix it.

MS. CAMPBELL: I'll deal with it at the end.

THE COURT: All right. Bring them back in.

THE BAILIFF: Your Honor, it just arrived.

THE COURT: Okay. Perfect. Let's go ahead and feed them lunch, and we'll go ahead and break for lunch. Tell them they're going to have 45 minutes for lunch, Mr. Dye. Tell them they're going to have 45 minutes for lunch, and we'll start back up at that point.

THE BAILIFF: All right.

THE COURT: All right. Now, Investigator McCoy, you are allowed to step down, use the facilities, whatever you need to. You are not allowed to discuss your testimony with anyone in any way, shape, or form. Do you understand that?

THE WITNESS: Yes, Your Honor.

THE COURT: Do you have any questions about that?

THE WITNESS: None whatsoever.

THE COURT: Okay. Thank you very much. Forty-five minutes for lunch.

(WHEREUPON, a lunch break was taken.)

(WHEREUPON, Court's Exhibit Number 16 was marked for identification only.)

MS. CAMPBELL: Your Honor, they did redid it over the lunch period. For some reason, the person who needs to play it isn't here.

THE COURT: Okay.

MS. CAMPBELL: I apologize.

(Pause.)

MS. CAMPBELL: Your Honor, I don't know that this is going to be probative, but I want to hand up State vs. Dunlap.

MR. SCHNEE: That's on the new CD?

MS. CAMPBELL: That's what's reflected in the

transcript on the new CD. That's all hopeful.

MR. SCHNEE: All right. Let's just confirm those hopes before we find them.

THE COURT: Is your client okay?

MR. KRZYSTON: I haven't heard anything to the contrary.

THE COURT: Okay.

(Pause.)

Is Mr. Young on his way up here?

THE DEPUTY: Yes.

THE COURT: Thank you.

Did you get the audio?

MS. CAMPBELL: I don't know where the person who plays it is, but I can just play it on the computer since they aren't showing up for court.

THE COURT: Have you heard the portions you need to hear?

MR. SCHNEE: I have, Your Honor.

THE COURT: Anything else before we bring in the jury?

MR. SCHNEE: Not in that regard other than to renew my objection about improper impeachment.

THE COURT: Okay.

MR. SCHNEE: That would cover it for that audio. I don't know if they plan on using Investigator McCoy

or the phone video they talked about from Lorenzo. If so, we still need to ---

MS. CAMPBELL: Investigator Reese saw that, too. Since it's not in yet, I'll get him to identify it rather than McCoy.

THE COURT: Okay.

MS. CAMPBELL: Because I didn't think about that until he got on the stand, but it's not introduced yet, so I'll do that when Reese is up there.

MS. SIMPSON: Judge, let's just play it on the big TV to make sure it is the right audio before coming up.

THE COURT: Make sure you get where you can hear it.

MR. SCHNEE: Absolutely.

(WHEREUPON, the audio was played.)

MS. CAMPBELL: Apparently, Your Honor, we have it fixed.

THE COURT: Okay. Great, let's bring them back in.

MR. KRZYSTON: Judge, we are going to have an issue with him when they call him.

THE COURT: That's not McCoy, is it?

MR. KRZYSTON: No, VanHouten.

THE COURT: Okay.

(WHEREUPON, the jury entered the courtroom at 1:50 P.M.)

THE BAILIFF: Jury is seated, Your Honor.

THE COURT: Okay. Thank you. Welcome back, ladies and gentlemen.

Ms. Campbell, you may continue.

MS. CAMPBELL: Your Honor, at this time we'd ask permission to publish State's Exhibit 440.

THE COURT: All right.

MS. CAMPBELL: You can play it from over there.

THE COURT: Okay.

BY MS.CAMBELL:

Q And, again, for the record, this is part of your recorded conversation with Latoya Barnes?

A That's correct. It occurred on August 9th, 2013.

(WHEREUPON, the audio was played for the jury.)

MS. CAMPBELL: Your Honor, permission to repeat that because there was some commotion.

THE COURT: Yes, there was talking over anything. Ask whatever question you want to ask first.

MS. CAMPBELL: I apologize.

THE COURT: Okay.

BY MS. CAMPBELL:

Q And this is from which conversation?

A This is a recorded phone conversation that I

recorded on the 9th of August 2013, around 3:21 the P.M. This is a return phone call to Ms. Barnes.

Q This is just a little bit of that conversation where you're talking about the video?

A Correct.

(WHEREUPON, the audio was played for the jury.)

MS. CAMPBELL: Thank you, Your Honor.

BY MS. CAMPBELL:

Q At some point, did you also request some telephone records in this case?

A Yes, I did.

Q Specifically, I want to show you what's already in evidence as State's Exhibit 402. Do you recognize those?

A Yes, I do.

Q And are those some of the phone records you requested via a search warrant?

A Yes, they are.

Q And when were these requested, do you recall?

A It was later on in the investigation. I believe it was the beginning of 2014 or the end of 2013.

Q And what number is this that you requested?

A (803)463-0890.

Q Whose that number associated with?

A That was Rolanda Coleman and associated with

Lorenzo Young.
Q I want to show you State's Exhibit Number 395. Is that a cell phone or a landline?
A That would be a landline.
Q The one we just did, the 402 was that a cell phone?
A That was the mobile phone, cellular phone.
Q This is a landline?
A Yes, that's a land service line.
Q What address is this associated with?
A 2849 Lucille Drive.
Q And what that number? Did I already ask you the number?
A You didn't, it's (803)748-0352.
Q And finally, for purposes here, State's Exhibit 399. Again, is that a cell phone or a landline?
A That would be a mobile cellular telephone.
Q You do a search warrant for these records, as well? A That's correct, through Verizon Wireless.
Q What number is that?
A (803)394-1430.
Q What number is that associated with? Who is that?

A That's the number for Trenton Barnes.
Q I want to turn your attention to August 21st, did you have another conversation with Ms. Brown?
A I did.
Q At this point was she able to give you her full name?
A She did. Mary Brown.
Q You can't say what she said to you, but was she able to give you additional information that was useful to you in your investigation?
A Yes, she did.
Q On August 22nd who did you make contact with?
A Angela Moore, that's Donald Moore's mother.
Q Why were you calling her?
A To corroborate information.
MR. KRZYSTON: Objection.
THE COURT: What's the objection?
MR. KRZYSTON: Bolstering, Your Honor.
THE COURT: Overruled.
THE WITNESS: Just to corroborate some information Donald had given me.
BY MS. CAMPBELL:
Q Did you talk to her?
A I did. That was recorded.
Q You can't say what she said, but she gave you

information?
A She did give me information, yes, that's correct.
Q I also --- that month did you try to contact people at the Taste of Jamaica on Beltline Boulevard?
A I did, it was the 29th of August 2013, around 2:18 P.M.
Q Were they cooperative with you?
A No. I did speak with someone, but they weren't very forthcoming with any information.
Q There were a number of shoes that were collected in this case?
A Yes.
Q Were you able to determine from the quality of the video of this incident, which shoes were worn?
A No, not exactly which shoes, a general outline or style, but not what actual shoes they wore.
Q The black gloves in this case that were tested for the presence of blood and gunshot residue?
A That's correct.
Q Where were those found?
A The bedroom closet of Lorenzo Young.
Q In this case, were you ever able from the time this happened up until today to recover the guns that were used in this case?
A No, we were never able to recover any of the

firearms used.
Q Were you able to recover the clothing, the red hoodie or the dark gray hoodie?
A No, it was not recovered.
Q Is that unusual?
A That's not unusual in this type of investigation, no.
Q You mentioned Troy Stevenson having pending charges. Was he also charged with the murder?
A He was.
Q As well as attempted armed robbery, kidnapping and burglary?
A That's correct, he was.
Q Finally, I want to show you what's been marked as State's Exhibits 382 and 383, do you recognize those?
A I do. 382 is a cellular telephone. It's a Verizon, a Motorola Droid cellular phone through Verizon Wireless. It was identified by Trenton Barnes. He identified it as his phone.
Q Where was that recovered?
A That was recovered at Mr. Barnes' residence at 2849 Lucille Drive.
Q And then 383?
A This was a cell phone, Boomerang LG cell phone. I believe this was Troy's.

MS. CAMPBELL: Okay. Your Honor, at this time, we'd offer these into evidence.

MR. KRZYSTON: Judge, we would object based on relevance for 383 and have no objection to 382. I would note for the record that we haven't been given any information. Oh, I'm sorry.

THE COURT: Mr. Schnee, any objection?

MS. CAMPBELL: Do you want to see them?

MR. SCHNEE: Yes.

MS. CAMPBELL: Sure.

(Pause.)

MR. SCHNEE: I have no objection either.

THE COURT: All right. Admitted over Defendant Young's objection.

(WHEREUPON, State's Exhibit Numbers 382 and 383 were admitted into evidence.)

(WHEREUPON, State's Exhibit Numbers 443 and 436 were marked for identification only.)

BY MS. CAMPBELL:

Q Finally, I want to show you 443, 436.

A Right.

Q I want to show you these photos and ask if you recognize these areas?

A I do recognize these, at least this area. Yes, I recognize that, as well.

Q And do these show different areas depicting the Lucille Drive, Bronx Avenue, Lorick Circle. Do you recognize these different areas in town?
A That's correct, City of Columbia, yes.
MS. CAMPELL: Your Honor, at this time I'd offer these into evidence.
MR. KRZYSTON: No objection, Your Honor.
MR. SCHNEE: No objection.
(WHEREUPON, State's Exhibit Numbers 443, 436 were admitted into evidence.)
MS. CAMPBELL: Your Honor, may the witness step down?
THE COURT: Yes, ma'am.
BY MS. CAMPBELL:
Q Let me ask you this, Lucille Drive to the bakery on Tommy Circle, is that walkable?
A Very, yes.
Q And you're on this side and so I'm over here. What's shown on State's Exhibit --- what's the exhibit number there?
A This is 436, exhibit number 436. Here you have the addresses. Of course, 93 Tommy Circle is the Carolina Café Catering & Bakery. That's the incident location for the murder.
Q Okay. Where is Tommy Circle on here? Can you

actually see it?
A You can, it's right here. The bakery building and the Ale House right here. Bakery is right here and they call it Tommy Circle is the Road.
Q Let me get you a pointer.
A Okay. Great.
Q I apologize.
A That's all right.
Q You can't get in front of them.
A Thanks so much.
Where the pinpoint is the actual building of the 93 Tommy Circle address. Of course, next door would be the Ale House. Then the little road here that looks like a half moon, if you will, is Tommy Circle. That's the actual road.
Q And the big road that runs through the middle there, what is that road?
A This is north to Beltline Boulevard. Two Notch is here.
Q And then if you cross over coming from Tommy Circle and cross over, where is Lucille Drive approximately?
A Well, when you come across ---
Q It's covered up here.
A It is. When you come across the road it's almost

like a diagonal, I would say. From the incident location, you would run into Bonner Avenue. There's several roads that offshoot off Bonner. One of them is Lucille Drive. 2849 is about midway down on the left side.

Q Okay. Can you say --- as far as how many blocks away it is --- well, it's on this map, correct?

A Yes. I'm approximating, but I would say it's probably five to six city blocks maybe, just approximating.

Q There's also been a reference to Bronx Road where Lorenzo Young lived?

A Yes.

Q Is that shown here in the Belvedere community?

A It is. The Belvedere community is up in this general area, off of Two Notch Road here and 3054 Bronx would be about where the pointer is at. It's a little down Bronx Road on the right hand side coming from Two Notch.

Q And then I want to show you what's been marked as State's Exhibit 443 and does this show a broader overview of the Columbia area?

A It does. It does. This is, of course, you have 277 here, which runs down Farrow Road, just to give you some idea where we're talking about, Beltline. Of

course, you have the Bronx Road address here, 3054 would be here and then over here, which runs off of North Main Street and Lorick Avenue, North Main would be up in this area where you see all the lines here. You have this Lorick Circle and that's an apartment complex.

Q And who was actually found in the apartment at Lorick Circle?

THE WITNESS: Lorenzo Young was ---

MR. KRZYSTON: Objection, Your Honor, prior objection.

THE COURT: Overruled.

THE WITNESS: Lorenzo Young was located inside the apartment on Lorick Circle.

BY MS. CAMPBELL:

Q Okay. Thank you very much.

As far as the people that you testified to living in the Bronx Avenue home, Lorenzo Young, do you see him in the courtroom?

A I do see him in the courtroom today.

Q Can you point him out for the jury?

A He has the blue shirt on with a --- I'm having a hard time telling the tie. He is the black male sitting between his defense counsel there at the center table.

Q And Trenton Barnes?
A Trenton Barnes is there with the black shirt on seated at the end table with his attorney, Mr. Schnee.
MS. CAMPBELL: Your Honor, may the record reflect he has identified both defendants.
THE COURT: So reflected.
MS. CAMPBELL: Thank you, sir. I don't have anything further.
THE COURT: Cross?
MR. KRZYSTON: Thank you, Your Honor. May it please the Court.
THE COURT: Yes, sir.
MR. KRZYSTON: Thank you, sir.

CROSS-EXAMINATION:

BY MR. KRZYSTON:
Q How are you doing today, McCoy?
A Doing well. How are you, sir?
Q Pretty good. Okay. Now, you became an investigator when?
A I was promoted in December of 2012. I was assigned to investigations, I believe, it was April or May of 2012, as a patrolman, but as a patrolman investigator.
Q And before that you were on --- you were employed by CPD and you were doing what? You were a beat

officer?
A I was a patrol officer. Yes, in 2008, I was hired. Of course, I went through the training that's required by the department and the state and then I was a patrolman, basically answering calls for service.
Q And part of the reason you start off on beat, if you will, is to kind of get the lay of the land, see who all is in the neighborhood, kind of start to establish a connection, if you will?
A Well, part of it. A lot of it is (A) you have to learn the laws and you have to learn how to do paperwork and how that goes together and then, of course, get an idea of area that your patrolling. We don't know every area. We don't patrol every area. I was assigned to the North Region, which would have been North Main, Farrow Road, Monticello Road --- not this particular --- this was the Metro Region that this occurred in.
Q Okay. And part of that experience that you're getting is talking people, writing reports, writing notes, all the kind of basic stuff that you need to kind of be to build a good investigator?
A That's correct.
Q And, in fact, as an investigator one of the most

important things that you can do is pretty much pay attention to detail, correct?
A That's correct.
Q Part of that reason is because even if your made even a small mistake early on, later on down the road that can create a big problem, right?
A Well, it can be resolved if there is a mistake that's found.
Q Okay.
A That's correct.
Q And in making sure that you don't make a mistake it's very important to pay attention to detail and it's very important and becomes very important, especially later on, to be able to recall the details of the investigation you did?
A That's correct, as best you can, sure.
Q Because somebody's freedom is at stake here ultimately?
A You're, right.
Q And when you became a police officer, you took an oath, and I don't know word for word what you took?
A Uh-huh.
Q Or what you swore, but the general essence or the general nature of that oath is that you're going to be fair?

A Uh-huh.
Q Correct?
A Well, the oath yeah is to uphold the constitution of the United States and of the State and to protect the rights of those people that you protect and that you serve.
Q Right. And obviously, I mean, you serve everybody in Columbia. I mean, your job is to investigate when things go wrong?
A You're correct, yes, sir.
Q It's very important to be fair to all the parties whether they're accused or not?
A Yes.
Q And it's very important to get all the information?
A Correct.
Q In fact, you could say it's four things, if you were to narrow it down to four things, it would be that you're fair, accurate, complete and true in writing your reports and doing your investigation, correct?
A Yes, those would be some of the good aspects, yes.
Q That's your goal, in general, whenever you do an investigation is to be fair, accurate, complete, and

true.
A Correct. I want to be fair, I want to be accurate and I want the truth to come out.
Q Because you want to put away the right person, correct?
A Well, I want to make sure that the proper person who committed the crime is brought in before the court of law and allow the jury to hear the testimony and the evidence to make a decision.
Q Basically you want to do what justice requires?
A I want to do what my job and my oath requires, yes, sir.
Q Now, when you get a big case, a case that piques the interest of the media, piques the interest of the public, you know in advance that there's going to be a lot of information on that case, right?
A Well, not necessarily. I mean, as far as witnesses coming forward or . . .
Q Well, just, you know, it's going to be important and there's going to be a lot of stuff to gather?
A Well, every case I work, especially homicides, is important, especially for the victim's family. So I would say every case I have is important.
Q Okay. And when you're doing --- I mean, you're in the violent crimes against person's unit, is that

correct?
A Yes, sir.
Q And anytime there's a case that involves that, it's going to be important?
A That's correct.
Q And anytime there's a case involving a violent crime, there's going to be a lot of information?
A It just depends on the case really. It depends on who comes forward as far as the case is concerned and who is involved in the case.
Q Right. But generally there's going to be more information than say a routine trespassing or something like that?
A You'll have more --- sure you'll talk to more people and there's more people involved than just a routine trespass.
Q Part of being fair, accurate, complete, and true in these types of cases is taking good notes.
A Correct.
Q And following up on your investigation?
A Yes.
Q And you keep --- I'm sorry to cut back and forth, but whenever you start a case, you start taking notes, correct?
A Yes, typically so we can refer back to them in

the meetings and whatnot, yes.
Q And like I said it's extremely important to get your notes correct because we could have a trial like in this case like 18 months down the road or it could be 36 months down the road. You never know, right, but it could be awhile.
A Correct. It's good to have notes to refer back to in trial.
Q And it's also good that, if during the life of the investigation, you have to update those notes, correct?
A Correct.
Q Because again, there could be a delay in between your investigation, when your investigation takes place and when the matter actually comes to trial, like today?
A Sure.
Q Now, let's talk a little bit about this particular incident, okay. You started investigating this homicide pretty much as soon as it happened?
A It was certainly within several hours, yes, you're correct.
Q And a uniformed officer was on the scene probably would you say half an hour, 45 minutes?
A I would say it was less than that. It was

several minutes he was on the scene.
Q And then by noon on the day of July 1st, which was the date that these allegations occurred?
A Uh-huh.
Q By noon or one o'clock that day, you had a briefing down at Columbia Police Department, correct?
A It was around that time. Let's see.
Q Maybe 1:30?
A I would go with probably closer to two. I was at Lexington County by noon, between noon and one o'clock. So it would have been about 2:30.
Q Okay.
A I'm estimating. I don't know.
Q While we're on Lexington County, you got some stills from, is it Mike Phelps over at Lexington County?
A I believe it was. He is a crime scene analyst there. So I believe it was. Yes, Investigator Phelps over at Lexington County sheriff's office.
Q You testified earlier that you had obtained some stills from him, correct?
A Correct.
Q And I believe you had originally discussed with him clarifying or enhancing the video that the jury has seen a couple times of the actual incident at 93

Tommy Circle.
A Trying to clear it up, correct.
Q And what he told you at that point was that his enhancement software or whatever stuff he used to enhance that video was broken down, correct?
A That's correct. It was inoperable at that point in time, yes.
Q And he told you that if you wanted the video, you needed to call back and check back with him later on?
A Right. If it was needed later on, that we would get back with them.
Q Okay. But getting back to the actual incident that we're talking about, you started investigating right away?
A Sure.
Q And then you had the briefing?
A Yes, sir.
Q And at that briefing, every investigator that was present and also under the VCAP unit, the violent crimes unit, was tasked or assigned to help you out during the initial phases of this investigation?
A Right. Every one that was there. I would say the entire VCAP unit was there, but there might have been one or two that was on vacation. I don't recall. I know some specific investigators that were involved

and were tasked to do things. Sometimes investigators will come in and out to help us with investigations, but I don't know if they were there that day or not, but yes, they were tasked with certain tasks to carry out.

Q And we won't say every single investigator, but in general --- I'd say the vast majority of investigators were from that unit were in that briefing, correct?

A We had quite a few VCAP, as well as other Officers that were aiding us. Yeah, it was a roomful.

Q So it would be fair to say that you had a pretty decent amount of manpower there initially?

A Sure.

Q Okay. And in fact, it probably doesn't surprise you that there are 42 police witnesses in this case, 42?

A I'd have to take your word on it. I'd have to count them.

Q That wouldn't be ---

A It wouldn't surprise me, no.

Q Okay. Now I want to talk a little bit about what you learned ---

A Okay.

Q --- when you were talking some of these people?

A Okay.
Q Now, on July 3rd, you learned the names Deandre Olds and Dontrell Weathers, correct?
A July 3rd?
Q Yes.
A I don't recall those names.
Q They were in the Crimestoppers tips. Do your need to take a look at them or something?
A Oh, do you have a the Crimestoppers tips?
MS. CAMPBELL: We may.
MS. CAMPBELL: Objection, Your Honor. This is my fault. We didn't --- may I approach?
THE COURT: Yes.
(WHEREUPON, a bench conference was held in the presence, but not within the hearing of the jury.)
MR. KRZYSTON: All right. We'll move on. On July 5th you learned that Marquis Johnson and Sequan Williams may have information regarding this crime.
A July 5th --- I recall the names. I don't recall the interview we were doing at the time.
Q Right. But you recall the fact that Marquis --- excuse me, Marcus Johnson and Marquis Johnson possibly had information in regards to this?
A The names came up during a phone conversation

with someone, yes.
Q Okay. And during that conversation you were told that the person you really needed to be speaking to was Marcus Haley Johnson, Shorty.
A I was told that there was word on the street, if you will, or maybe there is some type of connection, but no definitive.
Q Actual information?
A That he was involved or that he knew anything more than was already advised in the previous interviews I had done.
Q And you actually had a phone conversation on August 9th where you also heard the names Marquis Johnson and Sequan Williams?
A That's the phone call I'm referring to.
Q Uh-huh.
A What I was just referring to was the names. I'm not sure on the 5th --- I can't recall that unless you can advise me of the ---
Q Also, in that phone conversation you received the name Azo?
A The nickname, Azo came out. Not in the phone call conversation I don't believe. As involved in this case?
Q No, just has having possible involvement?

A Not possible information, but the name came out as a place where some individuals may have been prior to any involvement in the incident.
Q Right, so I mean, the individuals may have been at this Azo's house.
A Sure. That would be a good way to describe it, yes.
Q And you also learned again that Marquis Johnson, Sequan Williams and Marcus Haley Johnson also had the same type and nature of information that may have been around these individuals?
A Correct. They may have been hanging around with them.
Q Okay. Where are your notes from talking to Marcus Haley Johnson?
A I never interviewed Marcus Haley Johnson.
Q Where are your notes from talking to Marquis Johnson?
A I never interviewed Marquis Johnson.
Q And how about your notes for Sequan Williams?
A I never interviewed Sequan Williams.
Q Now lastly, in March of 2014, you talked to somebody and you got kind of a large list of names because you learned a bunch of information at that time?

A That's correct. I had an interview with an individual and some names came up, as well.
Q Okay. And one of those names was Azo, right?
A Azo was one of the names mentioned, yes.
Q You already said no notes, didn't end up talking to him?
A I never identified Azo.
Q And you already said --- Marcus Haley Johnson was one of those, but you don't have any notes from that, right?
A As far as talking to Marcus Haley Johnson, no, I don't. I never talked to him.
Q You never talked to him?
A No.
Q Okay. During that conversation you also learned that Ashley Carter, also known as Piggy may have information?
A Well, not information on the case. I had information that Ashley Carter was Troy Stevenson's girlfriend.
Q But she may know something ---
A It' hard because getting into the --- I can't get into the interview of what was actually advised of me, but during this interview the individual advised me of information that each person may have had or any

involvement or knowledge that they may have what. For most of these names there was no definitive --- they had no information knowledge about what had taken place.

Q Do you have your notes from Ms. Carter's interview there?

A I did not speak to Ms. Carter.

Q No notes from Sequan?

A Correct.

Q Now, Darryl Samuels, you were told about his name, correct?

A His name came up, as well, yes.

Q Can you turn to your notes about that?

A No, I didn't talk to Darryl Samuels.

Q Anthony Nelson, his name was dropped in that interview, too?

A Yes, and Anthony Nelson came up as well.

Q How about any notes from speaking to Mr. Nelson?

A Didn't speak to Mr. Nelson.

Q Didn't speak to Mr. Nelson. All right. Joshua Green and Tyreek Taylor they both came up in that interview, too, didn't they?

A Yes, all those names came up during the same interview that they were at the home after the incident occurred, but not that they had any knowledge

or direct involvement at all in this case.
Q Okay. Do you have the notes from that interview?
A No, I never spoke to them.
Q Never spoke to either of them, Tyreek or Anthony?
A You're correct.
Q Joshua, I'm sorry?
A Joshua green, that's right.
Q Okay. Now some other names, Donovan and Smiley and we never got a last name for them, did we?
A No, I never was able to identify them based on the information given.
Q Do you have any notes for that interview?
A No, I couldn't identify them so I ---
Q Okay. Now, we've got Cornelius Williams?
A I believe that was Sequan Williams. I don't recall a Cornelius Williams.
Q Okay, so no notes from him either?
A I don't recall his name coming up.
Q And lastly, Donald Moore who we heard testify earlier?
A Yes, that was one of the final names that came up was Donald Moore.
Q Donald, you did take some notes on that, right?
A As far as when I interviewed him, yes.
Q So of those 12 or 13 people, we got notes from

Donald Moore and that was it?
A Correct, Donald Moore was the one that was interviewed, yes, prior to these names.
Q And it was your testimony today that you don't have any knowledge as to what those other 12 people know?
A Well, I have knowledge what those 12 people know, yes, from the information that I got and how I got their names.
Q But no notes or interviews from them?
A You are correct, that's right.
MR. KRZYSTON: No further questions, Judge.
THE COURT: Cross?
MR. SCHNEE: May it please the Court.
THE COURT: Yes, sir.

CROSS-EXAMINATION:

BY MR. SCHNEE:
Q Mr. McCoy, let's just start off right where defense counsel left off. You had an interview in March of 2014, with a potential witness, right?
A With an individual. He wasn't a witness.
Q Okay. You had an interview?
A That's correct.
Q With an individual?
A That's correct.

Q March 24, 2014?
A Yes, around that time, yes.
Q Okay. Lasted about two hours?
A It was an hour and 40 some minutes.
Q Okay. Can I see your hand written notes for that?
A I didn't take any handwritten notes during that time.
Q You didn't take any notes during that interview?
A No, I don't recall taking any notes during that interview.
Q Did you say during that interview that you were going to be taking notes?
A Yes, I did make a comment that I was writing something down, is what I stated.
Q Did you say, "Hold on, I have to write this down"?
A That's correct.
Q Did you write anything down at that point?
A Not that I recall, no.
Q So you said, "Hold on let me write this down."
A There are times we don't write notes down when we're interviewing individuals, especially if they're going quickly and we're obtaining information from them. A lot of times, I'll use as kind of a stop gap

where I can think about other questions to come up with.
Q Okay.
A I don't recall taking anyone notes during the interview.
Q You don't recall taking any notes even though you said, "Stop, I have to write this down. It's really important"?
A Correct. There's no notes in the file and I don't recall taking them.
Q Okay. Well, you have your typed out case notes, right?
A That's correct. I have them here. I have a copy here.
Q I have just want to make sure?
A Sure.
Q This is the copy I received. Does that end the same place that yours end?
A I'll take a look.
(Pause.)
No, yours ends --- unless you have them out of order, a few months prior to mine.
Q May I take a look at yours?
A Sure. You sure can. That's my last page there. Yours are out of order. That's your last page.

MR. SCHNEE: Judge, just a brief matter of law we'll need to take up.

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

(WHEREUPON, the jury left the courtroom at 2:24 P.M.)

THE COURT: Okay.

MR. SCHNEE: Judge, there are two entries in his typed up case notes that we have never seen. This is a violation of Brady, Rule 5, Riddle along with every other discovery issue we've had.

MR. KRZYSTON: We'd join in Mr. Schnee's motion.

MS. CAMPBELL: May I see what you're referring to that you don't have?

MR. SCHNEE: It is --- I will admit it's nothing earth shattering. It's the last two entries. The one that starts on 1126.

MS. CAMPBELL: Your Honor, I can get the discovery sheet where this was turned over. I know that first, the original one, didn't have those additional two entries. In addition to that, we begged Mr. Schnee to come and meet with us and go over discovery, and he didn't see fit.

THE COURT: Can I see it?

MS. CAMPBELL: Yes, sir. It starts --- I believe the entries are "... we prepared search warrants, the search warrants were provided ..." and then the last statement on the last page.

MR. SCHNEE: This is the copy that we were provided, Judge.

MR. KRZYSTON: And, Judge, just for the record, we actually did meet with Ms. Simpson, I believe on two occasions, and at that time all of our case --- I believe these are case notes? Our case notes and Ms. Simpson's case notes ended on August 29th.

THE COURT: Do you want to see what this says before you have an objection about it?

MR. KRZYSTON: I'm certainly happy to read it, Your Honor. May I approach?

THE COURT: Yes.

MR. KRZYSTON: Thank you.

(WHEREUPON, there was a bench conference.)

MR. KRZYSTON: Thank you, Judge.

MS. GARFIELD: I'm sorry, Judge. What are they saying they never got?

THE COURT: They're saying in McCoy's case notes, the entries that are dated November 26th, 2013, and December 4th, 2013 were never turned over.

MS. GARFIELD: Judge, I met with McCoy. I made

copy of everything I turned over and gave him an opportunity to come look at my notebook and meet with McCoy himself.

THE COURT: What is in your notebook?

MS. GARFIELD: I'm getting it.

(Pause.)

MR. KRZYSTON: Judge, I would maintain my objection.

MS. GARFIELD: The last entry in my notes on my notebook is --- I'm sorry. The last entry of notes in my notebook are entitled August 29th, 2013. Investigator McCoy then gave me a CD of everything in his file and we made duplicates of that and turned it over.

MS. CAMPBELL: We'll go get that.

THE COURT: How is this exculpatory or mitigating something.

MR. SCHNEE: Judge, my issue not the content of the information.

THE COURT: Well, your issue has to be the content of that information.

MR. SCHNEE: No.

THE COURT: Because otherwise you're not entitled to it.

MR. SCHNEE: Judge, my issue is yet again there

is a delayed disclosure and I have serious concerns that I actually have everything at this point.

THE COURT: Well, you can have serious concerns all you want to, but you have to show that the information that was contained that was not turned over is exculpatory or mitigating toward your client. This information is --- he says that he prepared in four search warrants, which everybody has been on notice of and we discussed the majority of the trial and that on one day Mr. Young was interviewed and says your client is the shooter, so I don't know how that is exculpatory or mitigating toward your client.

MR. SCHNEE: Well, Judge, it certainly is material to innocence and/or guilt which is the definition of Brady. My problem ---

THE COURT: How is it --- I mean, that statement makes no sense. It's got to be exculpatory, which would mean your client didn't do it.

MR. SCHNEE: Judge, my ---

THE COURT: How is it exculpatory or mitigating toward Mr. Barnes?

MR. SCHNEE: Judge, I'm not saying it is. My issue is this delayed disclosure of this investigator's actual report that we were told multiple times we have absolutely everything the

investigators do. We've gone through this multiple times and now in the middle of cross-examination he has a copy of a report that I don't have. That's a problem.

MS. CAMPBELL: I'm sorry.

MR. SCHNEE: Go ahead.

MS. CAMPBELL: I apologize. Your Honor, In addition to that, the entries, one refers to the search warrants which were provided. The other entry refers to an interview which was provided, but it's not new or different information. And I'm getting the CD, as well, Your Honor, where it was turned over again in August or September?

MS. GARFIELD: This was after.

MS. CAMPBELL: This has been in the last two weeks. But we'll get that to you and make it a part of the record.

THE COURT: Okay. All right. Any notion regards to this anyone's side is denied.

MR. SCHNEE: Yes, Your Honor. I would renew my Brady and Rule 5 motions to ensure that I actually have everything that I am supposed to have, every scrap of paper from law enforcement which clearly I don't or at least still not yet despite the fact that we are probably in the very last day of testimony if

not close to it, so I would renew that motions and request a mistrial based on yet another delayed disclosure.

THE COURT: Every scrap of paper is not the standard.

MR. SCHNEE: It's everything that goes to --- that's material for impeachment, inculpatory, exculpatory.

THE COURT: That's actually not correct.

MR. SCHNEE: For Brady it's anything material to guilt and/or punishment.

THE COURT: Mr. Schnee, you have an interesting view of the discovery rules, however, this material, number one, you've already been provided all of it. Number two, it's not exculpatory or mitigating toward your client. As to Mr. Young, they already knew about it from the interview and from the search warrant, so it should have been in the entire time. All right. We're moving on. Bring the jury back.

MS. GARFIELD: Judge, since there's been prior allegations brought up on Mr. Schnee's part ---

THE COURT: That's the cops.

MS. GARFIELD: --- my concern is --- I just want the record to reflect that there was opportunity for Mr. Schnee to come over anytime. I welcome that. I

prefer that. It never happened.

MR. SCHNEE: Before the jury comes in, could I least get a copy of that final report?

THE COURT: Sure, I don't have a law clerk. Jackie, can you make a copy of it?

THE BAILIFF: The jury is seated.

THE COURT: All right. Mr. Schnee.

(WHEREUPON, the jury entered the courtroom at 2:33 P.M.)

BY MR. SCHNEE:

Q Mr. McCoy, would you agree or disagree that taking careful notes is an important part of your job?

A Yes, I would agree.

Q Would you agree or disagree that interviewing witnesses that have potential information are an important part of your job?

A Yes, I would agree.

Q Would you agree that when you are given the name of a person who has potential information that it is incumbent on you, as the investigator, to at least attempt talk to them?

A It depends on the information given, where the information is coming from, and what information they would have had or might have had.

Q Okay. Well, for example if someone had said

Mr. X may have been one to dispose of the guns, just as an example, would you feel it's important to interview Mr. X about that issue?

A If we hadn't already interviewed or interviewed about that topic, yes.

Q Okay. Now, I want to go back to a few things that you said during your direct exam. You said you did not try to collect fingerprints at all at the bakery?

A Right. The crime scene investigator did not try to collect fingerprints. The testimony was we did not. I don't collect fingerprints.

Q Right, as a unit of law enforcement, you made no attempt to collect fingerprints?

A You're correct, yes.

Q And do you remember testifying in this case back on --- what date was this? Looks like Monday, November 23rd at the preliminary hearing. Do you remember that?

A It was a preliminary hearing for this case?

Q Yes.

A I recall testifying, yes.

Q Okay. Do you know what that document is?

A It looks like --- is it a transcript?

Q Yes.

A Okay.
Q And on there does it say what the case name and caption is?
A Yes, it is the State of South Carolina v. Lorenzo Young.
Q Okay. And this would be the date?
A Monday the 25th of November, 2013, approximately 2:22 P.M.
Q Okay. Turn to page nine.
A Nine?
Q Oh, I'm sorry
A Seven.
Q I'm sorry, line nine. It says, and you correct me if I'm wrong, this is --- you're testifying, right?
A Uh-huh.
Q He said we went back, did DNA swabs and tried to take any kind of fingerprints that we could. Right?
A Correct.
Q And then you even clarified and said dust for fingerprints?
A Right, I did.
Q And that's what you said in November of 2013 that you tried to go and get fingerprints?
A Right. I misspoke.
Q You misspoke?

A That's correct.
Q So you said try to get fingerprints and then corrected yourself and said I'm sorry, dust for fingerprints. That's what you said in here?
A That's what I said in here, yes, that's correct.
Q All right.
Q I've just been handed the last page of your typed notes. That entry ends on December 4, 2013?
A You're correct.
Q You interviewed a witness on March 24th, 2013?
A 2014.
Q 2014.
A That's correct.
Q Can you show me where you wrote down anywhere that you even interviewed that person?
A I did not put it in my notes. It was memorialized via audio recording into the case file.
Q And that wasn't turned over until, I believe, October of this year?
A Which, the case file or the audio recording?
Q The audio recording.
A I don't recall exactly when it was turned over. It was turned over to the solicitor's office. I don't have a date for you.
Q It was October 26th; isn't that right?

A I don't recall the date, again, but it was turned over prior to trial.
Q Prior to trial, but you didn't put anything in your written notes at all or your typed up report that you even had that interview?
A That's correct. As I said, it was audio recorded and stored in the case file.
Q Okay. Now, as part of your training, I believe you said you're taught about the law?
A Correct.
Q Okay.
A Criminal aspect of society.
Q Okay, you're taught certain things about the law?
A Yes.
Q Okay. You're taught about what crimes are?
A Yes.
Q You're taught the elements of crimes?
A Yes.
Q Okay. You're also taught what you as an officer are allowed to do, right?
A Correct, within the constitution, yes.
Q And as a police officer, you're taught what you're not allowed to do?
A Correct.
Q And you even said that your oath is to protect

constitutional rights of the community?
A That's correct. I said that, yes.
Q And every case is important to you, right?
A It is.
Q And in order to protect the constitutional rights of the community, you would agree with me that you can't go out and commit crimes as part of your job?
A As part of my --- commit crimes as part of my duties?
Q Right, on your job?
A Right. I'm not supposed commit crimes, yes, you're correct.
Q Okay. Now when you question individuals that you think may be suspected of a crime, you're required to read them what's called Miranda rights?
A Correct.
Q Okay.
A Well, it depends.
Q If your questioning them?
A It depends.
Q Custody?
A If they're in custody, they're under arrest or in the custody of the police department and we are going question them regarding the circumstances of that custody or what they're being charged with.

Q Uh-huh.
A Then yes, you're correct.
Q You tell them that they don't have to talk to you. They have the right to remain silent?
A Yes.
Q They have a right to an attorney?
A Correct.
Q If they can't afford one, one will be provided?
A That's correct.
Q You also tell them they don't have to answer any questions at all if they don't want to?
A That's correct and they can stop at any time.
Q Now, after that you normally go through if they agree with that and want to talk to you, and you ask them if they want to talk to you, correct?
A Correct.
Q You ask if they have been threatened, right?
Q Right.
A Threatened or coerced to talk to us, right.
Q Threatened or coerced, right, you ask then that.
A Right, I do.
Q Okay. Because if someone has been threatened or coerced you can't actually take a statement from them, can you?
A If we have threatened or coerced them for them to

make a statement, for them to waive their rights, that's correct.

Q Okay. You would agree with me that you can't threaten suspects. You, as a police officer in an interrogation, cannot threaten suspects, yes or no?

A Threaten suspects with?

Q With anything. You can't threaten them, can you?

A No, you can't threaten a suspect.

Q Okay.

Q In the interviews in this case, did you threaten a suspect by sticking a needle --- with the threat of sticking a needle in their arm?

A I did not threaten a suspect that I would stick a needle in someone's arm, no.

Q Did you say, yes or no, "the only thing that's going to keep a needle from going in your arm is if you're fucking honest with me?"

A I did say that.

Q To a suspect?

A I did.

Q You know that's illegal, don't you?

A Excuse me?

Q That's against the law, isn't it?

A No, I was not aware that it was against law.

Q You're unaware in all your training ---

MS. CAMPBELL: Objection, Your Honor.
THE COURT: What's the objection?
MS. CAMPBELL: I believe it's gone beyond the scope of what we discussed.
THE COURT: Sustained.
MR. SCHNEE: I hadn't finished my question.
BY MR. SCHNEE:
Q It's part of your training to --- let me get this straight. You are unaware that threatening to have a needle going into someone's arm, you're unaware that that's against the law?
A Again, with this incident, I didn't threaten to put a needle in someone's arm. I was attempting to get this individual to understand the circumstances that he was in.
Q And then exactly what are you ---
A It's ---
MS. CAMPBELL: Objection, Your Honor. He needs to wait ---
THE WITNESS: Can I please finish my ---
BY MR. SCHNEE:
Q I thought you were finished.
A That's all right. I was attempting to get him to realize the predicament he was in and the gravity of the certain situation that he was looking at and by

being honest, which was trying to get the truth out of this individual, by being honest, that would be a better option than lying.

Q The gravity of the situation is what you're trying to instill in this individual?

A That's correct. I was trying to let him see the situation he had put himself in, that is correct.

Q The gravity of the situation that you're referring to by a needle in the arm is the death penalty, yes?

MS. CAMPBELL: Objection, Your Honor. This was a pretrial ruling.

THE COURT: Sustained. Disregard that statement.

BY MR. SCHNEE:

Q Now, you said that you --- let's see. We'll get back to that one.

On July 3rd, 2013, you indicated in your report you made contact with who you listed as a quote criminal informant?

A July 3rd, you're talking about my notes?

Q Yes, 9:40 A.M.

A Oh, let's see.

A July 3rd 9:40 A.M. Yes, I received information from an informant, a criminal informant --- a confidential informant, if you will.

Q Now, this isn't Donald Moore because you have already talked about him and put his name in there, right, Investigator McCoy?
A Correct, it's not Donald Moore.
Q And it's not Mary Brown who called Crimestoppers?
A That's correct.
Q So this is someone else.
A That's correct.
Q That you received information from about this case?
A Correct.
Q Who is it?
A He was a confidential informant with the Richland County Sheriff's Department.
Q What's his name or her name?
A I never see the name through the tips. It's not uncommon. We get anonymous tips all the time. I never received his name, nor did I ask for it.
Q You didn't even bother to ask for a name?
A He was a confidential informant, which is a common practice with the police department or for the Richland County Sheriff's Department.
Q Well, did he call you or did the sheriff's department call you?
A The sheriff's department called me.

Q You didn't even ask to talk to this person?
A The sheriff's department contacted me. They had information.
Q You didn't ask to talk to the person that gave you that information?
A I did. I did speak with him. That's why I said I received information from the informant.
Q Right. Well, who is it?
A Again, he is a confidential informant and I don't have his name. It's not an uncommon practice for them not to want to give names. It's very common that they don't want to identify themselves.
Q Yes. If it was back ---
A They don't ---
Q --- well over a year ago, I can understand someone not wanting to give their name, but we're in the middle a trial and you're not telling me who this witness is that you talked to?
MS. CAMPBELL: Objection, Your Honor, asked and answered.
THE COURT: Sustained.
BY MR. SCHNEE:
Q I'll move on. You say it's a common practice to hide the names of people that you call informants?
A Not to hide the names. You are misinterpreting

what I'm saying.
Q To conceal names.
MS. CAMPBELL: Objection, Your Honor. He has a right to answer.
THE COURT: Sustained.
THE WITNESS: The practice is --- of a confidential informant is to protect this person's identity, from any safety concerns that may arise from the information they give us. It's a common law enforcement practice that's been used for years and that's a common thing. I documented the fact that I spoke with someone and was given information, whether that hurt or helped your client or the other client. I documented that information in the notes because there was no recorded interview because he was confidential informant.
BY MR. SCHNEE:
Q I see.
A I gave you all the information that I had.
Q Except you talked to him. You talked to this informant?
A According to my notes, I received this information from this informant, yes.
Q Directly from the informant?
A That's what it appears in my notes, yes.

Q An informant that I don't know who it is, right?
A I would assume you wouldn't, yes, that's correct, sir.
Q Okay. Now, during the course of your investigations overall, have you ever gotten information or wanted to get information from someone and told them that you would conceal their identity and just call them an informant, even though you already knew who they were?
A I don't recall a specific interview or conversation. Is there one you can talk about that you can remind me of?
Q Sure, August 21, 2013, you had a phone conversation with Donald Moore, did you not?
A You said August 21st, 2013?
Q Yes, sir.
A Let's see. I had one with Mary Brown. Yes, that's correct.
Q Okay. Now during that interview, you're talking partly about this case, but Donald Moore brings up the fact he might have information about a completely unrelated case. Do you remember that?
A Vaguely, yes.
Q Okay. He was trying to --- thinks he can find out the name in a suspect something completely

unrelated to any of this?
A Do you have a transcript of any of this just so I can look at this it?
Q I do not. I have an audio recording I'd be happy to show you?
A I recall having a conversation with him. I believe it was about some other case I wasn't involved in.
Q Correct. It was some random rape case. Do you remember that?
A Sure, sure, that's correct.
Q Did you or did you not tell him that if he could find out the name of this alleged suspect, that you would list Mr. Moore as a confidential informant because as long as the victim could identify the suspect, you would never have to release his name as being Donald Moore?
A From my understanding and from the way the conversation went, as far as I can remember, Mr. Moore was a confidential informant at that point with the Columbia Police Department even signed up, certified with our organized crime and our narcotics division, so he was acting as confidential informant as we do with many confidential informants and he was basically relaying information --- we were talking about this

case where he was named in, because he wasn't at the time this case began. However, at this point in time he was a confidential informant with the Columbia Police Department and he was basically relaying, hey listen, I might have a name or may have information. I'm paraphrasing here, I don't remember the exact words that were said. Stop me if I'm wrong. He was basically trying to give us the name, or if he could find it out and, of course, his concern always with giving information was am I going to be harmed or is this going to come out or something along those lines. I was basically relaying to him, since he was already a confidential informant, that would be kept confidential, which is the whole point of being a confidential informant.

Q Did you tell him that it doesn't matter how he gets the name, that as long as the victim identifies the guy it doesn't matter?

A There's a good possibility that I said those words, yes.

Q All right. I want to talk to you a little bit about some of the information you have been given. Some of this I know it's been gone over a little bit.

A All right.

Q Now, Marcus Haley Johnson, you were given that

name by a number of individuals in this case, haven't you?
A Yeah, the first Latoya Barnes was the first time that name ever came up.
Q That was back in July or August?
A No, that he was back in August 2013, during the same phone conversation that we heard the snippet from.
Q And she told you'll that Marcus Haley Johnson happened to be in jail for something at the time, right?
A I believe it was a narcotics violation, yes.
Q Okay. She suggested you go down there and talk to him because he had information that you wanted, right?
A She said he was spreading information inside the jail, possibly, yes.
Q Okay.
A That he might have known or be able to be confirm what we had already established through other witnesses.
Q Okay. You told her absolutely, that's what you could do. That's one of the next things on my list?
A I believe so, yes.
Q You never talked him, did you?

A I never talked to him, no.
Q You were also given the name of a number of other people that may or may not establish alibis or have information of anything else of various people involved or not involved. For example, Darryl Samuels.
A Correct.
Q Never interviewed him?
A I did not.
Q Anthony Nelson?
A He was not interviewed.
Q Joshua Green was not interviewed.
A Joshua Green was never interviewed.
Q Marquis Johnson?
A Marquis.
Q Yes.
A No, he is not interviewed.
Q Which is different than Marcus Haley Johnson?
A That's correct, different person.
Q You interviewed neither of those?
A You're, correct.
Q Sequan Williams, you never interviewed him.
A No, I did not.
Q Ashley Carter, you never interviewed her?
A No, I did not.

Q Did you even try to look any of these people up to see if you could find them?
A Well, when we were given the names, you understand, they were cooperating where defense counsel. Typically Troy Stevenson's defense counsel. At that point in time when it was during an interview that I was obtaining this information. Most of the information was information already obtained or corroborated by other sources, that we had already found. The majority of those names you named Marquis Johnson, Sequan Williams, Anthony Nelson and Ashley Carter, there was no information relaying they were directly involved or maybe even knew about this particular incident. Ashley Carter, the only information was that she happened to be there that night and was hanging out with Troy prior to what happened. That's the information we got.
Q That's all the information you've got about Ashley?
A Ashley Carter, I got a phone number from Ashley Carter I believe at some point.
Q You got a phone number, did that you even try call it?
A That was Troy's girlfriend.
Q Did you even try to call it?

A No, I didn't try to call it. The information was she had no information whatsoever.
Q She gave you hat information?
A No, Troy Stevenson gave me that information.
Q Troy Stevenson was actually trying to use her as an alibi saying that he had no involvement, right?
A The reason these names were given was, you're, correct, they were witnesses who were going to, not alibi Troy during the incident, but to confirm some information that he had given --- a lot of information we had already confirmed.
Q Okay. So you have witnesses who are at Troy Stevenson's house?
A Correct.
Q Shortly before this incident?
A Correct.
Q And some of them there all the way through the next morning?
A There were a few, yes.
Q And you've interviewed zero of them, right?
A Let me look. Yes, you're correct.
Q Okay. Now, you said that there were some dark hoodies taken from Trenton's house?
A Trenton Barnes' yeah, 2849 Lucille Drive, that's correct.

Q One of them was a wet hoodie, dark blue?
A That's the investigator, Investigator Moorer, she was actually running the search. I went to another location. Yes, she stated that it was wet when it was collected.
Q Okay. It was a dark colored hoodie?
A I believe it was a dark blue or black. I can't remember, I would have to look at the search warrant.
Q Ever have that tested or submitted for DNA testing?
A The hoodie?
Q Yeah?
A I believe the hoodie was submitted for testing to see if I could be linked to it scene via blood spatter or DNA.
Q Would it surprise do you learn the only hoodie that was tested for DNA was the one that Ms. Hunnewell wore?
A Yes, it would.
Q Can you show me in your notes where you had that hoodie tested for DNA?
A No.
Q From Trenton's house?
A When items are submitted for analysis, they're done on a submission form through SLED and the results

are of course, printed out through SLED and they're stored in the case file.

Q Who submits those requests?

A Crime scene investigation units.

Q Okay, would it surprise you to know that none of those requests have ever been submitted?

A I don't know if they were or not. I would have to look at the logs. Do you have a log in front you?

Q No, you're the lead investigator, aren't you?

A That's correct.

Q You're supposed know what's going on in your case?

A Sure, absolutely.

Q To be the one to follow up and figure out what other people are doing on your case?

A That's correct as long as I'm advised of it, yes.

Q So you wait for people to tell you what's going on? You don't find out what your own fellow colleagues are doing on your case?

A On a case this large or this much stuff involved in it when items of evidence or other witnesses are tasked or pieced out to do, those officers will put notes together and submit them to me on what was done and what was handled. That's something for me to review for court or for them to testify off of when

they're called.
Q Okay. The house, the Trenton Barnes' house search warrant, that was July 5th of 2013?
A Yeah, late afternoon hours. That's correct.
Q So between then and yesterday, you had no opportunity to figure out if that hoodie has even been tested for DNA?
A Have I had the opportunity or have I checked, do you mean?
Q Either one?
A I have not looked see if that hoodie was tested, no.
Q And you talked a little bit about the video you released to the media?
A Correct.
Q You didn't want to release the full video because your wanted to figure out if future witnesses were being honest and had actual knowledge of events, right?
A Yes, that's a pretty standard investigative practice, yeah.
Q And you do that because when you talk people, you want to parlay what they say or what they don't say, right?
A Sure.

Q Okay. Now, you interviewed --- you interviewed a number of people in the jailhouse at some point, is that right, that have come forward?
A I believe it was it was two total.
Q One from Michael Schaefer?
A That's correct.
Q And then there was Michael Peterson?
A I did not directly interview Michael Peterson.
Q You did not interview Michael Peterson?
A I did not interview Michael Peterson.
Q Do you know who did interview Michael Peterson?
A I'm not aware. The first time I saw Michael Peterson was here when he testified. I was aware that he had given to statement. The solicitor's office told me that, but I don't know who actually interviewed him.
Q Okay. You're aware in his version of events that are quite interesting, he claims that Lorenzo told him that at some point Ms. Hunnewell walked into a back room and picked up a cell phone. Were you here for that testimony?
A I was. I was sitting over there when he testified to that, yes.
Q Now, would that one of those types of times when you want to check to confirm of, you know, if someone

is telling the truth or not based on what information they have compared to the video?
A Well, I had nothing do with Mr. Peterson's testimony or statements or anything of that nature. That didn't come through the police department.
Q Okay.
A I didn't have any involvement with it.
Q So even as a lead investigator, when you receive that information even when you obtain it, you don't feel it's necessary to follow up or do anything with it afterwards?
A I never received his statement or information for my case file because it never generated from the police department. That's not --- that was done through another party, I assume from the solicitor's office, but that information was not delivered to me. The first time I ever heard any statement from Mr. Peterson or even knew he existed was when he testified except that I had gone over the list of witnesses with the solicitor's office, the names of just who was going to testify.
Q Okay.
A I heard the name, but that was the extent of it.
Q So in preparation for trial, you didn't even inquire as to what this witness would say even though

you're the lead investigator sitting in here the whole time?

MS. CAMPBELL: Objection, Your Honor. The whole line of questioning is --- I think he's ---

THE COURT: Overruled.

THE WITNESS: With something like that, if I don't initiate it or it doesn't come through our office, I don't get involved in that particular part of it. We have several law enforcement agencies assist in certain things. The solicitor's office have their own investigators where they obtain statements, so that's information that I was not privy to or not given prior to the trial, so I have no way of following up on it if I'm not given that information.

Q You're the lead investigator on this case, right?

A For the Columbia Police Department, yes.

Q You're the lead investigator on this case, correct?

A For the Columbia Police Department, yes, you're correct.

Q I'm asking you, did you or did you not inquire as to the content of any of the witnesses that you did not personally interview or have notes on already?

A I did not inquire as to what the information was, no.

MR. SCHNEE: All right. I've got nothing else, Judge.

THE COURT: Redirect?

MS. CAMPBELL: Yes, sir.

REDIRECT EXAMINATION:

BY MS. CAMPBELL:

Q Is it unusual at all after a case is --- people have been arrested and it comes to our office and the indictments have come down for additional information to come forward?

A No, it's not uncommon at all.

Q Is it unusual for our office to handle that, investigators from our office, versus putting it back on you?

A That's not at all unusual. That's a pretty common practice.

Q And he asked you about an interview in March and some names that came up?

A That's correct.

MS. CAMPBELL: Your Honor, at the time we would introduce that interview of Troy Stevenson.

MR. SCHNEE: Judge, I would object. That's clearly hearsay.

THE COURT: All right. Step back to your jury room. We'll be back in a few minutes. Do not discuss

the case. Keep an open mind.

(WHEREUPON, the jury left the courtroom at 3:00 P.M.)

THE COURT: All right. What's your theory, Ms. Campbell?

MS. CAMPBELL: Your Honor, both of the defense counsels went into an interview that took place. I don't think it came out until Mr. Schnee got up. It was with Troy Stevenson. They went into details about what was said in that, names that came up, information that came from Mr. Stevenson. Your Honor, under a completeness doctrine, at this point we think it opens the door to the fact that in order for this investigator to be able to fully explain everything he did in this case, and in addition to that, they should understand the context under which this information came forward that we think right now we have the right to then introduce the entire statement.

MR. KRZYSTON: Thank you, Your Honor, may it please the Court. I would note that during our cross-examination we went into no detail specifically with Investigator McCoy. We asked simply did he learn these names and if he had notes regarding those names. There was no information substantively gone into on cross by Mr. Young. Because of that and because we

haven't introduced a recording, we would argue that any admission of a recording by Troy Stevenson in between Troy and Mr. McCoy is hearsay as it applies to Mr. Young.

Judge, I would again draw the court's attention to the fact that no statements --- I did not go into specifically any words that Mr. McCoy spoke. I did not go or play any recording containing McCoy's voice and I don't think that 106 is triggered until some recording or recitation of his direct statements are utilized by the defense. I would also again assert that this is hearsay. It involves not only the hearsay rules and evidence rules, but it also invokes U.S v. Williamson and potentially Bruton depending upon whether or not the particular statement in question was given to police or was given to a lay declarant. This involves almost every single issue that we have raised prior to trial in arguing severance, as well as during the life of the trial in arguing to exclude hearsay testimony based on Williamson. So I think this is the kit and caboodle. This is everything that we have argued all in one and I do not believe it is admissible.

MR. SCHNEE: Judge, I asked this witness multiple questions about names he was given as part of his

investigation.

Investigatory hearsay is a very limited exception. The fact is ---

THE COURT: What is investigator hearsay?

MS. CAMPBELL: What?

MR. SCHNEE: Investigatory hearsay? It's the investigator is on the stand and they can talk about their investigation in very limited circumstances. That is exactly what Ms. Campbell does on a very regular basis with lead investigators getting into the conversations he had with other witnesses, with other police officers, the course of his investigation. My cross-examination ---

THE COURT: For the record, investigatory hearsay doesn't exist, and if Ms. Campbell was going into something inappropriate on direct with a witness it should have been objected to and I would have dealt with it.

MR. SCHNEE: Well ---

THE COURT: What she does in other cases at this point doesn't matter to me, but investigatory hearsay is something that you just created. Let's deal with the issue.

MR. SCHNEE: Judge, the issue is if Ms. Campbell is trying to say that this recording somehow explains

what was being questioned by Investigator McCoy as to why he wasn't going to interview any of these witnesses, that's simple preposterous. There is nothing in that recording that would indicate as why he didn't interview any of these witnesses, which was the only thing that came out of the Troy Stevenson interview that he was questioned about are the names of those witnesses.

THE COURT: Ms. Campbell.

MS. CAMPBELL: That's my point. That is the only thing that came was what he chose to bring out on cross-examination. In order for the jury to be able to understand whether or not they should have followed up with all these other witnesses, they should be able to hear exactly what information was provided, what information he had at the time and the context in which it was being given as far as their relevance as to what they did. Right now the only thing the jury knows is that there are eight names out there that they didn't ---

THE COURT: No, we're at 12.

MS. CAMPBELL: Twelve now? There's two of them I've never heard of.

THE COURT: According to Mr. Krzyston.

MR. SCHNEE: Well, actually, Judge, there were

quite a few given by other people, and even Investigator McCoy said that, yes, Marcus Haley Johnson, Marquis Johnson, some of the others were given by Latoya Barnes, which had been testified to multiple times even by Ms. Barnes when she was on the stand.

MS. CAMPBELL: I'm not talking about Ms. Barnes.

MR. KRZYSTON: Judge, might I inquire as to what exactly in Mr. Stevenson's statement would go to establish whether or not his failure to investigate these people was reasonable. I don't believe there is anything in the statements themselves that actually explain why he will failed to talk to these people. I mean, there's no reference to gangs, to these people being in gangs. This is simply information conveyed to Mr. Stevenson --- rather from Mr. Stevenson to Investigator McCoy, that indicates these people were around. I don't know that there's anything in the actual substantive statement that addresses why he filed do that. If that's the reason the State is offering that evidence, I don't know that we actually have any of that evidence.

MR. SCHNEE: And we obviously have a huge Bruton issue because this is Troy Stevenson in a custodial interrogation.

THE COURT: Why didn't you go interview these people?

THE WITNESS: Why did I not interview these people?

THE COURT: Yes.

THE WITNESS: In speaking with Troy, it was a --- it was defense counsel --- Amy Zmroczek was cooperating and Troy was cooperating with the investigation.

THE COURT: Right.

THE WITNESS: They came forward. It was indicated during the interview that there were some statements that she had already spoken to all these individuals and some statements involved as well as identification had been made on some of them ---

THE COURT: Okay.

THE WITNESS: --- or most of them. She also indicated that that would be provided to me or to us so I could do a follow up. I wanted to look what the had been provided already to determine when I talked to them what was true or what wasn't true, what was going on, also Troy himself during the interview, like Ashley Carter said that she didn't know anything. She wasn't involved. She didn't have any idea. She was just there hanging out at the house prior to it. He

even made statements saying they never discussed the crime itself the night before it happened.

There was even information in there about none of those people were involved in the planning, the operation or even there at the scene. The only people he identifies at the scene that did the shooting are those two men right there and he is adamant about that. That the only people down there were Trenton, Lorenzo and himself which is the same information I got from him the other two times I interviewed him. This is the third time. This stuff came out in March of this year after defense counsel supposedly spoke with these individuals and there were statements that existed.

Now, I reviewed the information that was given to the --- well, I've seen some information regarding what she had. There were no statements. There was nothing to that effect at all. My understanding is they didn't even cooperate. Troy also states that a lot of these people don't want to cooperate with the police. They have no desire to come talk to me because of (A) their gang involvement. He didn't say gang involvement, but that's the gist of it as well as (B) they're afraid of arrest because they know about --- they possibly know about it but don't --- weren't

involved in it, so they were afraid of some misprison charge or something, I'm assuming. I wanted to get the information from Ms. Zmroczek before I went and tracked it down. Of course, that wasn't provided until November of this year.

MS. CAMPBELL: And just for the record, Reciprocal Rule 5 didn't include any of that information.

THE WITNESS: Yeah, so I don't know what's...

THE COURT: I mean, what you're really worried about is him saying or them playing an audio where Troy says your client did it, right?

MR. KRZYSTON: Correct, Your Honor.

THE COURT: Same thing for you, right?

MR. SCHNEE: That's the entirety of his recording.

THE COURT: That's not the entirety of it. Don't use words like entirety.

MR. SCHNEE: The vast majority.

THE COURT: Here is what I'm going to allow. I'm going to allow Investigator McCoy to explain not via the audio recording, but explain via his own testimony why he made the decision to not go interview these people. That explanation is not going to involve anything because anybody is in a gang.

THE WITNESS: Got you.

THE COURT: Or anybody is scared of any retaliation or somebody is going to come get me and it's not going to have anything do with Troy told me that these two people did it.

THE WITNESS: Got you.

THE COURT: I think he should be allowed --- I mean, this was at least ten minutes of everybody's cross-examination. You had all these witness names and you didn't do anything with it. I don't think it's fair to leave that out there. I also don't think Troy saying that Mr. Barnes and Mr. Young did it is admissible under Bruton, and the confrontation clause and every other violation that I can imagine, but I will allow Investigator McCoy to explain why he didn't go interview these people, but without saying retaliation, gangs or ---

MS. CAMPBELL: As to them?

THE COURT: As to, Mr. Stevenson had already told me that Mr. Barnes and Mr. Young did it. I mean, that's not something that's admissible. He can go on, you know, I made the decision to not go interview these people because of this, without saying the gist of Troy says Lorenzo and Trenton did it with me.

MR. KRZYSTON: Your Honor, and then my concern

becomes --- I guess, I've got an issue with the fact of how he knows these people weren't willing to cooperate with law enforcement. I mean, he has learned the fact these people are quote unquote unwilling to cooperate with law enforcement directly from the mouth of Troy Stevenson. I believe that's hearsay.

THE COURT: Well, I mean, you opened this door, Mr. Krzyston. I mean, this door was opened by the defense and the cross examination of the lead investigator as to what he did or what he didn't do, so I am going to give him a little bit of leeway. I'm going to allow Ms. Campbell to lead through this a little bit so that we don't end up in a situation Investigator McCoy feels like he has to say something just to explain himself.

MS. CAMPBELL: But, Your Honor, in addition to that as your ruled prior to us getting into this part with this witness, he is not going to say anything about them being in a gang.

THE COURT: Right.

MS. CAMPBELL: But an additional reason he didn't go interview a couple of these people is that they are in gangs and in his experience, they aren't forthcoming.

THE COURT: Well, we don't need get into that. He didn't learn that from Troy is what he just told me. What he just told me was he didn't --- he was essentially speculating that these people were in gangs and they weren't going to talk to him. That's what he just said.

MS. CAMPBELL: Except the exception to that is Latoya Barnes when she brings up the names of Marquis and Marcus, he does know that are gang affiliated and that he is not going to talk to them. And they brought that out, too. I mean, I just feel like we're hamstrung because we can't address this misinformation their purporting without going into Troy Stevenson.

THE COURT: He has --- I mean, do you have any personal knowledge if any of that these people are in gangs?

THE WITNESS: Some not all of them.

THE COURT: That you knew when you were interviewing Troy Stevenson?

THE WITNESS: At that particular time?

THE COURT: Right.

THE WITNESS: No, at the particular time I was interviewing him, I wasn't familiar with any of the individuals that he was ---

THE COURT: Okay. Nothing about any of those

being gang members. That's not the reason he didn't go interview them. He didn't go interview them for whatever reason that he didn't go interview him, but it wasn't because he thought they were gang members that he didn't go talk to them.

MS. CAMPBELL: But when he got the information from Latoya Barnes about just Marquis and Marcus Johnson ---

THE COURT: Right.

MS. CAMPBELL: --- he did know that information about those two individuals, not the rest of them.

MR. KRZYSTON: Judge, we've been given nothing on gangs. I don't know that, I mean, they're saying they know that Marquis and Marcus Johnson are in a gang.

MS. CAMPBELL: It doesn't matter if he knows it, if that's what he thought.

MR. KRZYSTON: To substantiate that or base that opinion on.

THE COURT: We're not saying anything about gangs. That's not why he didn't go interview him. He didn't interview him because of the reasons he already stated. All right. Bring them back in.

MS. CAMPBELL: And, Your Honor if they go back into it again after ---

THE COURT: I tell you what, the next person that

intentionally violates an order of this court is going to be dealing with me in a contempt hearing. Does everybody understand that, Ms. Campbell?

MS. CAMPBELL: Yes, sir.

THE COURT: Ms. Garfield?

MS. GARFIELD: Yes, sir.

THE COURT: Ms. Simpson?

Ms. GARFIELD: Stepped out.

THE COURT: Ms. Pinnock?

MS. PINNOCK: Yes, sir.

THE COURT: Mr. Krzyston?

MR. KRZYSTON: Yes, sir.

THE COURT: Ms. Bambach?

MS. BAMBACH: Yes, Your Honor.

THE COURT: Mr. Schnee?

MR. SCHNEE: Yes, sir.

THE COURT: You can't just ask questions and don't expect repercussions from asking inappropriate questions or questions that you know are out there and the information is out there and expect that it's not going to come out later. That's not the way it works. I'm going to allow him to explain it. I want you to lead him through it, Ms. Campbell, as much as you need to.

MS. CAMPBELL: Do you know where we can go?

THE WITNESS: Uh-huh.

THE COURT: Do you understand what I'm allowing or not allowing, Investigator McCoy?

THE WITNESS: No gangs and no references to retaliation.

THE COURT: Retaliation or Mr. Stevenson saying Mr. Barnes or Mr. Young did it.

THE WITNESS: Got you. Won't happen.

MR. KRZYSTON: Your Honor, we would just ask to proffer. Give him a dry run before we get in front of the jury.

THE COURT: That's fine. Do it.

REDIRECT EXAMINATION:

(Denno)

BY MS. CAMPBELL:

Q He has asked you about a number of people in a March 2014 interview with Troy Stevenson.

A That's correct it was with Troy Stevenson's defense counsel, Aimee Zmroczek. In fact, I think she is the one that set it up. She came forward to Dolly Garfield saying that her client wanted to speak with police, so I contacted Ms. Zmroczek to set up a time to meet at Columbia police headquarters and that's where I interviewed Troy and Aimee was there. It was audio recorded.

Q And during that time there were a number of names that came up?
A That's correct.
Q Including some of the names we heard, Darryl Samuels?
A Correct.
Q Ashley Carter?
A Yes.
Q Somebody named Green?
A Yes.
Q Some other people, as well?
A That's correct, Joshua Green, Anthony Nelson, Sequan Williams, Marquis Johnson, yes.
Q And what, if any, information were you made aware that they might or might not have?
A Well, the information from Troy was that regarding these individuals, Ashley Carter was Troy's girlfriend, and she was at the home that evening prior to the murder. She was there, they were just hanging out. According to him, his statement, she was not involved and wasn't a witness to anything. In fact, her and Troy were in a separate bedroom just sleeping, hanging out.

As far as Marquis Johnson, Ms. Barnes had given me that name early earlier because Lorenzo had been

calling the house quite frequently. Troy was able to give a reason for that. He stated that Lorenzo was calling Marquis to inquire about Rolanda Coleman who had called the house a few times. He wanted to know if Rolanda was still calling. According to Troy, he never mentioned anything about them talking about the crime that was to the occur.

The other individuals, Sequan Williams, Darryl Samuels, Anthony Nelson, Joshua Green, they were at the home, and according to Troy, the incident never came up that was going to happen. He stated that it wasn't --- it never became a topic of conversation between them. Troy was aware. I shouldn't go into that, but that topic never came up as far as that --- what was going to happen or what might happen. The Azo name, Azo came up that they were at a recording studio earlier.

Q And when you say earlier, do you mean earlier in the evening on the earlier in the week or what?

A Earlier in the day.

Q Earlier in the day?

A Earlier in the day. They were at a recording studio or at a home that belonged to this individual named Azo, which I was never provided any particulars on who Azo was. Just --- they gave me a street and a

possible house on the street. He wasn't able to give me anything beyond that. They were at a recording studio and that is where this incident was not planned, but it was talked about.

Q By whom.

A By Lorenzo Young and Trenton Barnes. They talked about the incident.

Q Okay.

A I didn't...

MR. KRZYSTON: Judge, just for the record, we would object to that last comment if that's going to be introduced.

THE COURT: Why?

MR. SCHNEE: Troy --- that would be a statement from Troy that Trenton and Lorenzo were planning a robbery at the studio. That would be the definition of a Bruton problem inculpating my client.

THE COURT: Don't say anything about them talking about something at Azo's house or wherever.

BY MS. CAMPBELL:

Q As far as they had been at the house earlier that day and that's all the information he had?

A Yes, so they were there earlier that day.

Q And finally were any of the names given to you or provided to you, was there any information that was

provided to you by Troy Stevenson or anyone else that they knew anything about what had happened that night?

A No, not that night.

Q About the actual robbery itself?

A No.

Q Okay.

MR. KRZYSTON: Judge, are you finished?

THE COURT: She is finished.

MR. KRZYSTON: Again, I would object to the testimony in its whole.

THE COURT: I've already ruled on that.

MR. KRZYSTON: Okay. I think they can get out. I don't mean to transgress here, but I think they can get out what they're trying to say without saying Troy said. The basis of my problem is the part about Troy said.

THE COURT: The basis of the problem is the line of questioning by the defense attorneys and the cross-examination of the lead investigator, so your motion is overruled.

Bring them in. Do you understand what you're doing and not doing?

THE WITNESS: Yes, Your Honor.

THE COURT: Very good.

MR. KRZYSTON: Thank you, Judge.

(WHEREUPON, the jury entered the courtroom at 3:18 P.M.)

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: All right. Go ahead, Ms. Campbell.

MS. CAMPBELL: Thank you, Your Honor.

REDIRECT EXAMINATION:

(continued)

BY MS. CAMPBELL:

Q Investigator McCoy, they asked you many questions about the information you received from that March, 2014 conversation you had with Troy ---

A Yes, ma'am, Troy and Amy Zmroczek

Q --- Stevenson?

MR. KRZYSTON: Objection, Your Honor. Prior objection.

THE COURT: Overruled.

BY MS. CAMPBELL:

Q I'm sorry. You said somebody else was present?

A Aimee Zmroczek, his defense counsel.

Q And, in fact, who initiated that interview?

A From my understanding, I received a call from Dolly Garfield, sometime in late February, beginning of March. I don't remember to exact time, in reference to Troy wanting to come forward and talk some more about some information.

Q You aren't going to be able to say that part, okay?
A Right.
Q But during the course of that conversation did some other names come up?
A Yes, during that interview some other names did come up.
Q Specifically, they asked you about several of those names, including Ashley Carter. What, if any, information did Troy Stevenson tell you she had, if anything?
A According to the interview, Ashley Carter is his girlfriend, 19 years old, I was given a phone number. Again, she was his girlfriend, she was not involved, did not witness anything, was just at the home on Lucille Drive hanging out with him sleeping with him at the home.
Q And as far as some of the other names like Darryl Samuels, Sequan Williams, people of that sort, what if any, information did Troy Stevenson tell you they had about anything?
A They were just basically at the home, that they had no direct knowledge and that the --- no direct knowledge of anything. They were just at the home.
Q In fact, during the time period when all these

phones were going back and forth, who were the only two people to your knowledge who were awake other than Troy Stevenson?
A To my knowledge, the only people awake?
Q In the early morning hours ---
A Ms. Barnes, she testified to, I believe, Marquis Johnson.
Q As far as Marquis' involvement or knowledge, if anything, in this case, what was that?
A Well, Ms. Barnes had given me information about Marquis prior that someone was calling the house for him repeatedly. Troy was able to tell me what that was. It was basically Lorenzo was calling the house asking about Rolanda Coleman. Rolanda Coleman had called the house several times and Lorenzo was calling Marquis about Rolanda, that's what Troy said.
Q Was there any indication from Troy Stevenson or anyone else that Marquis had anymore involvement than that in this case?
A Not at that time, no.
Q Did he have any knowledge of what happened at the bakery?
A Not at that particular time, no.
Q And you did interview Latoya Barnes?
A That's correct, I confirmed that information. Of

course, that was prior to this interview, yes. I already had that information.

Q There was also some information about other people's names that came up?

A Sequan Williams, Darryl Samuels, Anthony Nelson, Joshua Green, the same information that they were at the house hanging out that night. That was the extent. They were mainly to corroborate a previous statement that Troy had given me involving where he was just prior to anything.

Q And had Ms. Barnes, his mother, already given you that information?

A Yes, she had. She already told me --- it confirmed what Ms. Barnes had said.

Q And at any point did any of these people come to you and say they have information about this bakery case?

A No, they did not.

Q Would you have been willing to take their statement if they had been willing to come to you?

A Absolutely.

Q They also asked you about Azo?

A That's correct.

Q Were you ever able to get a real name to go with Azo?

A I never got an actual real name or any identifying information about Azo. The only information was that they were at Azo's house at some kind of recording studio earlier in the day on the 30th.

Q That was the extent of that information?

A Yes, that was the extent of that information there at the house.

Q Any information that Azo was anywhere around the bakery that night?

A No, no information at all that he was involved in the crime.

Q Defense counsel also asked you about an additional name that Latoya Barnes gave you, which would be Marcus Johnson?

A Yes, Marcus Johnson.

Q He was in the jail at the time?

A Yes.

Q Was the information --- as far as Ms. Barnes relating to you, what was --- why was she relating that information to you?

A Why was she relating it to me?

Q As far as why she thought ---

MR. KRZYSTON: Objection speculation.

THE COURT: Sustained. Rephrase your question.

BY MS. CAMPBELL:
Q Why did Ms. Barnes tell you she was giving you that information?
MR. KRZYSTON: Objection, speculation.
THE COURT: Sustained.
Why did she tell him?
MS. CAMPBELL: She told him why.
THE COURT: Okay. If she explained why.
MS. CAMPBELL: She explained.
THE WITNESS: He said that ---
MR. KRZYSTON: Objection, hearsay.
THE COURT: Overruled.
THE WITNESS: She said Marquis Johnson was in the jail telling everyone who had done it. He was the boyfriend of Latoya Barnes or former boyfriend, I should say.
BY MS. CAMPBELL:
Q And why did she tell you that had meant anything?
A Well, he had been talking about it and he was familiar with the individuals involved with the case and familiar with it.
Q And the information that she gave you that Marcus Johnson had, did that corroborate or contradict the information you already had?
A It corroborated the information we had already

obtained through the investigation; that's correct.
Q And as far as the note taking and everything, as far as documenting things, it may not have a note that says you audio recorded it, but it would be audio recorded?
A It would be audio recorded --- I usually --- I worry about discovery later on. If there are too many notes and or it takes up too many notes, if something doesn't get put in the file and causes a problem or something gets lost --- typically if it's later on in the investigation, especially after a case has been filed, closed and put away into our filing system, I'll just record it, at least document it and then it will be placed in the file and under over at the appropriate time.

MS. CAMPBELL: Thank you, Your Honor, I have nothing further.

THE COURT: Recross?

MR. KRZYSTON: Thank you, Your Honor, may it please the Court?

RECROSS-EXAMINATION:

BY MR. KRZYSTON:
Q Mr. McCoy, you're an investigator, right?
A Yes.
Q The term itself indicates that you go actually go

out and investigate crimes?
A I do, yes, sir.
Q You would agree with me if you just sat back in your office waiting for people to come talk about crimes, you probably wouldn't get much done, would you?
A It would depend on the situation and the kind of information they had. We have actually had quite a few people come forward since Donald Moore came forward.
Q But in general if you didn't go out, leave your office to talk to anybody, you wouldn't? find out anything, right?
A That's why we went and canvassed the area after this incident happened, yes.
Q I'm sorry. Are you done?
A I'm sorry, I'm done.
Q No worries. Now, you just testified that you had no knowledge that Azo was at Lucille Drive when you were doing your investigation on the night in question?
A That's correct. From the interview that I was conducting with Troy, I don't believe Azo was ever mentioned.
Q And that was on?

A Not prior to the incident.
Q And that was on March 24th, 2014.
A That's correct.
Q Do you have a copy of your handwritten notes in front of you?
A From the interview?
Q Yes --- from all your --- just the life of your case?
A I didn't take handwritten notes. I don't recall taking handwritten notes from that interview.
Q You took handwritten notes on August 9th, 2013, didn't you?
A August 9th, 2013, who are you talking about?
Q Latoya Barnes?
A Yes, I think I notated in there that I talked to her and put some information down, yes.
Q Ms. Barnes told you that Azo was there that night, didn't she?
A I don't recall if is he did or not.
Q Do you have a copy of you notes or would a copy of that page help you?
A I've got it. August 9th.
Q Yes, sir.
A This would have been at 3:21, correct.
Q Correct 15:21 as it's notated on your notes.

A Do you have a particular bullet point? What number of bullet point down?
Q It's actually the last word before the next entry on August 20th, 2013?
A I still don't see anything about Azo in my notes unless I'm looking at a different ---
MR. KRZYSTON: May we approach, Your Honor?
THE COURT: Yes.
THE WITNESS: I'm sorry. I'm looking at my typed notes. Do you mind if I look at this?
BY MR. KRZYSTON:
Q That's fine. Do you recognize these notes?
A I do. These are my handwritten notes during the investigation, yes.
Q On the last line, the line right above August 20th, 2013, it states Azo as being somebody that Ms. Barnes told you was in the house on Lucille Drive before the alleged robbery took place?
A It doesn't say in the house. I just says Azo with quotations as a nickname was somebody I might possibly ---
Q Somebody who possibly was there?
A I don't believe he was there at the house. That's not what Troy said in his interview.
Q Now, as the lead investigator you actually get to

choose and pick what gets submitted to SLED and what doesn't, right? We were talking about that a little bit earlier.

A Normally, you know, when we ---

MS. CAMPBELL: Objection, Your Honor, outside the scope.

THE COURT: Sustained.

MS. CAMPBELL: Thank you.

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

(Pause.)

No further questions, Your Honor.

THE COURT: Mr. Schnee?

MR. SCHNEE: Very briefly.

THE COURT: Yes, sir.

RECROSS-EXAMINATION:

BY MR. SCHNEE:

Q If I'm understanding you correctly, you chose not to interview any of these people because you did not feel at the time that they had relevant information that would assist you?

A Well, at the time it was indicated that the majority of them were cooperating with defense counsel and that they had been interviewed. I wanted to obtain those interviews and any relevant information,

identifying information prior to me going out and conducting any interview with anyone else just to confirm what they had been saying.

Q Okay. Well, Marcus Haley Johnson you knew about in August of 2013, which is not from the March interview. You chose not to interview him, right?

A The name came up of Marcus Haley Johnson, not that he was involved or had direct knowledge, but that he was talking about it down at the jail, about who had done it.

Q Okay. Well, you talked to a lot of other people who had just been talking in general about the crime, right?

A I believe the majority of the people I talked to had either direct knowledge or were able to corroborate pretty quickly the information that we based our investigation on.

Q But you at least talked to those people, right?

A Right.

Q You took the time to talk to them?

A Right, and most of them came forward, or we went out when we were conducting other investigative events and we were able to identify them and speak with them.

Q Okay. Well, in August of 2013, you knew exactly where Marcus Haley Johnson was, right?

A He was in the Alvin S. Glenn Detention Center.
Q Did you even go down to talk to him, yes or no?
A No, I did not.
MR. SCHNEE: All right.
THE COURT: All right. Call your next --- do your need a break? Go back to your jury room. Do not discuss the case. Keep an open mind. Do not discuss the case. Everyone remain seated while the jury is dismissed.
(WHEREUPON, the jury left the courtroom at 3:31 P.M.)
(WHEREUPON, a short break was taken.)
(WHEREUPON, State's Exhibits 356, 357, 358, 359, 360, 361, 362 were withdrawn.)
(WHEREUPON, State's Exhibit Numbers 441, 444 through 450 were marked for identification only.)
THE COURT: Ready?
MS. GARFIELD: Yes, sir.
THE COURT: Ready?
MR. KRZYSTON: Sorry, yes, sir, Your Honor.
MR. SCHNEE: Yes, sir.
THE COURT: Okay.
(WHEREUPON, the jury entered the courtroom at 3:52 P.M.)
THE BAILIFF: The jury is seated, Your Honor.

THE COURT: Welcome back. Call your next witness, please.

MS. CAMPBELL: Thank you, Your Honor. The State calls investigator Jon VanHouten.

JON VANHOUTEN,

after being duly sworn, testified as follows:

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

MS. GARFIELD: May it please the Court?

THE COURT: Yes, ma'am.

DIRECT EXAMINATION:

BY MS. GARFIELD:

Q Investigator VanHouten, please share with the jury where you're employed.

A Columbia Police Department.

Q Please explain what your duties are at the Columbia Police Department.

A I am assigned to the US Secret Service. I work in the computer forensic laboratory of the Columbia field office.

Q What are your duties in that capacity?

A I analyze digital media from computers, cell phones, cameras, anything that stores digital electronic media.

Q Is that done on just a state level?

A No, I work any agency that requests assistance for computer forensics examination, whether it be the military, any other agencies and any agency that requests a service across the United States.
Q What kind of training --- let me back up. Specifically, are you ever asked to examine physical phones?
A Yes.
Q And when I say phones, I am referring specifically to cell phones.
A Yes.
Q And when you are asked to examine a cell phone, can you explain to the jury what you do in going about that examination?
A Generally when we analyze a cell phone, depending on what type of information the agency or the agent or officers requesting we conduct what's either called a physical examination or a logical examination, we use equipment. In this particular assistance, we used a system called Cellebrite to analyze the phones. We can generally pull logical data. Logical data is data that you see on your device when you click through it. Physical data includes unallocated space, which is data that you can't see, deleted stuff, so we're able to pull deleted stuff and stuff you can't see.

Q Are you do that from examining the physical phone?
A Yes.
Q Does this involve reviewing phone records?
A Sometimes.
Q Now, were you asked to review and do such examination in this case?
A Yes.
Q In fact, were you asked to review several phones?
A Two phones, yes.
Q Specifically, I want to show you what's been marked as State's Exhibit Number 380. Do you recall this exhibit?
A Yes, this appears to be the phone that I examined. I have the photographs that I took of the phone.
Q Were you able --- were you given a target number related to that phone?
A At the time of the examination, yes.
Q And do you have that number before you Investigator VanHouten?
A I do.
Q What is that number?
A Bear with me just a second. The number I have for this Samsung phone is (803)463-0890.

Q Investigator VanHouten, in the course of this investigation involving the case in court today, what number was that associated with?
A I believe the defendant, Lorenzo Young.
Q And did you conduct such examination on the phone?
A I did.
Q And particularly did you find any relevant information on that phone?
A I found numerous artifacts of relevance on the phone.
Q Did you find any photographs or pictures?
A I did.
MR. KRZYSTON: Objection, Your Honor. Prior stated objection and foundational objection, as well.
THE COURT: Overruled.
BY MS. GARFIELD:
Q I want to show you 392 and 435. Without showing these to the jury, do you recognize these photographs?
A Yes.
Q Do you recognize both of them?
A I do, yes.
Q Investigator VanHouten, those photographs were taken from the cell phone that you just alluded to?
A Yes, they were.

Q That would be the phone associated with Lorenzo Young?
A Yes.
MS. GARFIELD: Your Honor, at this time I'd like to introduce 392 and 435 boo evidence?
MR. KRZYSTON: I would maintain my prior objection.
THE COURT: Approach.
(WHEREUPON, a bench conference was held in the presence, but not within the hearing of the jury.)
THE COURT: All right. Do you have an objection?
MR. SCHNEE: No.
THE COURT: State's 392 and 435 admitted over Defendant Young's objection.
(WHEREUPON, State's Exhibit Numbers 392 and 435 were admitted into evidence.)
BY MS. GARFIELD:
Q Did you also obtain a particular video from this target telephone?
A Yes.
Q I'm going to show you what's been marked as State's Exhibit 441. Do you recognize this video or do you recognize the CD?
A Yes.

Q Is that contained --- and you've had an opportunity to review that video?
A Yes.
Q Is that video you obtained from the target's phone?
A That's correct.
Q Again, that would be the phone that's associated with Lorenzo Young?
A Yes.
MS. GARFIELD: Your Honor, at this time I'd like to enter 441 into evidence.
MR. KRZYSTON: Your Honor, we renew our prior objections.
MR. SCHNEE: Judge, I'd like to renew as it relates to Trenton Barnes.
THE COURT: Overruled.
(WHEREUPON, State's Exhibit Number 441 was admitted into evidence.)
BY MS. GARFIELD:
Q Upon reviewing that video, Mr. VanHouton, did you also have an opportunity to review some still shots that were taken from that video?
A Yes.
Q I'm showing you what's been marked as State's Exhibits 425, 428 and 432. Without showing those to

the jury, do you recognize those photos?
A Yes.
Q And are those the still shots from the video that you obtained from the target phone?
A Yes.
Q The phone that's in relation to Lorenzo Young?
A Yes.
THE COURT: Your Honor, I'd like to introduce State's Exhibit 425, 428 and 432 into evidence.
MR. KRZYSTON: Renew prior objection.
MR. SCHNEE: Same objection.
THE COURT: State's 425, 428 and 432 admitted over defense objection.
BY MS. GARFIELD:
Q Investigator VanHouten, I'd like you to share with the jury in you area, what is a web search?
A Well, a web search uses a service provider such as Internet Explorer, Fire Fox, Safari Opera, to search for content on the internet.
Q Were you able to ascertain any information in that area on this particular cell phone?
A Yes.
Q Please explain to the jury what you found.
MR. KRZYSTON: Objection, foundation.
THE COURT: Overruled.

BY MS. GARFIELD:
Q Go ahead, sir.
A On this device, I conducted a timeline of chronological events in order and every time the device was used, and I found a series of internet history and the Chrome cache. Chrome is an internet search engine used to search the internet. Cache is a temporary folder that most all of your search engines use to store video. When you look at a website and it has a video or a photo, when you click on the photo to enlarge it or get a better idea of it, the internet search automatically stores it as a temporary file in the temporary folder, which is called cache and we can look, you know, when you search --- when you click on a photo and you search for it or you see something and you click on it, it stores it in the phone or device and basically any search provider or search engine, it's in the cache folder, which you don't see, but it is a hidden file we can bring back.
Q That's some of the hidden data that you referred to initially?
A Right.
Q Did you find any particular pictures in this web search related to the case at hand?
A Yes, I did.

Q Explain to the jury what kind of pictures those were?
A Well, the pictures that I felt were relevant artifacts to this case were actual --- were photos that I found in the cache for a web search for the photos that were released to the media. This was --- these --- the cache logged in these photos on July 5th, 2013, at 6:09 P.M. and they are the still shots of the photos --- still shots of video that were released to the media, which the media released to the public.
Q To whoever is using this phone is making this type of search?
A Yes.
Q And again this is taken off the target phone 463-0890?
A Yes.
Q And that would be the phone associated with Lorenzo Young in this case?
A Yes.
Q I'm going hand you what's been marked as State's Exhibit 442, and ask if have you seen this CD before?
A Yes.
Q Are you familiar with that's on this CD?
A Yes.

Q Would that contain those web search photos that you just testified to?
A Yes.
MS. GARFIELD: Your Honor, I'd like to introduce State's 442 into evidence and publish for the jury?
MR. KRZYSTON: Can we approach, Your Honor?
THE COURT: Yes.
MR. KRZYSTON: Thank you.
(WHEREUPON, a bench conference was held in the presence, but not within the hearing of the jury.)
THE COURT: Yes, ma'am.
(WHEREUPON, State's Exhibit Number 442 was admitted into evidence.)
MS. GARFIELD: I'm sorry. Was it introduced?
THE COURT: Yes.
MR. SCHNEE: Same objection.
MR. KRZYSTON: Here, as well, Judge.
THE COURT: What was the objection?
MR. SCHNEE: Prior objections that we made. This is the video that was taken.
THE COURT: From the phone?
MR. SCHNEE: Yes.
MR. KRZYSTON: I'm sorry. May we approach one more time?

THE COURT: What's the objection?

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

THE COURT: State's 442 admitted over objection.

BY MS. GARFIELD:

Q Investigator VanHouten, can you please step down?

(The witness complies.)

Thank you. Is this what's on that CD that was just introduced into evidence?

A Yes, this was --- this was found in the internet Chrome cache for the search history.

Q Go back to the --- and, Investigation VanHouten, how many pictures related to that media search were found on this phone?

A About nine.

Q And this time I would ask the assistance of Ms. Brian to publish those to the jury. That's picture number one and that would be a picture that was released to the media?

A Right.

Q In this case?

A Right.

Q That's another picture?

A Right. That's another picture found in the

Chrome cache.
Q And again another picture released to the media?
A Yes.
Q Picture number three, is that another picture?
A Yes.
Q And that would be a picture --- can you describe what's in the picture?
A It appears to be an open door with a subject wearing a red hoodie and glue jeans.
Q And again --- I'm sorry. Please continue.
A Entering the business.
Q And again this is a photograph released to the media?
A Yes.
Q Please explain what picture number four shows?
A It appears to be the same subject, red hoodie, blue jeans and you can see the outline of a pistol.
Q Or a firearm?
A A firearm.
Q And again, this would be a picture that was released to the media?
A That's correct.
Q What does this picture represent?
A This is a picture in a kitchen and there is another subject wearing a --- this appears to be a

black shirt and black pants.
Q And again this would be a picture that was released to the media.
A Yes.
Q And these were released to the media after this incident occurred?
A Yes. A photo of a subject wearing a red hoodie and wearing blue jeans and entering the business.
Q And again that picture was also released to the media?.
A Yes, also released to the media. This is a white van with crime scene tape outside the business. This was also found in the cache and the picture was also released to the media.
Q I believe that's all and I believe this is the last picture?
A I think so. This is one of the pictures that was released to the media of the kitchen. No subjects were visible, no visible subjects in it.
Q And, Investigator VanHouten, all these pictures would have been found in Mr. Young's phone or the number associated with Mr. Young through internet search history?
A Yes.
Q So a person would have to be searching on the

internet for those pictures or viewing the pictures on the internet?

A Yes, they would have to be viewing the pictures.

Q I want to go back to the photographs that you've identified. Do you have a date of when those photographs were taken on the phone?

A I do. The phone, again these were not taken by the phone. These were not in the media folder of the phone, so they weren't actual photographs taken by the phone itself. It's a temporary cache that is stored automatically by the internet search engine and there is a date in the metadata is associated when the photos were clicked on and expanded to view. The dates I have range from July 5th, 2013, at 6:09 P.M. all the way to --- I'm sorry, the first set --- the first set was taken July 1st, 2013, at 7:24 P.M.

The site was apparently revisited on the 5th, four days later, so the first set of photos recovered by the --- or that were logged in by the Chrome cache was July 1st, 2013, at 7:24 P.M.

Q And those would be the times associated with the photographs we just viewed?

A Right.

Q Okay, and those would be the photographs that were released to the media?

microscope and I'll actually compare the markings on those cartridge cases to each other.
Q And was that actually done in this case with respect to these four items first?
A Yes, it was.
Q And you mention in your results also Item 12. Before we get there let me show you State's 333. I believe this is your Item 10. This is the casing that we're talking about, as well, as Item 9 just as an example of what you were looking at?
A Yes, ma'am.
Q And all these along with Item 6 and 8 were actually compared to one another?
A Yes, ma'am, they were.
Q And what were your findings, with respect to the comparisons that you made in the examination?
A Based on my microscopic examination of the firing pin and the firing pin shear on these cartridge cases, they were all fired by the same gun.
Q Okay. And with respect to 45 GAP caliber, as a firearms expert tell us what that means to you?
A 45 GAP is not something I've seen very often. I've been with SLED --- I've been in the firearms department 16 years. I've been in the firearms examiner training side and then as a firearms examiner

for over 14 years now. Typically, I think I've only seen 45 GAP in non-police involved shootings once, maybe twice. 45 GAP is a new caliber that came out in about --- it was invented around 2002. It came out for commercial use in 2003, and it was really marketed towards the law enforcement community, so it's not something that we see very often.

Q Okay. Then I'm going to show you State's 445 specifically referencing the other fired cartridge cases that you received, Items 11 and 12, tell us about those items, what they were and what your testing showed with respect to comparison with the other items?

A Okay. First off, 11 and 12 were two fired 40 caliber S&W fired cartridge cases. Right away I knew they were not fired by the same firearm that fired the 45 GAP caliber cartridge cases.

40 S&W caliber is approximately about .40 in dimension. 45 GAP is about .451 in dimension, so right then and there --- and then your chamber, the chambers of firearms are built specific to the size of ammunition that they're going to fire because you want those walls of the chamber to be tight to support that cartridge case during the firing process.

These were not the same caliber, so they were not

the same size. They also had a different class of firing pin so then I took them to the microscope. I compared them to each other and determined that they were fired by one firearm, but not the firearm that fired the 45 GAPs.

Q So each Item 11 and 12, the 40 caliber cartridge case, those were fired by the same weapon and the 45 GAP was fired by the same weapon, just two separate weapons?

A That's correct.

Q Did you also --- tell the jury --- I want to turn your attention to when you refer to Items 11 and 12 may be suitable for identification with the firearm which they were fired or with another fired cartridge case or casings, what is meant by that?

A That means that we had enough of those individual markings for me to first off compare it to another cartridge case, but if a suspect weapon was ever identified, I want whoever is reading the report to know that they can bring it to me, and I could try to potentially match it to a specific firearm.

Q Are all casings that you receive necessarily suitable for comparison?

A No, ma'am, they're not.

Q I want to turn your attention to Items 7 and ---

MR. SCHNEE: Just give me one minute, Your Honor.

(Pause.)

MR. SCHNEE: Judge, I don't have any witnesses.

THE COURT: Okay. Any arguments, Mr. Schnee?

MR. SCHNEE: Yes, Your Honor, I have a few arguments. First of all, I believe this is a completely inappropriate time to be having a Denno hearing considering Investigator McCoy has already finished his testimony. The State presented him as a witness. He was the main investigator on this case. He was doing --- you go through the substance, the vast majority of his interview, he is conducting it. At this point he has been called to the jury. He has been cross-examined, redirected, recross-examined and I would certainly object to him even being recalled at this point to testify in front of the jury. However, at this point now, I'm essentially prohibited from being able to question Investigator McCoy in front of the jury about it. Absent them recalling him, which is a very odd and inappropriate thing for them to do at this stage. If they wanted a Denno hearing, they should have done this yesterday or the day before or last week or three weeks ago when we had other pretrial hearings. They've had more than enough opportunities and I think at this stage in the trial

when they have announced that they have either two or three witnesses left, they're going to just magically illusion of, oh, by the way, we actually got a statement from Trenton Barnes. I think that's incredibly inappropriate.

If that's their intent and they think it's necessary for their testimony and their efforts, then they should ask for a mistrial and try to redo this. If this evidence comes in, I'm going to be asking for a mistrial. Specifically in terms of the Denno issues, they are required to advise my clients of his rights, make sure he understands them, get a valid, free --- and have him waive them freely and voluntarily absent coercion, threats or anything else. In terms of coercion, I would direct your attention to Bruder v. Williams, it's a US Supreme Court case. It's commonly known as the Christian burial speech case where the Supreme Court said essentially that police were riding around in a car with a suspect talking to him and what the Supreme Court said is the content of the conversation dealing with religion and saying you need to allow this family to bury their loved one completely de-Mirandized him, and, Judge, I would argue a very similar thing has happened here if he ever been fully Mirandized and waived his rights.

I don't believe they presented evidence that he actually waived his rights. He refused to sign that document and magically, of course, the recorder breaks when they say they do it and they never advised him again knowing they have recording failures. After 12-and-a-half minutes, Investigator McCoy brings up praying together and then Sergeant Reese says are you hot, are you cold asking if the recording is on because even Sergeant Reese knows the topic of praying together and religion is completely inappropriate is coercive and has been told by the US Supreme Court is inappropriate and denies a fair opportunity for reason and logic and that's why it counts as a de-Mirandizing aspect. It eliminates the waiver.

For all of those reasons, I would object to any of this testimony coming in. I don't believe they have met they're burden of proof.

THE COURT: Just focus on the prayer.

MS. CAMPBELL: The prayer, Your Honor. Just looking at State v. Hill, it's a South Carolina case 604 S.E. 2d 696.

THE COURT: Hold on. Let me find it.

MS. CAMPBELL: Or it may be State v. Crawlly.

THE COURT: What year is the Crawlly?

MS. CAMPBELL: Crawlly is 2002, but Hill is 2004,

Your Honor, and I would also talk about in the interest of Tracy v. --- which is a 2010 case as far as juveniles talking about allowing a defendant to speak with his mother.

MS. CAMPBELL: And then State v. Clinton.

THE COURT: Do you have a copy of the pursuer case?

MS. BAMBACH: No, I don't, Judge. Frankly, I'm not even getting a wi-fi signal that's working for me certainly. If I can go back to my office, I'm more than happy to start printing them, but I would like an opportunity to read any of the cases that the State mentioned since I don't know what they are.

THE COURT: Okay. This Christian burial case has nothing to do with this issue at all. I mean, the Christian --- the Brewer v. Williams --- in Brewer v. Williams, this case is very clear. The defendant in that case was accused or --- I guess he was convicted, of kidnapping that began in one state and went to another state, and he had been --- he already had a lawyer. In fact, he already had two lawyers. Both of which his Des Moines lawyer and his Davenport, Iowa lawyer had both advised him not to make any statements and he had already been arraigned and he had already asserted his right to counsel, and the police officer

who had knowledge that the defendant was a former mental patient and deeply religious sought to obtain an incriminating remark from him by telling her he should give the parents --- the parents were entitled to a Christian burial for the victim. I mean, that's in no way shape or form, in any way, shape, or form in any way goes to the situation that we have here.

Okay. Tell me why you think recalling McCoy is appropriate.

MS. CAMPBELL: I don't know that we have to recall McCoy. We were planning on offering it through Reese.

THE COURT: Okay.

MS. CAMPBELL: If you would like me to recall McCoy, I can.

THE COURT: I don't think it's necessary.

MS. CAMPBELL: I don't think it's necessary to put a statement in front of the jury to call McCoy.

THE COURT: Here is what concerns me. The statement was given freely, knowingly, intelligently and voluntarily. He was clearly advised of his rights. He is having a very clear and intelligent conversation with law enforcement, with two law enforcement officers. There is no concept that you're required to sign the waiver form. People refuse to

sign the waiver form all the time.

The issue is not do you sign the form or do you not sign the form. The issue is did you know what was going on. Were you aware of your rights? Do you freely, voluntarily, knowingly and intelligently without threat, coercion, force or pressure give a statement to the police.

Mr. Barnes indicated to the police that he clearly did understand his constitutional rights because he said, "Instead of a lawyer, can I have my mama?" So that means that he knew and understood that all he had to say was, can I have a lawyer and the questioning would have stopped. He didn't. He asked for his mother, which I'm not even sure the police are required to give him. I haven't read that line of cases in a while, but they did, which was more than appropriate in the situations --- under the situation that they found himself in. He continued to talk with his mother present. So this idea of whatever prayer happened has violated, you know, makes a Miranda waiver invalid based on the Brewer case, the Brewer case is completely and totally different. The person had two lawyers, had been arraigned, and the person and the police had been advised by the lawyers not to talk to the defendant. I mean, that's a completely

and totally different situation, I mean --- than the situation we have here. At no point do I see him saying, I don't want to talk anymore. I don't want to answer your questions. I want a lawyer or anything of that nature in any way, shape, or form. So the statement is in based upon the totality of the circumstances. Jackson v. Denno and its progeny.

Now, here is my bigger concern. My bigger concern is what exactly is coming in, because we can't use the word 'we,' so ...

MS. CAMPBELL: We would agree with that.

THE COURT: The word 'we' is out. There is no 'we.' There is no 'they.' There is no 'us.' There is no 'them.'

I mean, we need --- we're going to have to go through this with a fine tooth comb on what you want to put in to make sure that we're not violating Bruton.

I assume you don't want them to say we either; is that right, Ms. Pinnock? Is that why you're standing up.

MS. PINNOCK: Yes, Your Honor. That is part of the reason. The concern we had is the State has already introduced a letter that was written by Barnes. That was introduced over our objection

because it fully implicates and pretty much places all the blame on Lorenzo Young. That letter is already into evidence. What our concern is now, with the State trying to introduce a statement given to law enforcement, with looking at the totality of everything, the circumstances, the inference is going to be even stronger against Mr. Young. Introducing a second statement by Mr. Barnes when they already have one in evidence. It was our understanding that was their solution to, you know, any sort of Bruton issues that did come up was they elected to use a written letter to his mother instead of a statement through law enforcement, but now it's going to be two separate statements introduced against Mr. Barnes and I fail to see or understand how the jury would not be making the inference against Mr. Young, not using that evidence against Mr. Young when it's not admissible against him.

So that's our bigger concern is that they already have that statement in there against them. It's already in evidence. Through Ms. Barnes, you know, she identified the handwriting. They call a handwriting expert up there to identify the handwriting again. It was published to the jury. They already heard a statement by Mr. Barnes. Again,

that statement fully implicates Mr. Young, and so I just --- at this point, I think it's --- it doesn't get past a 4003 analysis for Mr. Young because that inference is going to be so strong, he is going to be prejudiced by it. So aside from them saying we were going to do this or this was our plan, yes, we have an obvious problem with that, but the inferences that are going to be created towards Mr. Young is our bigger issue and I don't know how we can avoid that from happening.

THE COURT: What about that argument?

MS. PINNOCK: I'm sorry?

THE COURT: I was talking to the State.

MS. CAMPBELL: Your Honor, she references the other thing, but I mean, you directly told this jury you can't consider that letter against Mr. Young in any way. We've already addressed you can't use that against Mr. Young. You can only use that against Mr. Barnes.

THE COURT: What she is saying is that because that letter is out, the inference is going to be well, it depends on --- let's start with you can't make that argument until you understand what we're --- I can't process through that argument until I understand what you plan on introducing or want to introduce.

MS. CAMPBELL: If you can refer to the transcript, Your Honor, page two, number (2).

THE COURT: Tell me which one.

MS. CAMBELL: Instead of saying, we was planning to rob the Ale House. It would be the plan was to rob the Ale House. What happened? Okay. The car started backing ---

THE COURT: Hold on.

MR. SCHNEE: I'm sorry. I'll completely lost.

MS. CAMPBELL: Oh, I'm sorry, number (2), page two.

MR. SCHNEE: What exactly are you proposing to introduce, a transcript of this or have just one.

MS. CAMPBELL: Have Sergeant Reese testify to what was said.

MR. SCHNEE: Well, I have a real problem with him reading from a transcript that's not actually a transcript.

THE COURT: Okay.

MS. CAMPBELL: Well, then I would be glad to ---

THE COURT: We're not on that issue.

MS. CAMPBELL: I'll get to that issue.

THE COURT: Keep going.

MS. CAMPBELL: The car start pulling out. Then on that page --- the only thing I had to do was sit by

door. If I saw anybody, yell. Or, if I see anybody yell.

MR. SCHNEE: What's your proposal to that last one that you just read?

MS. CAMPBELL: Limit it to, the only thing I had to do was just sit by the door. If I see anybody yell, and we would be very specific with Sergeant --- you can only talk about what he said his role was.

MS. PINNOCK: Judge, that ---

THE COURT: She is not finished.

MS. PINNOCK: I'm sorry. I thought she was.

MS. CAMPBELL: Page four. Did you watch what happened?

Yes, sir.

MR. SCHNEE: Where are you on page four?

THE COURT: Near the bottom.

MS. CAMPBELL: Near the bottom, did you watch this happen, yes, sir.

MR. SCHNEE: Did you watch what happened, yes, sir.

MS. CAMPBELL: And then finally, Your Honor, moving to transcript (3) top of page four, did you know if anybody was inside the building. I don't know, I don't know. I was supposed just sit as lookout.

MS. PINNOCK: I'm sorry, what page?

MS. CAMPBELL: Page four, the top of number three, sorry, and then I was going to do something on, but I think that just repeats what he said earlier.

THE COURT: Okay. I am not allowing Trenton Barnes' statement in, not because it is not in voluntary or not freely given or in violation of Miranda. I'm not letting it in because I believe that it's a Bruton violation. Here is my explanation. This jury knows that there are three people who are on video committing this crime, okay. I mean, that fact is not in dispute. Everybody has seen the video. The jury has seen the video, all the lawyers have seen the video. All the parties somewhere seen the video. Even with the --- I'll use, and this is my word, but even with the sterilization of Mr. Barnes' statements to law enforcement, I believe they were freely given, they were voluntarily given. They were not in violation of Jackson v. Denno, or Miranda or anything else. That is not my basis of this argument. My basis of this argument is --- "the only thing I have to do is sit by the door. If I see anybody, yell." Well, the jury clearly knows that two people went in and somebody was by the door. So that implies two other people are involved. There's only one other

person sitting in the room. "If I see anybody, yell." Well, who would he be yelling to if he wasn't yelling to the other people involved, and so the plan was to rob the Ale House. The plan --- I don't know that it 100 percent means there's more than one person, but that's certainly a leap, but the plan was to rob the Ale House and maybe that's making too much of a leap, but the plan was to rob the Ale House. We see three people. We've seen three people from the Ale House video. "You watched what happened, didn't you?" "Yes, sir, that means that somebody else was following." It's just implication after implication that there were other people involved, and I don't know that there is a way to sterilize it. So Mr. Barnes' statement is out based upon Bruton and the confrontation clause.

MS. PINNOCK: Thank you, Your Honor.

MS. CAMPBELL: Your Honor, is that --- and my concern would be at this point, is based on cross-examination yesterday of Investigator McCoy, this jury is also fully aware that each defendant was interviewed and the defense would be arguing in front of this jury that you didn't get to hear all of what the police interview and what you didn't get to hear. That's my concern. Clearly they went in and based on

rulings, they went into --- and each defendant came out --- Troy Stevenson was interviewed, you know, specifically and they elicited part but not all of what Troy Stevenson told police. Our concern is that this jury now is aware that these three defendants --- it's been testified that have been interviewed and they don't have that information before them.

THE COURT: Well, there's a jury charge out there on the State's failure to call witnesses and that the State doesn't have to call every single witness that has potential information to prove their case. If you want that charge, I'll give it to you. I mean, Mr. Barnes' statement is a Bruton violation, clear as day.

MS. CAMPBELL: I'm not arguing with your ruling.

THE COURT: I know you're not arguing with the ruling. There's no other person for the jury to think was involved but Lorenzo Young based on the letter that's already been admitted which, I told them to disregard, and based upon just the nature of the statements. The nature of the statements are that other people are actively participating. So what --- tell me what you.

MS. CAMPBELL: My concern is at this point, the jury knows all three codefendants were interviewed.

That came out on cross examination.

THE COURT: Did it come out that Mr. Young was interviewed?

MR. KRZYSTON: I don't believe so.

MS. PINNOCK: We never did.

MS. CAMPBELL: There was a reference to someone being threatened with the death penalty, which was in violation of your order.

THE COURT: Right. A suspect, right.

MR. SCHNEE: I believe the testimony was even brought out on direct that they were all brought to headquarters. I don't know that that's really much of a dispute.

MS. CAMPBELL: No. We don't dispute they were all brought to headquarters, but at this point they know there was a statement by Troy Stevenson. They know another suspect in the case was questioned and quote unquote threatened with the death penalty. I'll get back to that issue in a minute, so they know that. My concern is that they're going to get up here and argue that basically the State hadn't brought forth all the evidence. The State has brought forth all the evidence we can against these. Of course, Troy Stevenson, and we can bring that out, has pending charges and we can't, you know, he will have his day

in court. And that's testimony elicited by the defense, and that was part of our argument just yesterday as far as our concern that they hear part of what was talked about with the Troy Stevenson interview, but not the rest of it, and I guess I'm just ---

THE COURT: What's your plan on arguing for closing with to respect to what the State has done and not done, Mr. Krzyston?

MR. KRZYSTON: What's my plan?

THE COURT: Yes.

MR. KRZYSTON: I'm not going to talk about Troy Stevenson at all. I don't know that I even mentioned any witnesses by name.

THE COURT: Are you gang to say there were witnesses they were not interviewed?

MR. KRZYSTON: That there were people with potential information about this crime that were not interview.

THE COURT: What about you, Mr. Schnee?

MR. SCHNEE: I'm certainly not going to mention any specifics about Troy Stevenson or his interview. I mean, I think the only questioning I did with Investigator McCoy that got into that was in direct response to answers to questions that I had asked him

that were trying to avoid bringing up who said what and when. I'm certainly going to need bring up what witnesses the State has not brought in or not interviewed.

Certainly, I'll tell you right now, my plan is to read off probably 3-quarters of the names on here that they haven't called that are on their witness list. They are all law enforcement. That's closing argument. You know, the State has the burden of proof. I'm certainly allowed to tell the jury that they haven't proved their case. That's my general plan.

MR. KRZYSTON: Judge, I'm not totally sure what the issue is. I think there's an inference before the jury that that Troy Stevenson was, in fact, interviewed. Mr. Young, myself, and ---

THE COURT: But they haven't heard what that interview was.

MR. KRZYSTON: Correct. We have alluded to the fact that he was interviewed and there's been discussion ---

THE COURT: You've done more than allude.

MR. KRZYSTON: There were discussions as to what Investigator McCoy learned in March of this year. I think they've gotten the bulk of that information in

through investigative hearsay. I don't think there is much of an issue.

MS. CAMPBELL: What?

THE COURT: What? No one is allowed to say the word investigative hearsay anymore. It doesn't exist.

MR. KRZYSTON: Yes, sir.

THE COURT: It doesn't exist. Okay.

MR. KRZYSTON: Okay. Your Honor.

THE COURT: So I don't understand what you just said. They didn't get up there and ask Investigator McCoy --- the State did not get up and ask Investigator McCoy about Troy Stevenson's interview. You and Mr. Schnee did.

MR. KRZYSTON: The Troy Stevenson interview?

THE COURT: Yes.

MR. KRZYSTON: Right, the substance of what he was interviewed was discussed.

THE COURT: Right.

MR. KRZYSTON: That's the information that they're seeking to admit through Trenton Barnes' statement? I mean, I'm confused as to what we're even arguing about at this point.

THE COURT: Here is the argument: The defense and, that is both defendants, brought up the fact that Troy Stevenson gave all these names to the police and

the police didn't do anything with them, okay.

MR. KRZYSTON: Yes, sir.

THE COURT: You did that, right?

MR. KRZYSTON: Yes, sir.

THE COURT: Okay. And Mr. Schnee did that, right? So the jury is left with this fraudulent impression. You have committed a fraud upon the jury that Troy Stevenson sat down and gave all these names and didn't give any other information, which is not true, because Troy Stevenson has told police that both of your clients actively participated in the crime.

So the issue is that the jury is left with this impression that Troy Stevenson gave this statement to police, but the impression of what the statement is not accurate or even truthful.

MR. KRZYSTON: And, Your Honor, to remedy that very assertion that we just made, Your Honor allowed them great latitude on redirect yesterday.

THE COURT: As to why they did not interview those people.

MR. KRZYSTON: Correct.

THE COURT: Right.

MR. KRZYSTON: So I think to an extent that issue has been addressed.

THE COURT: Are you going to stand up and say

that Investigator McCoy didn't interview all those people when he should have?

MR. KRZYSTON: I will not say all those people's names, no. I will say that there are people who potentially had information regarding this crime that Investigator McCoy failed to investigate.

THE COURT: Okay. What about you, Mr. Schnee?

MR. SCHNEE: If Your Honor instructs me not to list off those names, I won't. I'm also similarly confused as to exactly what we're discussing. Cross examining Investigator McCoy about information he received about potential witnesses does not mean that the State gets to somehow introduce Troy Stevenson's statement or the content.

THE COURT: We're already past that. We already ruled they couldn't do that.

MR. SCHNEE: I just don't understand because I don't believe the jury has been misled.

THE COURT: Oh, the jury has been misled, but I have allowed that to happen.

MR. SCHNEE: Well, I think the jury has been informed about what Investigator McCoy did or did not do in his investigation in that entire line of questioning. I don't think that --- some of the people that were even mentioned were discussed by

other witnesses, such as Latoya Barnes, Marcus Haley Johnson. That came up in August of last year and that witness has never been interviewed. Clearly there was a lot of other content in Latoya Barnes' conversation with McCoy, much of which came out. A lot of it didn't, but I don't even believe there is an inference to the jury that Troy Stevenson said anything other than just a list of names.

THE COURT: Ms. Campbell?

MS. CAMPBELL: May it please the Court, Your Honor. As you have noted, the jury has been misled somewhat about what Troy Stevenson was saying. Basically, he was saying --- to put it in context, he was trying to give names of people who would put him staying at the house longer than Trenton. That's the extent of what those witnesses could have said, but the inference before this jury, clearly, is completely different. We did try to rehabilitate it somewhat, but at this point --- and we tried to introduce the entire statement to show. We aren't trying hide anything, but at this point the jury thinks there is all this information from Troy Stevenson that they don't have and that he was giving these witnesses --- and I believe the word alibi was even shown at one point as far as that goes. We would just be --- I

don't know quite how to handle that, because we need to cure the misinformation that's in front of this jury to whatever extent we can.

I am concerned about how they plan on arguing this to the jury since there is additional information which they clearly know that these defendants were interviewed and, you know, that that's not before them. I don't know if we can do some ruling that's basically --- I mean, if you can address it to the jury that you have ruled what is admissible to be presented in this case, but you know, the other thing. Your Honor, with Sergeant Reese, too, basically all the information that the police got in this case point towards these three individuals, including all the information that they got from two out of the three codefendants. The only one that ever denied being was Lorenzo Young and all the physical evidence, as well, as the evidence from the witnesses they interviewed point to these three individuals.

THE COURT: What are you asking? That's my question.

MS. CAMPBELL: I guess I'm asking for some guidance. We intend to offer through Sergeant Reese the fact that they interviewed multiple people in this case and that all the information they got indicated

that these were the three people that committed this crime and they were the only three people there. And the problem is, as much as they would like to, to say somebody else was there, even with Marcus Johnson, the only information they got was that he was going around saying that these two people did it, but that's not been presented to the jury and in Investigator McCoy's defense, he was somewhat limited on what he could say as to why he did not interview these people. One was because they didn't have any additional information or any information contradicting what we already had. Two, his experience in dealing with people in gangs is they just simple don't want to talk to the police, and I believe that's why he was asking for defense counsel to --- for Ms. Zmroczek to help him in trying to make these people you know, talk to him, but I don't think that's really come out before the jury.

THE COURT: Yes, sir?

MR. KRZYSTON: Judge, I would just repeat that this very issue was discussed and addressed yesterday. Again, she was allowed great latitude in redirecting Investigator McCoy. To another extent, he did not go into interview these --- this list of people. I don't know what information he would have had, and I think it's improper for us to speculate at this point.

Without knowing what relief she is granting and really on what grounds she is requesting it, I don't know how to respond.

MR. SCHNEE: Judge, I may be misunderstanding, but I might be able to --- it seems the solicitor is asking to call Investigator Reese to the stand and question him about all the various witnesses that were interview and then follow up with a question " ...and then they all told you these are the three people that did it. I can't imagine how that would remotely be a valid question under any circumstances.

MS. CAMPBELL: No.

MR. SCHNEE: So I don't even understand what the relief is that the State is asking if that's not it, so I'm not sure how to respond, Judge.

THE COURT: I mean, the bottom line is McCoy didn't go out and interview these witnesses, period.

MR. SCHNEE: Right. And that's the only --- I'm sorry, Judge.

THE COURT: Right. The bottom line is McCoy didn't go out and interview these witnesses. I don't know what I'm supposed to do about that. He has his reasons for not doing it. I would allow him to explain more than 90 percent of his reasons for not doing it, but he just didn't do it. I just can't fix

that. His decision to not go interview witnesses whose names he was given is his decision and his investigation of the case, period. I mean, I can't imagine a scenario where a defense attorney can't say he was given witness names and he didn't go interview them. I mean, that's a fact.

MS. CAMPBELL: I understand, and I'm not trying to say that. I mean, the bottom line is, we did try to introduce and I understand the ruling. All we're saying is that --- and I think you alluded to it earlier, Your Honor, there is somewhat of a fraud in front of this jury. I'm just try calculate to what extent I can try to ---

THE COURT: Well, and I --- the misled statement earlier --- I don't know that that was the best word, but I mean that's one of the issues in having joint trials is that there's codefendant statements out there that are not going to be admissible under Bruton if their made to law enforcement. That's just a reality of life that we deal with when we're dealing with --- when you want to try more than one person and I don't know a way around that other than to sever trials.

MS. CAMPBELL: Okay. Your Honor, moving on.

THE COURT: Okay.

MS. CAMPBELL: As far as yesterday, I believe you instructed defense counsel, Mr. Schnee, not to mention the death penalty.

THE COURT: I did.

MS. CAMPBELL: And then he asked a question and he followed up with " ...you were threatening with the death penalty," or something to that effect. I could be paraphrasing.

THE COURT: Correct.

MS. CAMPBELL: We would ask for some kind of instruction to this jury that this is not a death penalty case and they are not to consider any kind of sentencing on that.

THE COURT: Okay. I've been searching for --- there is an instruction out there. I've used it before. I've been searching for it since last night, and for whatever reason, I cannot find it. There's an instruction out there that tells the jury that they are not allowed to consider sentencing in any way, shape, or form. That is completely in the Court's discretion. If you make it that far, if you find it, you can add in any portion, anything that's relevant about the death penalty.

MS. CAMPBELL: Thank you.

THE COURT: Mr. Krzyston.

MR. KRZYSTON: We would obviously get to a charge conference and object or, you know, be happy with the State's jury charge.

THE COURT: You'll get to see it, right.

MR. KRZYSTON: Right. Making sure. Thank you, Your Honor.

THE COURT: All right, what else?

MR. SCHNEE: Judge, since we're on what's apparently an extended break, do you want to address the issue of jury charges now or do you want to deal with that later?

THE COURT: We'll deal with that later.

MR. SCHNEE: I have nothing further.

THE COURT: Let's get through the testimony and deal with all that stuff.

MS. PINNOCK: We put our request to charge up on your bench. Just wanted to make sure you got that,

THE COURT: I did. Thank you. All right. Bring them in.

(WHEREUPON, the jury entered the courtroom at 10:49 A.M.)

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: All right. Thank you very much. Welcome back, ladies and gentlemen. I apologize for the delay. I accept full responsibility for it. No

inference in any way, shape, or form should be drawn against any of the parties in regard to the delay that we had this morning, and I do apologize and thank you for being on time and ready to go. You may call your next witness.

MS. GARFIELD: Thank you, Your Honor. The state calls sergeant Kevin Reese.

SERGEANT KEVIN REESE,

after being duly sworn, testified as follows:

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

THE WITNESS: My name is Kevin Reese. R-E-E-S-E.

DIRECT EXAMINATION:

BY MS. GARFIELD:

Q Sergeant Reese, where are you from?

A Where am I from?

Q Uh-huh.

A Columbia.

Q You've lived here all your life?

A Yes, ma'am.

Q And Sergeant Reese, where are you employed?

A Columbia Police Department.

Q And what are your duties for the Columbia Police Department?

A I am a sergeant supervisor with the criminal

right side of Ms. Hunnewell, and she is --- it looks like she is still at the sink at this point.

Q State's Exhibit Number 453. What does that photograph reflect that is occurring in the bakery?

A Okay. First of all, you notice that Ms. Hunnewell is not in this frame. It's not at the sink. It reflects one of the individuals, who is now on the inside of the business, and it will be the one with the red hoodie on.

Q And referring to State's Exhibit Number 454, what do you see in that photograph, Sergeant Reese?

A This frame shows just at the entry point to the door, the entry door, and I say that because the other subject the one with the gray hoodie on, is just a couple of feet --- appeared to be just a couple of feet on the inside of the business as you step through that entry door.

Q Moving on to State's Exhibit 455, Sergeant Reese, what does that picture reflect in the bakery?

A Ms. Hunnewell has her back turned toward where the door is opened, and it shows the subject in the red. It's clear that he has a firearm in his right hand.

Apparently he is approaching her and she doesn't know it yet, because it doesn't appear that at this

instant it look as if she is still --- she is working at the stove and not even aware of what's behind her.

Q Sergeant Reese, I'll hand you State's Exhibit Number 456. Can you please share with the jury what you observed in that photograph?

A This looks like Ms. Hunnewell is still at the stove and now the person in the red hoodie has engaged her from behind. It appears that he has hands on at this point.

Again, if the stove and the sink area would be out here and the camera would be here, it also shows the back of the subject in the gray hoodie. His arm is extended, as well. He has something in his hand to me from the investigation, obviously, that's a firearm.

Q Sergeant Reese, I'll direct your attention to State's Exhibit Number 457, can you share with the jury what you observed in that photograph?

A This frame also shows a hands on type situation. Ms. Hunnewell is still being engaged from the rear. It appears that the subject now, in the red hoodie, has the firearm up in this manner pointing it at her head.

It also appears that the subject in the gray hoodie is now making his move toward Ms. Hunnewell and

the subject in the red shirt, sweatshirt.
Q Sergeant Reese, State's Exhibit Number 458, what do you see in that?
A I don't see the one in --- I don't see the gray hoodie in this frame. The subject in the red hoodie is still engaging Ms. Hunnewell. He has the gun. It appears to be a little closer at this point. He has his --- it looks as if he has his left hand now on her --- on the rear from this side of her head and neck area.
Q And I'll show you State's Exhibit Number 459. What do you observe in that picture?
A Frame 459 shows --- still the cameras back here is showing the rear of the person that's in the red hoodie. Ms. Hunnewell is now facing him. There is not a great distance between the two of them. They are very close. Close enough to be touching, but she is facing him and it looks as if he still has the gun in his right hand pointing it at Ms. Hunnewell and now has her hand up like this and her arm.
Q Sergeant Reese, if you'll share with the jury what you observed in State's Exhibit 460.
A This frame here shows both subjects now in the gray hoodie and a red hoodie facing Ms. Hunnewell. She is now turned around toward the camera that would

be here and her left hand is up like this at some point, and I really can't make her right hand out except to say that it is somewhere in this manner here, around the breast area here.

The subject in the gray hoodie is still using his right hand. He is pointing the firearm at her in her mid section area. It looks like there is now a --- a bit more of a physical contact made between Ms. Hunnewell and the one in the red. This looks like there is a physical altercation at this point between the two of them.

Q Sergeant Reese, if you can take a look at 461?

A Certainly.

Q And share with the jury what you observed.

A At this point, I do not --- in this frame I do not see the subject in the gray hoodie, only it still appears to be in the right hand of the subject in the red hoodie. It's caught in this frame. but not very much of him. You don't see him, you just see his arm up to this point. You still see the firearm in his hand. Ms. Hunnewell is still in the frame and I cannot at this point tell you'll whether at this juncture there has been any shots fired at this point. I can't tell that from the photograph.

Q You can't tell that in the photographs?

A No.
Q Okay.
Q Sergeant Reese, if you'll share with the jury what you see in State's Exhibit 462.
A In 462, the subject --- Ms. Hunnewell is not in the frame. The subject with the red hoodie, it's clear at this point that he is in flight. You can tell by the different positions of his body and he is on his way out toward the area that he came in through.
Q What did you observe about his arm?
A His arm is up like this and it's behind him in this fashion.
Q In the direction towards who?
A In the direction toward where Ms. Hunnewell was standing a few moments ago.
Q And lastly State's Exhibit Number 463, what did you observe?
A 463 shows the subject in the gray hoodie. He is in the frame shot. Ms. Hunnewell is in the frame shot. Unfortunately, she is --- you can't see all of her, but you can see her legs. One foot. She is down on the floor, and she is in that same area that the subjects first engaged her. The subject with the gray hoodie on, he still has the gun in his hand. He has

Young in the courtroom today?
A I do.
Q Can you please point him out for the record to the jury?
A He is in the middle of counsel table, has a blue shirt on with striped tie.
Q Do you also see the defendant Trenton Barnes in this case?
A I do.
Q Can you point him out for the record?
A He is sitting at the far right counsel table with a black and white printed shirt on.
Q Thank you, Sergeant Reese.
MS. GARFIELD: Your Honor, may the record reflect that Sergeant Reese has identified both defendants for the record?
THE COURT: So reflected.
MS. GARFIELD: Sergeant Reese, please answer any questions the defense counsel may have for you.
THE WITNESS: I will.
MS. PINNOCK: No questions, Your Honor.
MR. SCHNEE: No questions.
THE COURT: Have a good day.
THE WITNESS: Thank you, Your Honor.
THE COURT: Call your next witness.

MS. GARFIELD: Your Honor, at this time the State of South Carolina rests its case.

THE COURT: All right. Ladies and gentlemen, at this point in time, the State has rested its case in chief. I have some matters of law that I have to take up that I'm required to take up outside of prescience so please return to your jury room. Do not discuss the case in any way, shape, or form. Keep an open mind and we'll be back with you in just a few minutes. Thank you very much. Everyone remain seated while the jury is dismissed.

(WHEREUPON, the jury left the courtroom at 11:38 A.M.)

THE COURT: All right. Who wants to go first?

MR. SCHNEE: I'll go first.

THE COURT: All right.

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

THE COURT: Yes, sir.

MR. SCHNEE: First I would renew all prior motions and objections. Particularly all of the motions dealing with the mistrial, severance, 804(b)(3), just all for the record. Second, Your Honor, I'd move for a directed verdict on all charges for my client particularly, other than the letter which I would certainly argue is not really direct

evidence, that it's more circumstantial evidence. If you look at the entire content of what we know is factually untrue, compared to the video and all other actual indisputable evidence, I don't believe the State has gotten to the point of proving beyond a reasonable doubt with any clear and convincing evidence or circumstantial evidence. The standard is substantial circumstantial evidence. I don't believe they've gotten there. I believe they've gotten Rolanda Coleman to pseudo identify my client by saying that she knew it was his walk and his height. That's the entire identification on the video itself and at the same time refusing to admit that allegedly the person in red would be Lorenzo Young, which is the State's contention. Coming from Rolanda Coleman, I think that highly suspect, at best. As to any other direct evidence, there's no fingerprints, there's no DNA There is nothing properly admitted. There is no confession admitted by anyone. I just don't believe the State has proved its case beyond the point that Your Honor or even the jury should even consider it and would I ask for a directed verdict.

THE COURT: All right. Who is talking?

MS. CAMPBELL: Your Honor, I believe in the light most favorable to the State, the State has proven

case. There is substantial evidence as far as guilt for Mr. Barnes, including his confession to which he admits to going in and being one of the shooters. In addition to that, there was identification by his own mother, as well Rolanda Coleman as being in the video. There is also his DNA at the scene. Your Honor, I would respectfully ask you to deny his motion.

THE COURT: All right. All your previous motions are noted for the record and my rulings on them will remain the same.

As to your motion under Rule 19 under the South Carolina rules of criminal procedure, for a directed verdict, that motion is denied. I'm required to consider the evidence in the light most favorable to the State. I'm further required to view the existence of the evidence and not the weight of the evidence. Therefore, I'm ruling on this motion, you will be denied. I believe there is --- in the case of Mr. Barnes, there is direct evidence linking him and connecting him to this crime and there is substantial circumstantial evidence so your motion for a directed verdict is denied.

Mr. Young?

MS. PINNOCK: May it please the Court, Your Honor. Your Honor, at this time we would renew all of

our previous motions and objections as noted, Judge, specifically, Judge, our objection to the introduction of a letter written by Trenton Barnes. We would renew all objections that we had to the trying of Mr. Young and Mr. Barnes in a joint trial. We also renew our objection to any items collected during search warrant of Mr. Young's house and any testing done thereafter on all those items and basically all of our objections and motions that we made throughout the State's case. We just renew all of those. We understand Your Honor has ruled on them, but at this time we are renewing all our objections and motions. Your Honor, we're also asking Your Honor to grant a directed verdict in viewing the evidence in the light most favorable to the State, the standard is substantial circumstantial evidence.

I would agree that they have introduced some circumstantial evidence in this case, but I don't believe it rises to the level of substantial. I don't believe that they have presented enough evidence against Mr. Young. The evidence that is per Your Honor's ruling to be allowed to be considered against Mr. Young. I don't think this case should reach the jury for deliberation. We would ask Your Honor to grant a directed verdict for Mr. Young on all charges

because the State has failed to meet their burden at this point.

THE COURT: All right. All your previous motions are noted for the record and my ruling upon them will remain the same. As to the motion for a directed verdict under South Carolina rules of criminal procedure Rule 19 that motion is denied. In regards to Mr. Young, there is both direct evidence against him and there is substantial circumstantial evidence against him and his case will go forth to the jury viewed in the light most favorable to the State, taking into account the existence of the evidence and not the weight of the evidence.

All right. Now, we need to --- I need to advise both of them, okay. Would both of you gentlemen please stand up and raise your right hand, please, both of you?

LORENZO YOUNG AND TRENTON BARNES,

each after being duly sworn, both testified as follows:

THE COURT: All right. I'm going to carry on a conversation with you here, okay. This is to each defendant. Each defendant is standing, both with their lawyers. Now, I mean, this. If you do not understand what I'm saying or you're confused or you

need me to know explain something further just tell me, that's perfectly fine. You're not going to upset me or offend me or anything else. This is one of the most important things we will cover. I want to handle this with a full knowledge and understanding that you understand what I'm saying and that you're following what I'm sawing. Do you understand that, Mr. Barnes?

DEFENDANT BARNES: Yes, sir.

THE COURT: Do you understand that, Mr. Young?

DEFENDANT YOUNG: Yes, sir.

THE COURT: Okay. All right. At this time, I'm going to explain to both of you some of your rights. If you do not understand anything that I say, please let me know. If you want me to explain anything in more detail to you, let me know. Do you understand what I have said so far, Mr. Barnes?

DEFENDANT BARNES: Yes, sir.

THE COURT: And Mr. Young?

DEFENDANT YOUNG: Yes, sir.

THE COURT: We have now reached the stage of the trial where you may present your defense. You have the right to claim the protections given to you by the Fifth Amendment to the Constitution of the United States of America. This amendment states in part that no person shall be compelled in any criminal case to

be a witness against himself. What this means is that you cannot be required to testify in this case. You have the right to testify on your own behalf, however, no one can make you testify. This is a personal right and no one can waive this right except you. If you decide to testify, you will be subject to the same rules that govern other witnesses and you may be examined and cross-examined on any relevant issue in this case. If you have any convictions that involve dishonesty or false statement or for crimes punishable by imprisonment for than one year and I determine that the probative value of these --- admitting this evidence outweighs its prejudicial effect, the solicitor will be able to introduce your record to attack your credibility. I know of none. Do you know of any, Ms. Campbell?

MS. CAMPBELL: No.

THE COURT: Prior convictions that would fall under 609?

MS. CAMPBELL: We aren't planning on using any.

THE COURT: Okay, so there are no criminal convictions that the State would attempt to introduce during your cross-examination. Do you understand that, Mr. Barnes?

DEFENDANT BARNES: Yes, sir.

THE COURT: And Mr. Young?

DEFENDANT YOUNG: Yes, sir.

THE COURT: If you decide to testify this decision on your part must be made freely and voluntarily and intelligently with the knowledge of the protections that are given to you by the Fifth Amendment and the consequences of your decision to testify. If you decide not to testify, I will instruct the jurors that cannot give the fact that you did not testify any consideration whatsoever and that there is to be absolutely no prejudice to you because you did not testify. It is left entirely up to you whether or not you testify.

You may talk with your attorney or your family or anyone else, but the final decision will be left entirely up to you. Do you understand what I have explained to you so far? Mr. Barnes?

DEFENDANT BARNES: Yes, sir.

THE COURT: Mr. Young?

DEFENDANT YOUNG: Yes, sir.

THE COURT: Do you have any questions about what I have explained to you, Mr. Barnes?

DEFENDANT BARNES: No, sir.

THE COURT: Mr. Young?

DEFENDANT YOUNG: No, sir.

THE COURT: Have you discussed this --- now, don't tell me what the discussion is, but have you discussed this with your lawyer, Mr. Barnes?

DEFENDANT BARNES: Yes, sir.

THE COURT: Now, don't tell me what the discussion is, but Have you discussed it with your lawyer, Mr. Young?

DEFENDANT YOUNG: Yes, sir.

THE COURT: Do you need to talk anymore to your lawyer at this time?

DEFENDANT BARNES: No, sir.

THE COURT: Counsel, do you request more time, Mr. Schnee?

MR. SCHNEE: Can I have five seconds?

THE COURT: Mr. Krzyston?

MR. KRZYSTON: I'll just take five seconds while he is, as well.

THE COURT: Okay.

MR. SCHNEE: I'm good.

MR. KRZYSTON: We're good, Your Honor.

THE COURT: So do you need any more time to talk to anybody, Mr. Barnes?

DEFENDANT BARNES: No, sir.

THE COURT: And Mr. Young?

DEFENDANT YOUNG: No, sir.

THE COURT: Okay. At this point in time, do you wish to testify, Mr. Barnes?

DEFENDANT BARNES: No, sir.

THE COURT: Okay. And do you wish to testify, Mr. Young?

DEFENDANT YOUNG: No, sir.

THE COURT: Okay. All right. Thank you very much. You may be seated.

THE COURT: Let's talk about scheduling. Mr. Krzyston, how many witnesses are you planning on calling?

MR. KRZYSTON: Your Honor, we're not putting up a case.

THE COURT: Mr. Schnee?

MR. SCHNEE: No witnesses, Judge.

THE COURT: Okay. Very well. Let's talk about scheduling a little bit for --- go ahead, stand up?

MR. KRZYSTON: Since we just formally rested, I would again renew all motions and objections, pre and post trial, as well as throughout the trial and just everything that we brought to the court.

MR. SCHNEE: As officially resting, I would also renew all prior motions and objections based on the same issues.

THE COURT: All right. Those motions are noted

for the record, my rulings upon them will remain the same. Let's talk about scheduling --- how do you all --- we have to talk about charges. We have to eat lunch and we have to argue and charge. Are what are your thoughts?

MS. CAMPBELL: It takes about 20 to 30 minutes to talk about the charges at least, and then whatever you think is appropriate for lunch and then we'll be ready.

MR. SCHNEE: Judge, I agree. It's probably about a 15 to 20 minute discussion about actual charges. The only other issue i.e. obviously we have to go through all the evidence and make sure all the exhibits are there. Particularly the CDs, I want to through them and just stick them in a laptop and make sure what's on them. I think we can do all that while the jury is actually at lunch. We can do our --- everything else after that.

THE COURT: Okay.

MR. SCHNEE: I don't mind not eating. It's not like I have had much to eat during lunches anyway during this trial.

MR. KRZYSTON: We're at the court's disposal, Your Honor.

THE COURT: All right. Well, let's do this.

Let's take a little break because I think that everybody --- the jury hasn't been in here all morning, but most all of have without break and I know Karen is looking at me like she really needs a break. Let's take about a ten minute break. Everybody stretch your legs, kind of regroup. Come back. We'll do the charge conference on the record.

MR. KRZYSTON: Thank you, Your Honor.

MR. SCHNEE: Thank you, Your Honor.

THE COURT: We will stop the charge conference, break for lunch and then argue and charge after lunch, okay?

MR. SCHNEE: Thank you, Your Honor.

(WHEREUPON, a short break was taken.)

THE COURT: Okay. The multiple defendant charge you requested is the one that's in the charge book. Do you have an objection to that?

MS. CAMPBELL: No, Your Honor, it's appropriate.

MR. KRZYSTON: Thank you, Your Honor.

THE COURT: I'm charging multiple defendants and multiple charges and so let's move to Mr. Barnes just for these I and he wants the Logan circumstantial evidence charge. What's your position on that?

MS. CAMPBELL: I think if he requested it, he gets it.

THE COURT: So that would be the circumstantial evidence charge, his charge. As to reasonable doubt, I charge Victor v. Nebraska and Mr. Barnes' and then malice, we're going to do malice here in just a second. Criminal intent ---

MS. CAMPBELL: Your Honor, we would request criminal intent in the charge book.

THE COURT: Yeah, the criminal intent that one is almost identical to the one in the charge book; it's very close.

MR. SCHNEE: Okay.

THE COURT: I will be charging criminal intent and multiple defendants, the verdict --- I'm going to tell them --- I'm going to do this at the beginning and I'm going to do it at the end when I come to the verdict form, which I'll show you all a copy of. I'm going to say you have to consider each and every single one of these independent of each other. One decision can't be based upon the other decision, you can acquit them all, find them all guilty, find none of them guilty, find some, partial whatever it may be. I will go into detail about the multiple defendants and multiple charges in the beginning and at the end when I go through the verdict form. Okay.

MR. SCHNEE: Yes, sir. Judge, there are a couple

of other charges that I didn't actually print out because I knew they were in your charge book that I would request. First, I would request a mere presence charge. I think there is substantial evidence, or at least there's been enough testimony that we didn't --- the person, which is outside whose identity is an obvious issue, could be merely present and not actually a participant. I'd ask for that. Additionally, based on the letter that the State introduced with the actual content of that, first I would be requesting a voluntary manslaughter charge based on the lack of malice that's expressed in that letter and second I would be objecting to any inferred malice by using deadly weapon as a result of the letter the State introduced.

THE COURT: All right. Your request for a voluntary manslaughter is denied. Tell me why you think Belcher applies.

MS. CAMPBELL: We'll withdraw that.

THE COURT: You'll withdraw ---

MS. CAMPBELL: We'll be glad to not use Belcher. I'll agree to that.

THE COURT: You're okay with not saying infer from a deadly weapon.

MS. CAMPBELL: Everybody know it's not --- I just

the it's safer to not use it.

THE COURT: Okay. That's fine. Do you want to respond to the mere presence?

MS. CAMPBELL: Your Honor, the only testimony before this jury is that the three of them went down there and participated in this crime. Out of an abundance of caution, I don't have a problem with mere presence.

THE COURT: Okay. Say that again.

MS. CAMPBELL: I don't have a problem with it.

THE COURT: Okay, you don't have a problem with it?

MS. CAMPBELL: With just the fact mere presence alone is not enough.

MR. SCHNEE: It's one or two sentences. That was the one I was referring to.

THE COURT: Yes, and it's in the --- hold on, let me find that.

(Pause.)

THE COURT: Here is what I was already planning on saying. However, mere presence at the scene of a crime is not sufficient to convict one as a principal on theory of aiding and abetting. So I was going to talk about it anyway.

MS. CAMPBELL: That's fine.

MR. SCHNEE: That's fine.

THE COURT: That's part of the hand of one charge.

THE COURT: Okay.

MR. SCHNEE: The only other thing, the reasonable doubt language, really the only request I'm making is the hesitate to act charge. I believe that's probably in there.

THE COURT: It's in your request to charge. I'm charging Victor v. Nebraska, which is firmly convinced.

MR. SCHNEE: Okay. So you're not charging the hesitate to act?

THE COURT: Correct.

MR. SCHNEE: Okay. Well, that's --- for the record, yes, I understand. Thank you.

THE COURT: You can still say that. You understand that?

MR. SCHNEE: Yes, Your Honor.

THE COURT: There are two charges that are available for reasonable doubt. One is hesitate to act, one is firmly convinced. I charge firmly convinced. Hesitate to act as is correct statement of the law, so you can say it.

MR. SCHNEE: Yes, Your Honor. I just wanted to

make sure that you were not saying it because I normally tell the jury that the judge is about to instruct you.

THE COURT: That's fine. I understand. That's why I was telling you that.

MR. SCHNEE: Thank you.

MR. KRZYSTON: Judge, I was just wondering, are you going to reissue the limiting instruction in regard to the handwriting sample?

THE COURT: I was going to, yes.

MR. KRZYSTON: Okay.

THE COURT: Do you have an objection to me doing that?

MR. KRZYSTON: Again, I'm in that weird position where I've got this objective sufficiency of the overall charge, but ask for it anyway so only to that extent.

THE COURT: All right. Ms. Campbell. Let's go through yours.

MS. CAMPBELL: Yes, sir.

THE COURT: Let's start with the kidnapping one. Is there any objection to the kidnapping one? Hold on. Let me go to that part of my charge.

MR. SCHNEE: Judge, I have no particular objection to that one sentence. That's covered in the

elements that you're going to read anyway, but I'm not going to object to it.

THE COURT: Mr. Krzyston.

MR. KRZYSTON: We have no objection, Your Honor.

THE COURT: All right. So the kidnapping addition will be added in.

I have to reorganize this so that I'll have to retype it out. All right. So now, the next one --- let's move to the hand of one is the hand of all.

MS. CAMPBELL: Are you using that one or a different one?

THE COURT: I have three hand of one hand of all from you so let's start with which one? They all kind of say the same thing, but they're all a little bit different.

MR. SCHNEE: Judge, I think there's one that kind of looks like a combination of some of the others. It starts out with two or more combined together. Blah blah blah. It's one solid very large paragraph.

THE COURT: Right.

MR. SCHNEE: Obviously out of the charged, that one covers all the rest. I would ask that ---

MS. CAMPBELL: Are you talking about the Ralph King Anderson one?

MR. SCHNEE: Yes.

MS. CAMPBELL: I have no problems with that.

THE COURT: How about you, Mr. Krzyston?

MR. KRZYSTON: Just so we're clearly talking about the one --- the correct one, it's King's charge as well as State v. Avery.

THE COURT: Yes.

MR. KRZYSTON: We would object to that charge on the basis of the totality of the circumstances. I don't know that the State has offered any evidence to indicate that Mr. Young --- certainly offered any direct evidence to indicate that Mr. Young is part of an accomplice. Based on that, Judge, we object to the charge at issue.

THE COURT: You're objecting to hand of one, hand of all period. Is that your objection?

MR. KRZYSTON: Yes, Your Honor.

THE COURT: If I give the State's version of it, then the mere presence comes out. Do you understand that, Mr. Schnee?

MR. SCHNEE: Well, I don't understand, no, I don't.

THE COURT: Okay. The hand of one is the hand of all from the charge book includes the language of the mere presence, which I read to you just a minute ago. If you give the --- if I give the Ralph King Anderson

charge, mere presence is not in there.

MR. SCHNEE: Well, Your Honor, I would ask that you either charge what's in your book or just add a separate mere presence charge. I'm fine with Your Honor doing it either way. I understand the State is entitled to that charge and I'm entitled to a mere presence charge, Judge.

MS. CAMPBELL: If he wants that mere presence added in, we have no problem with you adding at the scene is not sufficient..

THE COURT: Here is my question. On the Ralph King Anderson hand of one charge. My question if I say if two or more combine together to commit an unlawful act, such as robbery, and then halfway down it says, as for instance to break in and steal, both of those, I think inserting those factors in there gets close to commenting on the facts of the case because that is the allegations.

MS. CAMPBELL: How about to commit an unlawful act or a crime. Does that help?

THE COURT: What about that, Mr. Schnee, do you have an objection to that?

Do you see what I'm saying.

MR. SCHNEE: Yes, Your Honor.

THE COURT: What I'm --- there's warnings all

over the charge book that says --- that say don't give an example that fits the facts of your case.

MR. SCHNEE: Right.

THE COURT: Right. Because you don't want to be in a position of commenting on the facts of your case. So if I change that --- are you looking at the State's request to charge on this?

MR. SCHNEE: Yes.

THE COURT: If I change, if two or more combine together to commit an unlawful act and/or a crime, instead of saying such as robbery, which is an allegation here and then the execution of that criminal act, blah blah blah, and then halfway down where it says, as for instance, if it was unlawful.

MS. CAMPBELL: Just take out that language of, for instance to break in and steal.

MR. SCHNEE: You take out the, as for instance to break in and steal.

THE COURT: The common purpose may not have been to kill...and if it was unlawful and in the execution of this common purpose --- but, if it was unlawful and or criminal, right?

MS. CAMPBELL: Unlawful and/or criminal?

THE COURT: And/or criminal, and in the execution of this common purpose.

MS. CAMPBELL: That's good.

THE COURT: I think that prevents the court from commenting on the facts.

MR. SCHNEE: I would agree with that, Your Honor.

THE COURT: You're objecting altogether to the hand of one, hand of all, right?

MR. KRZYSTON: Correct.

THE COURT: And then where is the mere presence?

(Pause.)

Mere presence at the scene not sufficient to prove someone guilty of a crime in a defendant's presence where a crime is being committed or mere association with a person who commits a crime does make a defendant an accomplice or aider and abettor of the person committing the crime.

MR. SCHNEE: That's pertinent.

THE COURT: Do you have an objection to that? Okay. Do you have an objection to the mere presence charge, Mr. Krzyston?

MR. KRZYSTON: No, Your Honor.

MS. CAMPBELL: So that would be the only hand of one.

THE COURT: That would be the only hand of one, yes.

MR. SCHNEE: Judge, as for malice, I think ---

THE COURT: Hold on.

MR. SCHNEE: I'm sorry.

THE COURT: I'm trying to keep everything organized so when I go back and retype it so it makes sense to me what I've done.

MR. SCHNEE: Yes, sir, I understand.

THE COURT: Just one second. Let me get to malice in my charge. Okay. So we're all agreeing that inferring malice from the use of a deadly weapon is out?

MS. CAMPBELL: Out, yes.

THE COURT: Do you agree to that?

MR. SCHNEE: Yes.

THE COURT: Do you agree to that?

MR. KRZYSTON: Yes.

THE COURT: Let's talk about these other malice requests.

MS. CAMPBELL: I was going to withdraw that one anyway.

MR. SCHNEE: Judge, the one that I see that is probably most inclusive and fits, there is one that's very long and single spaced.

THE COURT: Right.

MR. SCHNEE: It includes the appropriate language of essentially the inference is only a permissive

inference and not a requirement. I think that would probably most accurately discusses this out of all of them.

MS. CAMPBELL: I'm withdrawing that.

THE COURT: You are withdrawing the single spaced one?

MS. CAMPBELL: Yes, the one that talks about malice may be inferred from the use of a deadly weapon.

MR. SCHNEE: I'm talking about the really long one.

MS. CAMPBELL: The really long one, the second paragraph.

MR. SCHNEE: Oh, the second paragraph. Okay. I was talking about the rest of them.

MS. CAMPBELL: Oh. You were reading the permissive inference?

MR. SCHNEE: Well, there is a permissive inference from malice in general. I think there is something in there.

MS. CAMPBELL: No. That's just from the use of a deadly weapon.

MR. SCHNEE: Oh, in that case --- never mind. I'm sorry.

THE COURT: So you're withdrawing the single

spaced one; is that right?

MS. CAMPBELL: I think most of that language in is in the other ones, other than the deadly weapon.

THE COURT: Okay. What's the next one we to look at?

MS. CAMPBELL: The aforethought, Your Honor.

THE COURT: It needs a first line.

MS. CAMPBELL: Malice may not exist for any appreciable period of time.

THE COURT: Okay. Let me see what's in the charge. Here's what's in the charge. Malice aforethought, in the charge book, does not require that malice exists for any particular time before the act is committed.

The malice must exist in the mind just before and at the act is committed. Therefore there must be a combination of previous evil intent in the act.

MS. CAMPBELL: Okay. I'll use that language.

THE COURT: I can add in --- I've checked this site and it's still good law. I can add in the sentence, Malice may be conceived at the very moment the fatal blow is given.

MS. CAMPBELL: That would be good.

THE COURT: Because the evil intended act is already in there.

MS. CAMPBELL: Thank you.

THE COURT: So any objection to that?

MR. SCHNEE: No, Your Honor.

MR. KRZYSTON: No, Your Honor.

THE COURT: All right. What else, Ms. Campbell?

MS. CAMPBELL: Your Honor, the --- we can take the popular sentence (unintelligible) aids in ill will.

THE COURT: You want to take that out?

MS. CAMPBELL: No, I want it.

THE COURT: I'm sorry. I didn't hear you correctly. Hold on one second.

(Pause.)

Go ahead, Mr. Krzyston.

MR. KRZYSTON: Judge, I think the language that the solicitor seeking in this instance is probably cumulative and unnecessarily repetitive, so on that basis, I would object to the addition of that language.

THE COURT: Okay. Mr. Schnee.

MR. SCHNEE: Judge, I'm not entirely sure what's in your charge book.

THE COURT: Here's what it says. Malice is hatred, ill will, hostility toward another person. It is the intentional doing of a wrongful act without

just cause or excuse and with an intent to inflict an injury or under circumstances that the law will infer an evil intent. Then it goes on to the part that I just read to you.

MR. SCHNEE: I think that would sufficiently cover it. I think this would be a cumulative charge.

THE COURT: So the first line of this is already in there.

MS. CAMPBELL: It's already in it.

MR. SCHNEE: Looks like the second one actually has a typo in it.

THE COURT: Is that the typo?

MR. SCHNEE: I would think it should "but signifies" instead of "by".

THE COURT: Pull up State v. Mouzon.

MS. CAMPBELL: It should be, "but" sorry. I apologize, Your Honor.

THE COURT: That's okay. It says 1957; is that right?

MR. SCHNEE: Yes, Your Honor.

MS. CAMPBELL: I believe there is similar language in the Israel Wilds case, too.

THE COURT: There's a 1997 Mouzon. That's why I said that.

(Pause.)

That should be "but signifies;" is that right?

MS. CAMPBELL: Yes, sir.

(Pause.)

THE COURT: Okay. And then move to the ---

MS. CAMPBELL: Last line?

THE COURT: Yes.

MS. CAMPBELL: That's what you're charge is.

THE COURT: So you want to --- you're okay with it stopping at fatally bent on mischief?

MS. CAMPBELL: I believe the language after that is already in your charge.

THE COURT: Right. It is.

MS. CAMPBELL: Okay. We're good with that.

THE COURT: Any objection other than adding in that sentence other than cumulative?

MR. SCHNEE: No, Your Honor.

MR. KRZYSTON: No, Your Honor.

THE COURT: Okay.

THE COURT: All right. What else?

MS. CAMPBELL: I believe this was one handed up, brutal conduct. I handed that one up late.

MR. SCHNEE: Oh, the brutal conduct.

THE COURT: Anybody want to take a position on that?

MR. KRZYSTON: Certainly, Your Honor. We would

object and to introduction of that charge. I believe the charge we just went over conveys the general language contained in that charge and there are no attending circumstances indicating any brutal acts other than what they're charged with

THE COURT: Okay.

MR. SCHNEE: Judge, I would join in that objection. I think it is cumulative. It draws a little too much attention --- in terms of crimes, I don't think anybody is going to actually start --- the acts physically contained in here aren't significantly brutal compared to any run-of-the-mill robbery, homicide. This isn't a beating death. There is no torture. I think it's probably the misstatement of the laws that apply in this particular case.

MS. CAMPBELL: Your Honor, if we can go into the felony inference.

THE COURT: Okay. I have two on those.

MS. CAMPBELL: I believe it's three.

THE COURT: Okay. I have three. I'm sorry. Norris, Norris and Lourie.

MS. CAMPBELL: I think the short Norris is included in the longer Norris, so I apologize about that.

THE COURT: All right.

MS. CAMPBELL: And Your Honor, in these two, I didn't even put in the words attempted armed robbery, but it also applies to kidnapping and burglary. Where it's underlined. Your Honor, I think the Lourie case is just close to Norris case. We may have to narrow it down to the longer Norris case.

THE COURT: And Lourie is a PCR.

MS. CAMPBELL: Yes.

THE COURT: Where they brought the jury back out and just read that charge and didn't read everything else.

MS. CAMPBELL: I think Norris would be the one that's longer.

MR. SCHNEE: I'm sorry. For some reason I didn't get a copy of that one.

MS. CAMPBELL: I can get it for you.

MR. SCHNEE: If I can just take a look at it.

MS. CAMPBELL: Here you go.

MR. SCHNEE: I just want to look at it. Thank you.

Judge, the only thing I'd say about the longer one is the attempted armed robbery would be a felony under the law. I know you want to stay away from charging on the facts.

MS. CAMPBELL: That's not factual. That is the

law.

MR. SCHNEE: I know.

THE COURT: That's correct. That's like possession of a weapon during the commission of a violent crime. If they're always charged, making this up, with the burglary, you also have to tell the jury the burglary.

MS. CAMPBELL: We would just ask Your Honor that you include the kidnapping and burglary.

MR. KRZYSTON: And, Judge, we would join in with Mr. Barnes' objection on those.

THE COURT: Okay. And I am going to do the Norris charge. I'll add it somewhere; I haven't figured out where in the definition of malice.

MS. CAMPBELL: As part of that, you'll charge them to that a those three offenses are considered felonies?

THE COURT: Yes.

MS. CAMPBELL: Thank you.

THE COURT: Are you withdrawing brutal conduct?

MS. CAMPBELL: I'll withdraw brutal conduct.

THE COURT: All right. Okay. I'm going to tell you the headings of the sections so you know. Number one, I start with this is what they're charged with. The fact they're not charged or is not charged is not

evidence. Number two, I will go into multi defendants. Each has to be considered separately and independently. The next thing I'll go into is multiple charges same date, separate and independent, separate and distinct offenses. I'll then go on to their duties. Duties of the judge, duties of jury. I then go to presumption of innocence. I then go to reasonable doubt.

I then go to direct and circumstantial evidence and I'm giving the --- I'm just going to call it the LOCE (phonetic) "lack of circumstantial evidence" charge for lack of a better term. Is what is and what's not evidence in here? At some point I'll do what is evidence, what is not evidence. Credibility of the witnesses, expert witnesses, failure of the defendant to testify. Criminal intent. And then I'll go into murder and then I'll go into --- I'm not saying anything about inferring malice from the use of a deadly weapon. I'm not defining deadly weapon or anything else. Then I'll go into kidnapping. I'll then go into attempted armed robbery. Let me read this real quick.

(Pause.)

THE COURT: All right. Part of that charge does contain the definition of deadly weapon. I'm not

charging fist as a deadly weapon or ordinary objects or toy guns or B.B. guns. Any objection to me taking all of that out?

MS. CAMPBELL: No, sir.

MR. KRZYSTON: No, Your Honor.

MR. SCHNEE: No, sir.

THE COURT: And then burglary second degree.

Again, I'm not doing ordinary objects, toy gun or B.B. gun in the definition of deadly weapon and I'm not going to charge if the defendant has a prior record of two or more convictions of burglary; is that okay with you?

MR. KRYZSTON: Yes, Your Honor.

MR. SCHNEE: Yes, Your Honor.

THE COURT: Ms. Campbell, any objection?

MS. CAMPBELL: No objection, Your Honor.

THE COURT: That will take out the paragraph that says the prior convictions that --- I'm taking out anything about prior convictions. Nobody has a prior conviction so I'm taking all of those paragraphs out. It explains how far you use that or how you are not to use that.

This does define nighttime as the period between sunset and sunrise, which there is not enough daylight to recognize a person's face. Blah, blah, blah. Okay.

Hand of one is the hand of all. The State gave adding mere presence at the end of it.

All right. I'm going are read you the limiting instruction and then I go into the duty to deliberate, then go over the verdict form. Okay. Somewhere --- did you come up with a proposed charge on sentencing?

MS. CAMPBELL: Your Honor, as far as sentencing, I believe the jury in a criminal proceeding may not presume any punishment the court may impose and then just follow up with this is not a potential death penalty case or the penalty is not being sought in this case, whatever the defense would rather have.

THE COURT: Somebody want to take position on that?

MR. SCHNEE: Judge, I don't have a position either way. I'm certainly not going to be arguing to the jury that this is a death penalty.

THE COURT: All right.

MR. KRZYSTON: Judge, to clarify, we have the right to talk about any of the sentences that the witnesses might receive, but not specifically, Mr. Young, obviously.

THE COURT: Here is my interpretation of what you can say. This is an example. You heard from a witness who was facing life without parole and that

can go to his credibility or his believability.

MR. KRZYSTON: Correct.

THE COURT: Certainly, but not as to Mr. Young is going to be locked up for the rest of --- none of those kind of comments about people are going to be locked up for the rest of their lives or anything else. What this says is the length of the prison sentence rests in the discretion of the trial court. You have heard testimony concerning the penalty a person can serve for the crimes alleged in the indictments. In determining the guilt or innocence of the defendant, you cannot consider any possible penalty for any particular crime. The punishment for crimes is a matter for me to determine and should never be considered by you in any way whatsoever in arriving at an impartial verdict as to the guilt or innocence of the defendants.

Tell me what you want me to add.

MS. CAMPBELL: The only thing is in this case the death penalty --- the State not seeking the death penalty.

THE COURT: Okay. I won't put that at the end. I mean, I'm putting that line at the end. I'll slide sentencing somewhere back in the middle of the charge somewhere.

MS. CAMPBELL: Back.

THE COURT: Okay. Anything else?

MR. SCHNEE: Not with regard to charging, Your Honor.

THE COURT: Okay.

MS. CAMPBELL: Your Honor, I don't think we addressed was one of Mr. Schnee's --- it was one on malice or did we address it and I missed it?

THE COURT: It's the one on the required mental State is malice aforethought?

MS. CAMPBELL: Uh-huh. If you look at the case on Findley, Your Honor, it goes back and quotes basically what your criminal---

THE COURT: Yes, I'm not charging that.

MS. CAMPBELL: That's what I needed to know.

THE COURT: I'm going to explain to them the mental state of malice aforethought.

Okay. The verdict form, it lists the indictment numbers. It lists both defendant's names. We did them in alphabetical order for lack of a better way to do it. As to the charge of murder: not guilty, guilty; burglary second degree: not guilty, guilty; kidnapping: not guilty, guilty; attempted armed robbery: not guilty, guilty, and it says by unanimous consent find, and then it goes on to Mr. Young murder,

burglary, kidnapping, attempted armed robbery and a place for the foreperson to sign, and it starts --- not guilty is the first one listed in each and guilty is the second. I tell them there is no significance as to that. I merely --- I'll tell them that about the order of the people, too. Somebody has got to go first and somebody has got to go second. I have to write one first and I have to write one second. There is no magic to any of that, nor does that mean anything, nor are they to draw any conclusion to anything. Anything else?

MS. CAMPBELL: No, sir.

MR. KRZYSTON: No, sir.

MR. SCHNEE: No, Your Honor.

THE COURT: All right. Do you want to flip the coin on who goes first?

MR. SCHNEE: I'll defer to them.

MR. KRZYSTON: We'll allow Mr. Schnee to go first.

MR. SCHNEE: I think Your Honor needs to flip a coin.

THE COURT: Okay.

MR. SCHNEE: Neither of us are going to agree.

THE COURT: I don't have a coin. I'm a judge, I'm broke.

MR. SCHNEE: Well, I had to go first in Opening. I think they should go first in Closing.

THE COURT: All right. I have one exhibit up here. I don't want you to lose sight of that one and then make sure you go through exhibits and look at whatever you want to look at before anybody plays it.

MR. SCHNEE: Right, Judge. I've already started it. I don't know if it's just this laptop, but there's already one CD that's not working.

MS. CAMPBELL: Judge.

THE COURT: Oh, look at that. She has money. Who did you borrow it from?

MR. KRZYSTON: Tails no fails, Your Honor.

THE COURT: You taking heads?

MR. SCHNEE: I'll go with heads.

THE COURT: All right. Whoever wins gets to pick.

MR. SCHNEE: Fair enough.

THE COURT: Heads.

MR. SCHNEE: I'm last.

THE COURT: All right.

MR. SCHNEE: Thank you.

MS. CAMPBELL: Do you have a problem with me opening on the law and then Ms. Simpson go over the facts?

THE COURT: No, that's fine.

MS. CAMPBELL: Thank you.

THE COURT: All right. Anything else?

(There was no response.)

THE COURT: Okay. Now, once we're done with the closing --- so when the jury comes back in, this is how it's going to work. When the jury comes back in, I want to say Mr. Krzyston, do you have anything to present? We rest. Mr. Schnee, we rest. I'll tell them that they have rested. You have rested and we're at the point of closing arguments. Then we'll go right into it. When we finish and they're out before the jury goes back. Now, this is the lawyer's responsibility, just don't get up and leave and walk out of the room where I can't find you, okay. You need to stay and make sure you go over with the court reporter what's going back and what's not going back so we don't have any dispute with what's back there and what's not back there. I will tell them they cannot begin deliberations until the evidence comes in the room. So you need to stay and make sure that what's going back there is what you believe is in evidence, okay, and then you need to make sure that Ms. Pendegrass has your phone numbers so that I don't have to run all over the world looking for you or try

to find you. Okay. Anything else?

MS. CAMPBELL: No, sir.

MR. KRZYSTON: Judge, just for clarification, we have already officially rested our case and renewed our motions to ---

THE COURT: You don't need --- I will put on the record that --- you all don't need to go through renewing your motions. You have rested in front of the court and you have renewed your motions and have done so appropriately and I believe you have protected the record on those issues, and that applies to Mr. Young and Mr. Barnes. We don't need go through that whole recitation when the jury comes back in. I understand what you've done and understand that you have renewed your motions and I've ruled on that.

MR. KRZYSTON: Thank you, Judge.

THE COURT: Are you okay with that, Mr. Schnee?

MR. SCHNEE: Yes, sir.

MS. CAMPBELL: Just one other thing, usually in the morning you ask them if you have seen any media or anything of that nature. I don't think you did it this morning.

THE COURT: Okay.

MS. CAMPBELL: If we could have that general question.

THE COURT: Okay. Two o'clock.

MR. SCHNEE: Thank you.

(WHEREUPON, a lunch break was taken.)

THE COURT: Yes, ma'am.

MS. GARFIELD: Your Honor, at the break, Mr. Schnee and I went over all the videos, CDs that were --- there were a couple of issues. We have changed them where they do reflect what was properly introduced into evidence with the exception of State's Exhibit 325. Your Honor, this would be the CD that was introduced with the Ale House video on it. The jury did see Ale House video on the outside. However, this CD contains surveillance video also from the inside. It would be the inside bar with the lights off. There is no activity inside the bar. I am informed by Mr. Brown of our office, who much more savvy in the IT area that it is impossible to take the video off this. It would have to be re-recorded by SLED in order to do that and I don't have in order to take it off. I've informed Ms. Pinnock, as well as Mr. Schnee. They are in agreement with it all going back to the jury since it doesn't add or take anyway anything.

THE COURT: It just shows the closed bar?

MS. CAMPBELL: It just shows inside a closed

establishment with the lights off, yes.

MS. PINNOCK: We have no problem with that.

MR. SCHNEE: Yes, Your Honor, I agree with that. The only other option we have is to have the jury come outside to the courtroom ---

THE COURT: Right.

MR. SCHNEE: --- which with that type of video, I felt that would be a bad idea. I doubt they want to come out just to see that.

THE COURT: Do we've clean computer to go back?

MS. CAMPBELL: We do, Your Honor. It's at Mr. Schnee's desk.

THE COURT: What else?

MS. GARFIELD: Actually there are two CDs in here. One CD is what you need to make the video actually play on that laptop. It's just a player.

MR. SCHNEE: Have you tried it in that laptop? I want to make sure.

MS. GARFIELD: We will.

THE COURT: Before we send it back, we need to make sure it works.

MR. SCHNEE: We didn't try.

MS. GARFIELD: We will before it goes back.

THE COURT: Anything else?

MS. CAMPBELL: Nothing from the State, Judge.

MR. KRZYSTON: Nothing from Mr. Young.

MR. SCHNEE: Nothing from Mr. Barnes.

THE COURT: All right. Everybody out here in the audience, I don't want a lot of commotion, a lot of moving around, getting up and down and all that good stuff. These attorneys, I don't know what day of trial we're on, but they have all been working very diligently, very hard since this trial began. It's not fair to any of the parties involved for this jury to lose any focus because somebody can't sit still and stay in here during the closing arguments. Nobody in the room except for attorneys and me should have a phone on them. Whoever has a phone on them, it must be on off or on silent. I do not want to hear it go off in this courtroom. That's also not fair to the attorneys or the parties regardless of which side of the case we're referring to.

Now, for those of you who don't do closing arguments every week of your life, the order will be that the State will go first, and then Mr. Barnes.

MR. SCHNEE: I chose last.

THE COURT: And then Mr. Young's counsel will be allowed to go, and then Mr. Barnes' counsel will be allowed to go. Once Mr. Schnee stops talking, okay, I am then going to charge the jury on the law. That's

going to take I don't know, 30, 40 minutes at least, okay.

During the time the back door will be locked and no one will be allowed in or out of this courtroom period. If you don't need to hear everything that I have to say or you don't want to hear it, which is perfectly fine with me, then when Mr. Schnee stops talking, you just need to quietly walk outside. Then once it's over, you will be allowed back in. The law requires that I lock the back door during the jury charge and no one will be allowed to stand up or anything. If you don't want to hear me go on for 30 or 45 minutes about the law, you don't have to, but you'll need to excuse yourself when Mr. Schnee is finished speaking so that you can wait outside. Okay. All right. So when we come back in, we're going to rest and go straight into it. Who is starting?

MS. CAMPBELL: I am.

THE COURT: Who is finishing?

MS. SIMPSON: I am, Your Honor.

THE COURT: Okay. All right. Don't let me forget to pull the alternates.

Yes, sir.

MR. SCHNEE: And I believe Your Honor was going to inquire if they have looked at any media coverage.

THE COURT: Yeah, I was going to. Thanks for reminding me of that. I forgot. All right. Let's bring them in.

(WHEREUPON, the jury entered the courtroom at 2:19 P.M.)

THE BAILIFF: The jury is seated.

THE COURT: Thank you very much. Welcome back. Thank you for being on time. Is there any member of the jury panel who has viewed any media in this case in any way or shape since the trial began. If so, please raise your hand. That's any form of media, social media, news accounts, internal, radio, television, print newspaper or anything.

THE JUROR: Talking about just this case?

THE COURT: Specifically about this case, correct.

(There was no response.)

THE COURT: Okay. Thank you very much. Mr. Krzyston.

MR. KRZYSTON: Your Honor, we rest at this time.

THE COURT: All right. Thank you very much. Mr. Schnee.

MR. SCHNEE: The defense of Trenton Barnes rests at this time, Judge.

THE COURT: Thank you very much. Ladies and

gentlemen, at this point, you have heard the entire testimony that you are going to hear in this case, the evidence that you are going to hear in the case. We have reached the point of the trial known as closing arguments, and just the order so that you will know for the afternoon of what's going to happen is the State is going to go first, and they will do what we call an opening on the law, and I believe Ms. Campbell will be giving that to you and then Ms. Simpson will be finishing their closing argument to you. At that point in time, Mr. Young's lawyers will be allowed to give a closing argument and then Mr. Schnee will have the final argument. Now, once Mr. Schnee finishes his final closing argument, you may see a mass exodus of people from the courtroom.

That's because I have to instruct you on the law. Okay. That takes about 30 to 45 minutes. There's no exact science to that, but the law require that the back door be locked, and no one be let in or out during that time. Usually we have a group of people that will get up and leave. That's normal. That happens in every single case I've ever tried in my whole life. I'll take a little bit of a break, let you stand up, stretch your legs. Then we'll sit back down and I'll tell you what the law is and what your

instructions are from that point forward.

Ms. Campbell.

MS. CAMPBELL: May it please the Court.

THE COURT: Yes, ma'am.

CLOSING STATEMENT:

BY MS. CAMPBELL:

Q Good afternoon. The first thing I'd like to do on behalf of the State of South Carolina, the citizens of Richland County and the family of Kelly Hunnewell is to thank you for your service in this case.

I know when you showed up for court last week, you might have wondered if you might be on say a wreck case or a contract dispute or something of the nature. I'm sure you probably envisioned that it would not be a case that quite literally is as bad and as horrific as this one has been, but we want to thank you for your willingness and your attention and paying attention to each and every witness.

As you know, this is a very important case for the State of South Carolina, for the citizens and it's a very important case for the defendants, as well.

Now, as the judge just told you, I'm going to get up here --- if my voice doesn't go. I'm sorry. I don't know what's in this courtroom. I'm going to talk to you a little bit about the law in this case as

it applies, and then you're going to hear from Ms. Simpson. That will be the last time you hear from anyone on behalf of the State. You will then hear arguments from Mr. Krzyston and arguments from Mr. Schnee.

As I talk about the law in this case, if I say anything, say anything or state anything different from what the law is that ultimately the judge will charge you on or give to you, you take it as the judge gives it to you. It's not intentional on my part. There may be some verbiage that's slightly different. In that same vein, if either side mischaracterizes or misstates facts, you remember because the roles in this courtroom are very well defined and there is a reason for that. The role of the prosecution is to bring forth to you all of the admissible relevant evidence that is allowed by law for you to consider, and the defense's job is very simple. It's to defend their client to the best of their ability.

The judge's law is to determine what actual evidence you're allowed to here. You've been sitting in and out of this courtroom and I want to apologize and I'll get back to that about what's admissible and what's not admissible and what you can consider. No one is going to get up here and say that anyone's job

is more important than yours.

Each of you've individually and then once the judge charges you on the law collectively when you get back there, and if anyone says any different, that's simply not true, because your role, ladies and gentlemen, is to determine what happened back on those early morning hours on July 1st when Kelly Hunnewell showed up at work at three in the morning to support her children.

What happened that night? In this case, some of that is not as much in dispute because in this case there is a video. Now, you have heard all the evidence that you are allowed to consider.

What you must base your verdict on is the evidence before you. As the judge has already told you, what is evidence? Evidence is the sworn testimony, the exhibits that are allowed to go back to you. That is evidence. More importantly, ladies and gentlemen, is the judge told you what's not evidence, any argument by any lawyer, opening, closing whatever, questions by counsel, fishing expeditions, speculation, conjecture, just plain wishful thinking doesn't make it a fact.

If a person is asked a question and they have no further knowledge, the question itself is not

evidence. The answer is, so that's what you must consider. Now, you have all the evidence you can consider in this case.

Now, I want to apologize if over the last week we have done anything to offend you. At times there have been legal wrangling back and forth. What wasn't admissible, may become admissible. You've heard about hearsay. You've heard all kind of legal terms. At times the questioning, especially on my part, has been inartful, clumsy, sloppy. Please don't hold that against the State or against this victim's family. It was not intentional.

There have been times when you have been forced to go back in that jury room and sit for literally hours, and I apologize on behalf of the State. It was not intentional on our part.

Now, in criminal cases, they are unique because in criminal cases, the burden of proof is on the State of South Carolina. The defendant has, as he should by our constitution, the absolutely right to confront each and every witness that comes before him.

You have heard references to statements, to audio recordings, to documents that were done by experts, things of that nature. If you have noticed, none of those have come before you. There were no depositions

that were read to you. There were no video depositions that were played for you, and the reason for the, ladies and gentlemen, is very clear because that's the defendant's right, as it should be, to confront each and every witness against him. So in criminal cases, every witness, the pathologist, the DNA expert, the responding officer, it doesn't matter, they have to come before you and testify.

The reason for that is so that you can judge credibility, because that's your role so that you can actually see person that is asserting to have knowledge or expertise in an area and to judge their credibility. You've also heard from a number of witnesses that you have heard us ask these questions over and over. Did anyone tamper with anything? It's our burden to prove that no one tampered with any evidence, no one altered anything or comingled things that weren't already comingled, so that the chain of evidence is such before it's admissible for you to consider that the integrity of that evidence has been preserved. You've heard from a number of those witnesses. You've also heard references to other witnesses that may have been, say at the scene, other police officers and as Sergeant Reese told you today, not every police officer comes before you, but what

has the State dope in this case. We have brought before you all the witnesses that have had admissible relevant testimony that can come before you.

Now, as I said earlier, the burden of proof is on the State of South Carolina to prove this defendant guilty beyond a reasonable doubt, and let me repeat that. That is the highest level of proof we have in our nation, and that's where it should be. We must prove the guilt of Lorenzo Young and Trenton Barnes beyond a reasonable doubt that's what the constitution guarantees them and that's the way it should be.

Ladies and gentlemen, in this courtroom, in this courthouse with this evidence, that is a burden the State welcomes. Now, listen carefully as the judge defines for you what is reasonable doubt.

I'm going to go through some definitions because there are going to be a lot of legal terms that are going to be put before you. In this case there are four separate indictments. They all arise out of the same event, that's not unusual, on each defendant. As the judge will instruct you, you must reach a verdict as to each indictment independently of each other on each defendant. But what is proof beyond a reasonable doubt? Our courts have defined it as such and listen to the judge as he defines it for you, because proof

beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. Let me repeat that. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt.

There are very few things in this world that we know with absolute certainty. In criminal cases the law does not require proof that overcomes every possible doubt.

If based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crime charged, you must find him guilty. If on the other hand you think there is a real possibility he is not guilty, you must give him the benefit of the doubt and find him not guilty.

Firmly convinced of the defendant's guilt. The law even recognizes that no one can overcome every possible doubt. It is only that reasonable. In listening to the judge in his charge, will use the word reasonable over and over.

Now, before you are going to be the indictments on each defendant for the first crime. I'm just taking them in whatever order; the judge may take them in a different order. The first crime I want to talk to you about is murder. To be the most heinous crime

committed in our society, it has probably the shortest definition, at least in South Carolina. Listen carefully. You're not going to hear about different degrees of murder. You're not going to hear about lesser included offenses.

The crime charged here is murder in 16-3-10 of our Code of Laws, murder is the killing of any person with malice aforethought, either expressed or inferred. Sometimes they refer to it as expressed or implied.

I want to talk to you a little bit about what those terms mean. The killing of another person with malice aforethought either expressed or inferred. The first term I want to talk to you about is what is malice. What makes a killing a murder?

The judge will instruct you, and again he may instruct you in a little bit different manner, but the gist of what he's going to tell you is this. In its popular sense the term malice conveys the meaning of hatred, ill will, or hostility towards another. In its legal sense, however, malice does not necessarily mean ill will toward the individual injured, but signifies a general malignant recklessness of the lives and safety of others or a condition of the mind which shows a heart regardless of social duty and

fatally bent on mischief.

A heart regardless of social duty and fatally bent on mischief. All the State asks is that you look at the events of that night. Look at the information before you and I submit that when two young men combine together with another young man for the purpose of robbing an establishment, even if they didn't intend --- and I'll get back to this, to murder anyone at the onset, the fact that this occurs during the robbery or the burglary or the kidnapping in this case, it reeks of malice. It doesn't get any more malicious. In other words, a malicious killing is where the act was done without legal justification. I submit nobody --- and I could be wrong --- is going to get up here and argue this is not a measure. Excuse or extenuation and malice has been frequently substantially so defined as consisting of the intentional doing of a wrongful act towards another without legal justification or excuse. I submit --- I could be wrong, that no one will get up here and argue that going in to rob a person or kidnap them or doing a burglary is a legal justification or excuse.

No one will get up here and say their actions were not criminal.

The law goes a little bit further than that

because they're --- you remember, it says express or inferred. What's the difference in that? It's not that there are two different kind of malice. Expressed malice is if I walk up to another person and I pull out a gun and I look at them and I say I am going to kill you, that is expressed malice. Sometimes lying in wait to prepare ahead of time. Like in this case, it is expressed malice. Even if the intent, and I'll get back to that, was to do the armed robbery, not the original intent was to do the murder.

Those are ways that you can define express malice, but law recognizes that generally when murders occur, you may have to infer from the acts and the conduct that surround what happened.

So you look at what the people were doing, what they were trying to do. Did they act maliciously? In inferring malice, you look at the conduct.

Very simply, as the judge will charge you, malice may be inferred from conduct showing a total disregard for human life. Remember the video, how they rushed up on her, gun to the head. We don't know what they said, but we don't need to because you can watch what they did. The second young man ran up to make sure she can't escape out the other side. As both of them

point the guns towards her, she does the only thing she can think to do, and she swipes at one of them with that spoon to protect herself. You heard earlier about how one of the defendants was talking about the Castle Doctrine. This isn't the Castle Doctrine for them. She had the right to defend herself when being attacked and a gun forced to her head. Is that conduct showing a total disregard for human life?

Then when one starts shooting, the other one joins in and they're shooting at her and it's not like these guns, these locks where you pull the trigger and it keeps firing. Remember what the experts said, one, two, three, four. Is that a total disregard for human life. Now, in that same definition of murder you also heard the term aforethought. Malice must be aforethought. Sometimes when considering murder you may wonder does someone have to plan this for days ahead of time. Do they have to sit and wait outside for 30 minutes. No, listen carefully to the judge because he will tell you malice aforethought does not require that malice exists for any particular time before the act is committed. Malice must exist in the mind of the defendant just before and at the time the act is committed.

Therefore, there must be a combination of the

previous evil intent in the act. However, malice may be conceived at the very moment the fatal blow is given. How dare she fight back? They showed her. Malice. There is also another concept of law that applies here as the judge will tell you. That's felony murder rule. What is that ladies and gentlemen? Listen to the judge, okay.

The law says if someone intentionally kills and I submit pulling a trigger of a gun and pointing it at a person, which ultimately dies as a result of that, regardless of if you miss several times, killing another during the commission of a felony the inference of malice may arise if the facts are proven beyond a reasonable doubt, sufficient to raise an inference of malice to your satisfaction, this inference would simply be an evidentiary fact to be taken into consideration by you the jury along with other evidence in the case and you may give is as much weight as you determine it should receive. The law also allows the jury to infer malice if you conclude that the homicide was a proximate direct result of the commission of a felony.

Were they in the commission of a burglary, a kidnapping, a robbery being attempted? For that regard, attempted armed robbery, kidnapping and

burglary second degree would be felonies under our law. One of them is a felony. These are three felonies.

You can imply malice existed if the person is in the commission of a felony at the time of the fatal blow.

Now, the second indictment --- there are two, one on each, that's going to go before you and you're going to be asked to reach a separate verdict on is kidnapping. Very simply, ladies and gentlemen, our definition of kidnapping under our Code of Laws is very simple. Whoever shall unlawful seize, confine, inveigle, decoy, kidnap, abduct or carry away any other person by any means whatsoever without authority of law, that person is guilty of kidnapping.

Now, what are all those terms? We don't have to prove all of them. There's an or. So we have to prove that one of these actions occurred, and the judge will define either some of them or all of them to you. And specifically, if you should seize or confine any other person by any means whatsoever without authority of law. Traditionally when you think of kidnapping, you think of somebody coming into the state, putting them into the trunk of a car, driving them across state lines. There may or may not

be a ransom note, but traditionally that is what some people think of as kidnapping. The law recognizes kidnapping is more expansive than that. All we have to prove is that for some period of time that Kelly Hunnewell was not able to leave of her own free will.

The definition of seize confine, ladies and gentlemen. Seize means to take hold of suddenly or forcibly. Was she free to go once he put that gun to her head? Why did she have to fight back if she was free go. Confine means to limit, restrict, enclose or imprison within bounds or shut to keep in. Was she able to move? That's the basis of the kidnapping charge. Now, with kidnapping, does it have to happen over a day, a week, a month? The law is specific as to that.

Kidnapping in our State is continuing offense. It commences when one is wrongly deprived of their freedom and continues until freedom is restored. So from the moment that Lorenzo Young came up behind her, put a gun to her head and forced her back the other way toward where he thought maybe there was a safe, money, her money --- when one is wrongfully deprived of their freedom and continues until her freedom is restored. This happened quickly. Listen carefully to the judge. He will not instruct you that we have to

prove that it lasted for any particular amount of time. One second, two seconds, three seconds is sufficient if you find that her ability to leave of her own free will and volition, she couldn't do it.

Now, getting back to the murder for a second, one thing I didn't --- in this state, as far as murder goes, the State of South Carolina does not have to prove premeditation to the murder. I submit in this case there is evidence of premeditation to the armed robbery they were attempting, to the burglary they were attempting, to the kidnapping, but we do not have to prove premeditation to prove the elements of murder. Listen carefully to that. At the same time, we don't have to prove motive. However, in this case, the motive is clear. It's to enter unlawfully and rob. So we have murder, but we don't have to prove those things.

The next crime I want to talk to you about and there's one indictment on each defendant on this, is attempted armed robbery. Now attempted armed robbery is defined in our state as a person who commits or attempts to commit a robbery while armed with a pistol, dirk, slingshot, metal knuckles, razor or other deadly weapon. In this case, ladies and gentlemen, there is no dispute both of them, even one

of them would have been sufficient were armed or while alleging either by actions or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of a robbery reasons to be a deadly weapon. The law even recognizes to be an armed robbery, they don't even have to have a real pistol. They just have to use a representation that they may have a weapon. The reason for that is clear because the law recognizes that bad things can happen when people think that they are in fear of their lives. So it recognizes that just the representation and in this case however, you don't even have to go there, because there is no dispute. There were two guns and both of them worked just fine. They worked well enough to kill Kelly Hunnewell.

Now, what is robbery? The simplest way to put it and I don't know how the judge will define this to you. Robbery is very simply stealing. If you think of it. It's a larceny or a stealing from another person. What elevates a larceny or a stealing up the a robbery, it's done from the persons or presence of another with some type of force or violence in order to make them give up their things or this is an attempt now. No one is saying this was successful

because she fought.

That makes it a robbery or a strong arm robbery. What elevates it to armed robbery or an attempted armed robbery is the use of the deadly weapon and those are very simply the elements of attempted armed robbery.

Now, the Judge is also going to instruct you on the law of burglary in the second degree. A person is guilty of burglary in the second degree. The person is guilty of burglary in the second degree if the person enters a building without consent and with the intent to commit a crime therein. That's the element of burglary. What makes it burglary in the second degree is when it's dwelling involved are some of these other aggravating circumstances, but a you notice in the definition of this, they don't have to break down the door because there was no dispute the door was wide open that night. They don't have the right, no one has the right to enter another person's place of business, in this case the bakery, if they enter with intent to commit a crime.

Watch the video. Not much of a dispute that they enter with intent to commit a crime. Kelly Hunnewell never sees them coming. She doesn't even know they're there until the gun is already to her head. To make

it burglary in the second degree when it's a dwelling, we have to also prove that when effecting entry or while in the building or in immediate flight there from, he or another participant because the law recognizes it can be more than one, is armed with a deadly weapon or explosive or we don't have to prove all of these just one, although I submit all of these apply, causes physical injury to any person who is not a participant in the crime. There's no dispute Kelly Hunnewell was shot and killed, or uses or threatens the use of a dangerous instrument, or displays what is or appears to be a knife, pistol, revolver, shotgun, machine gun or other firearm or just if the entering occurs during the nighttime.

Any one of those is enough to make this burglary second. Nobody is going to get up here and argue this wasn't a burglary second. Now, the law goes a little bit further than that. I will explain that concept, since Mark told you in his opening argument, the hand of one is the hand of all in this state. However, let me assure you that mere presence at that scene is not sufficient to make a person guilty of a crime. If you find that the State has proved that the defendant was only present at the scene for a crime and they have not proved any other participation in the crime, then

you must find the defendant not guilty. Along that same vein, the judge are instruct you that if two or more combine together to commit an unlawful act or crime --- so two or more people and in this case, three combine together to commit an unlawful act or crime, in this case a robbery, a burglary and ultimately a kidnapping with the intent and in the execution of that criminal act a homicide is committed by one of the actors as a probable or natural consequence of the acts done in pursuant to the common design and there's no dispute the two that go in, one is the lookout. The two that go in, these two are there for one purpose. The video speaks volumes. All present participating in the unlawful undertaking are as guilty as the one who committed the fatal act. So it does not matter if Lorenzo Young is the shooter when it comes to Troy Stevenson and Trenton Barnes. Here today, you are only concerned with these two. Remember Troy's charges are still pending. He will have his day in court.

The common purpose may not have been to kill and murder, but if it was unlawful and/or criminal and in the execution of this common purpose a homicide is committed by one as a probable or natural consequence of the acts done in pursuant to the common design,

then all present to participate in the common design are as guilty as the slayer.

If I join in with one or two other people and I say my role is --- I'm only going to be the lookout. Even if I look at the person going with the gun and say no matter what you do don't shoot anybody. Under the law because I am participating in a criminal act, no matter what happens in there even if my role is lookout, outside, down the block, the hand of one is the hand of all and that's the law in our state. The judge will also instruct you that in every case we must prove criminal intent. Ladies and gentlemen, it doesn't get any more criminal than this.

In order to establish criminal liability, criminal intent is required. For example, the mental state for a particular crime might be purpose, intent, knowledge, recklessness or even just criminal negligence. Let me repeat that. What must be proved by the State for a particular crime might be purpose, intent, knowledge, recklessness or criminal negligence. Criminal intent must be proven by the State beyond a reasonable doubt. It is always a matter that must be determined by the jury from the circumstances surrounding the situation. There is no way to prove intent to a mathematical certainty.

There is no way medical science can dissect a person's brain and determine what the person has in mind. The law says that criminal intent may be inferred from the circumstances shown to have existed. This is how you make a determination as to whether or not the element requiring intent was present. It is not necessary to establish intent by direct and causative evidence, but intent may be established by inference the same way as any other fact by taking into consideration the acts of the parties and all the facts and circumstances of the case.

Criminal intent is a mental state, a conscious wrongdoing. It's up to you to determine what the defendant intended to do based upon the circumstances shown to have existed. Criminal intent can be determined by action or failure to act. In this case and listen carefully to the judge, he is not going to tell you it's okay to go in and shoot people because somebody else tells you to do it. Criminal intent can arise from action or a failure to act. It may arise from negligence, recklessness or an indifference to duty or to consequences that is considered by law to be the equivalent of criminal intent.

Now, in our state there are two different kinds of evidence that can be used to determine guilt or

innocence. What is said --- we refer to as direct and circumstantial evidence, and what are those? Direct is the type of evidence you get through the senses, what you see, smell, hear, touch, what you actually observe. In this case there was a review of the video so people had direct evidence as to who those people were and they were able to identify them. That's direct evidence. Eyewitness testimony typically. In addition to that, there is also circumstantial evidence. In this case like the DNA evidence where you see Ms. Hunnewell and these two defendants' DNA on a spoon that happened to be in the center of this crime. That is circumstantial evidence that you can consider, and very simply the law says that direct evidence directly proves the existence of a fact and does not require deduction. Circumstantial evidence is proof of a chain of facts or circumstances indicating the existence of a fact. In this case another type of circumstantial evidence is the GAP 45 ammunition at his home. Does that give you an inference that he may have been involved in this. Crimes may be proved by circumstantial evidence. The law makes no distinction between the weight to be given to either. There is no weight or distinction. To the extent the State relies on circumstantial

evidence, all the circumstances must be consistent with each other and when taken together point consistently to the guilt of the accused beyond a reasonable doubt. If they merely portray the defendant's behavior suspicious, proof has failed. In this case, ladies and gentlemen, luckily there really isn't, not luckily, but in this case there doesn't happen to be that much circumstantial evidence. The majority of what the State is bringing before you is direct evidence, but what circumstantial evidence is there is helpful, very helpful in this case. It totally and completely corroborates what other witnesses were actually able to tell you, even those witnesses who were so reluctant to be in here who didn't want to be in here, but it was their testimony or their initial statement corroborated by everything else, the phone dump, the letters written by the defendants later. The DNA. The gunshot residue and it goes on and on. These are just a few of the things. What you have is testimony from witnesses, such as Rolanda Coleman who didn't want to be here. Such as Donald Moore, who really didn't want to be here and finally Latoya Barnes. Give her credit. The circumstantial evidence corroborates what each and every one of those witnesses told you. That's why

it's particularly useful in this case as far as that goes.

You also heard from another witness and the Judge instructed you, I think, every single time one of them got up here to testify, expert witnesses. The law recognizes that some people, such as myself are what we call lay witnesses. We don't have any expertise in any area. I wouldn't be able to get up there and give an opinion about anything, but certain people because of their training, because of their education are able to get up there and give you information, testing that they actually did. The DNA, the gunshot residue, the pathologist, the bullets, the firearms expert person. Those were all experts and the reason for that is very simply, they have the training. They're able to do it. Now, when judging their credibility, you judge credibility with them the same way you do everyone else and that's important. Do they have a basis? Do they have the experience? Have they testified before? All these are factors in considering whether a person is able to render an opinion, and I submit, ladies and gentlemen, if you take even just the testimony of one of the lay witnesses and couple it with the expert of the testimony in this case, that alone is overwhelming. The judge will also instruct you that

in this case there has been some mention of the death penalty. The State is not seeking the death penalty in this case. The judge will tell you the determination of any punishment should not even enter y'all's mind.

All your role is to determine guilt or innocence, and that is what your role is, but the State is not -- - this is not a death penalty case. The final thing I want to talk to you a little bit about is credibility. What is credibility or believability? The judge will instruct you. You can believe one witness against many, many against one. You can believe part of what a witness says, none of what a witness says, all. It doesn't matter. It's up to you. When considering what to believe as far as credibility of the evidence we put before you, do they have a bias or prejudice? Do they have something to gain or something to lose? Is the testimony corroborated by other testimony or contradicted? Do they have some fear of testifying in credibility, believability, and the defense got up here in their opening statement and they talked about how this courtroom is packed. There's a pressure everywhere, a rush to judgment, pressure. I submit, ladies and gentlemen, think about Donald Moore. He had to come before you because he was under subpoena.

Did he want to testify? No. Do you blame him? No. Did he make up, oh I just told lies those lies that happened to be corroborated by all the evidence in this case. Was what he told police initially the truth? Even Trenton Barnes wrote his mother a letter saying it was the truth. Do they have something to gain or to lose? The defense will get up here and argue oh you can't believe any of the witnesses. You can't believe any of the evidence.

They will read out lists of who you didn't hear from. That's all an attempt to divert your attention from the relevant admissible evidence that you did hear as to what happened that night because each and every witness was corroborated by the physical evidence, even by the telephones and give Latoya Barnes credit, ladies and gentlemen. I beg you to judge her credibility. She got up here and it could not have been easy, and I felt horrible, but she got up here and she told you what she told police about what she knew and she didn't want to admit that, yeah, she saw Trenton with a gray hoodie. Do you blame her? I can't. But she told you everything else, but when she went to the police and I think I asked her this question, she just wanted to make sure the truth came out, that the right people were held responsible. She

deserves a lot of credit.

Again, if I have said anything different from what the judge instructs you on the law, it wasn't intentional. All the State asks for is justice. Nothing more, nothing else. Thank you.

MS. SIMPSON: May it please the Court.

THE COURT: Yes, ma'am.

CLOSING STATEMENT:

MS. SIMPSON: Well, I shouldn't have shot that bitch. That, members of the jury, those words of Lorenzo Young. I didn't mean to do it, the words of Trenton Barnes.

No, no, no. The screams of terror heard by Theresa Baskin, screams that she will never forget. The final words, those pleas for mercy from the victim in this case, Kelly Hunnewell. No, no, no.

The final words, the words, the voice of a daughter, a sister, a friend and more importantly a voice that her children ages 13, 10, 6 and 8 will never hear again and for what? Nothing, absolutely nothing because nothing is the value that the defendants, Lorenzo Young and Trenton Barnes placed on human life that day. Let's be clear. Make no mistake about it. As Ms. Campbell alluded to earlier, the only person who should have been able to come in this

courtroom, take this witness stand and testify that she was acting in self-defense is the victim, Kelly Hunnewell.

Unfortunately, she never got that chance. Her life ended far, too soon at the young age of 33. Why? Because the defendants, along with their codefendant, Troy Stevenson, had a plan. They were going to rob someone that night, and when the first lick went wrong, they saw a crime of opportunity.

MR. KRZYSTON: Objection, Your Honor.

MS. SIMPSON: Unfortunately ---

THE COURT: What's your objection?

MR. KRZYSTON: Can we approach?

THE COURT: Yes.

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

THE COURT: You may continue. I'm sorry.

MS. SIMPSON: Her life ended far too soon. Unarmed, alone in that building where she worked the early morning shift starting at 3:00 A.M. so she could spend more time with her children, but what good was that metal spoon against two armed men with guns.

The only victim in this case is Kelly Hunnewell. Now, this is contrary to what the defense might have

you believe because as I've listened to their opening statements and the information they've attempted to elicit through their cross examination, they would have you believe that Lorenzo Young and Trenton Barnes are the victims in this case. They are the victims of police. They are the victims of the State. They are the victims of SLED analysts. They are the victims of their own family members, Latoya Barnes. They're own friends, Donald Moore. The mother of his child, Rolanda Coleman. They are victims of pressure and a rush to judgment.

Poor, poor Lorenzo Young and Trenton Barnes. Well, no, members of the jury, that just simply is not true, and that is not what the facts and the evidence in this case show because we are here today for one reason, because when these two men armed themselves and went to that bakery during those early morning hours and went in, they became burglars, attempted armed robbers. When they encountered Kelly Hunnewell, they became kidnappers, and when they pulled that trigger, each of them multiple times, ending her life, causing her to drown in her own blood, they became killers, murderers, and that's why we are here today.

Now, members of the jury, good afternoon. It's been a long few weeks, and as you've learned during

the course of this trial, my name is Nicole Simpson. I along my co-counsel, represent the State and the victims in this case.

I want to echo my colleague, as well, because this is my one and only opportunity to address you directly and I want to thank each and every one of you now, for your time, your patience and your service in this case. It is often said that jury service is perhaps the most important service that a man or woman can render his or her country during times of peace.

Well, that's true here today, and in a few moments, defense counsel is going to get up and present their closing arguments. Then the judge will instruct you on the law that you are to apply to the facts of this case, and then it will be turned over to you for a decision, so on behalf of the State and the victim's family, I thank you.

I want to talk to you about the facts in this case. First let's go ahead and get something out of the way because I want to address a few things that defense counsel said in their opening statements. And here in this case, you have two defendants, Lorenzo Young and Trenton Barnes, and you will consider each of their guilt independently, but as I listened to their opening statements, the essence of it all kind

of boiled down to the good old classic defense, when you have nothing else, attack the police. Blame the police and they kind of vary a little bit, and I want to make sure that I get the quote right. I believe Ms. Bambach, defense counsel for Mr. Young said in her opening statement that you would not hear one piece of evidence in the case. They had to make the pieces fit. You won't see anything definitively connecting Young to the shooting and the normal things you would see in a murder case just aren't here. The arrest of Young was based on the statement of one witness. Well, that's just flat out wrong and inaccurate, and I don't know exactly what a normal murder case is because murder is far from normal, but I submit that this is exactly what's in a murder case because here what we have is defendants with time to dispose of the evidence. What we have here is forensic evidence. We have direct evidence linking them to it, and we also have attempts to justify their actions with respect to informants and I'll get to them in a moment. Even this is a heinous crime and yeah, Trenton may be sorry now.

I wasn't there, I didn't do it. That's Lorenzo Young's defense and attack the police. The moving to Trenton Barnes and this one was kind of all over the

place because I believe Mr. Schnee began along the lines of police misconduct. One big conspiracy. And at some point it evolved to well, Trenton did it, but you won't find malice because he is only 16, and then it evolved just a little bit more and changed again. Well, he's really only taking the rap protecting his older brother Troy Stevenson, who he loves dearly. That's all he is doing and then we went to another defense.

Again, the investigation, no forensics. Threatening, coercion, I don't know. The investigation. All over the place. One of the age old defenses, if you can't defend it --- if the actions are indefensible, if I throw enough stuff out there, maybe something will stick. Maybe they'll fall for one of them. Well, the problem is that the evidence and the facts in this case don't support any of those. We'll get to that.

So let's start with the grand conspiracy as I like to call it. I apologize. I'll talk loud. I know words are small, but I wanted to bring this up to get it out of the way so we can get to the witness testimony and facts in this case.

The defense wants you to focus on what the police didn't do. Who they didn't interview. I believe a

list of names, such as Azo, Smiley, Marcus Shorty Johnson, Marcus Haley Johnson, Ashley Carter, Marquis Johnson. Darryl Samuels, Anthony Nelson, what about those people. Well, you heard the information that could have been obtained through those people, those people whose names were primarily provided by Troy Stevenson and his attorney while at Mr. Stevenson was actually cooperating with the police and attempting to corroborate his story that he was at the house, that he wasn't with them and nicknames. What are they going to do with that?

Azo, Smiley, how do you find those people? Well, counsel for Troy Stevenson was going to do that nearly a year later, but never did, and these people, remember, let's go back to the initial day this happened. They canvassed the area initially during the early morning hours. Even Investigator Moorer, the businesses weren't open yet, but they were knocking on doors and they went back to those businesses attempting to talk to people, to find out what evidence was available.

And then when they found people, you know, I can't give you details about what's going on, but if you have any information about this incident, contact police. Maybe leave a card or let you know you can

contact Crimestoppers, and some people came forward like Donald Moore, Mary Brown and the confidential informant from Richland County.

Azo doesn't come forward. Smiley didn't come forward. Marcus Haley Johnson didn't come forward. You heard that this incident happened where the defendants lived. This was their neighborhood, their friends, associates, family members.

This is where they live. People hesitant to talk, and we'll get to those people. Rolanda Coleman, Donald Moore, Mary Brown, the witnesses in this case and you heard testimony. People generally don't talk, especially in a case like this.

Observe and we'll get to the witness's demeanor on the stand, Donald Moore, Mary Brown, Rolanda Coleman and Latoya Barnes. Now, investigators didn't pick these witnesses. The State didn't choose these witnesses. The defendants did. These are their friends, their family members.

If we could have picked, do you really think we would have picked Donald Moore? No. But then moving on, jailhouse informants. Oh, the police they coerce everybody, they do these terrible terrible things. Well, the Columbia Police Department didn't even interview them. Those people sent letters to our

office and then those people came before you. No one coerced or threatened them or made any promises to them. Note taking and audio recording. This comes up in just about every case we do, but sometimes it's the reverse because a lot of agencies don't audio record and instead just take notes. If that were the case, they would be saying where is the audio? Why is this not recorded. You have notes for it, but where is a real document, but when we do have audio recordings, well, where are your notes? They're irrelevant.

And then there's been an insinuation. This is just based on what I observed and what I believe may come out, because there's been kind of an inference on police misconduct. Maybe they'll plant evidence. They'll lie. They'll threaten, they will not investigate.

Well, if you're going to go to all that trouble, put your work, your job, everything on the line, then why not make it better. If you're going to plant evidence, then put the hoodies there, plant the guns. If you can plant the shell casings and unfired bullets, just go ahead and plant the guns. Make it easy. Pick your witnesses.

Ms. Baskin, maybe she will identify them if we press her hard enough. But no, she told you only what

she knew. DNA, fingerprints, plant it. Make the case better. That just didn't happen, but everybody is in on it, and you heard and I'm going to go --- all this pressure. All this pressure. Pressure from the media. Pressure from the people. Pressure from the community.

Well, members of the jury, all this pressure, it doesn't lead to a quick arrest. It doesn't help to have a shoddy investigation because with all this pressure, with all these headlines, you better get it right.

What good does it do them to arrest the wrong people. No good, and their job isn't just to arrest. It's to keep the communities safe. So you want the people that committed these crimes off the streets, and that's what they did in this case. They got the right people and it's not a rush to judgment. Now, the incident happens on the first of July 2013. As I believe Sergeant Reese may have defined it best, you never know which way an investigation is going to go. Your hours are not day-to-day, typical nine to five. You might work 18 to 24 days, 12 hour shifts. You go where it leads you. Well, the evidence is collected. They find a video. Video. Do you know how rare that really is? And it kind of directs their

investigation. It's very helpful on what evidence may be relevant, on what to process. What are we looking for, we get descriptions early, quickly because but for that video, we might not be here, but then you had more, some tips they received quickly. The tips are coming in fast once this is released. They don't release everything to the media. Why? Those details will be important down the road. Those details for witnesses like Donald Moore and we'll get back to Donald Moore because he had information that was not released to the media and it became very important and they were able to garner more.

So they got search warrants, and they executed them at the homes of both Lorenzo Young and Trenton and Troy --- Trenton Barnes and Troy Stevenson. That didn't occur until the 5th. Trenton Barnes at the search warrant. He ends up going with law enforcement at that time. Lorenzo Young is taken into lawful custody where he was found hiding on that day in a closet with a phone that will become very important in this case, with a phone that the defense may try to essentially distract you from, tell you to discount everything that's on that phone, and we'll get back to that.

Troy Stevenson comes to CPD headquarters and then

with all this information on the 6th , Trenton Barnes, Lorenzo Young and Troy Stevenson are all arrested and charged in this case, equally charged, same charges, murder, attempted armed robbery, kidnapping, burglary second degree violent.

Members of the jury, after the arrest, was their job done? Oh, we got an arrest, all this pressure. Let's just call it quits. We've got our people. No, the investigation continued after the arrest and what did it do? It only corroborated and further implicated the defendants in this crime. DNA, GSR, phone examinations, the letter from Trenton Barnes himself about his conduct, the firearms report and additional jailhouse informants. All that evidence corroborates and implicates three individuals and only those. Two that are here before you today. So you can't believe the police, Azo, Marcus, Marquis all these --- Ashley Carter, all these people who like I said who by the testimony you heard really didn't have any information about what happened, but ignore what they did do. Ignore the witnesses they did talk to. Ignore their investigation as a whole because you just can't believe it, and you heard from another witness or witnesses, and I'm going to touch on a few in depth, but you remember the testimony, you heard it.

You heard from Officer Brayboy who responded to Ms. Baskin's home because she wasn't sure where those shots actually came from.

Ms. Baskin just gave them the information that she knew, and he went on his search to find out where the shots may have come from, and then he came upon Kelly Hunnewell in the bakery, and at that point, crime scene investigators start responding. EMS responds. You heard from the EMT worker Mary Ellen Swain who came in. She was dead on arrival. They didn't even move her.

You heard from Columbia fire department Adam --- I always mispronounce his name, Lofstetler, who had to come in and turn off the heat, the gas, because it was so hot in there. All of these witnesses and we'll get to them specifically, the crime investigators, Donald Moore, Rolanda Coleman and Latoya Barnes, all these witnesses, just ignore them. You can't believe anything that they said. So who did you hear from? I'll leave this one out. Investigator Wise you heard from one of the investigators in this case, Investigator Valerie Moorer. What did she do? She told you --- there are investigators involved in this case and a number of people because manpower is important in a case like this. If information is

coming in quickly, you need to be able to get to it, and after a period of time, there is kind of a narrow window. The investigation begins to go stale, so yes, they were involved and this is a murder.

They canvassed --- she canvassed the area. She is one of the ones who went to the businesses and they're ultimately able to gain surveillance footage from the Ale House, which you'll have before you back there. So she did her job looking for evidence, looking for cameras and she found some. She spoke with business owners. She made contact with the owners of the bakery. She attended the autopsy which was conducted in this case, and the victim's cause of death determined. You heard Dr. Durso's testimony.

Yes, they have meetings. There's kind of a big deal made about VCAP, this 1:30, 12:00 o'clock, whatever time. I don't know. It doesn't matter. I'm glad they meet to discuss where the case is going, that they stay briefed and apprised because at that point things are rolling quickly. Information is coming in, and people are getting assigned to different tasks because it's a lot to check out.

Crimestoppers tips, information received testified regarding Lucille Drive, which is the home of Lorenzo Young and Troy Stevenson. They also get

information to look into Lorenzo Young, and yes, on the 2nd, they hear from Officer Kai Tull --- well, Sergeant Shuler, who is contacted by Officer Kai Tull because Donald Moore who he had a relationship with who he knew had approached him and said I have some information about this case. Now, Donald Moore who clearly didn't want to be here who distanced himself, like I said at that hearing on November 3rd, which I'm sure they're going to talk about and before you in this case.

As Ms. Campbell said, that was the first time that they had to --- he had to get up here to face Lorenzo Young and face Trenton Barnes and talk about his cooperating with police.

So judge his credibility. They reviewed the video and what did they learn? Two shooters, one with a red hoodie, one with a gray hoodie and another person, a third person involved as a lookout at the door wearing a dark in colored shirt because that person never comes in. That too is important and we'll get to that.

Wears? What does she tell you? She wears the Holister brand, so she recognizes that hoodie as a gray Holister hoodie. Investigator Moorer.

Now, you also heard from Investigator Matthew

McCoy who is assigned as the lead investigator in this case by Sergeant Reese who is his supervisor.

Now, this is just general. I'm sure they're going to take some time here. He was assigned. He went to the crime scene. At that point things begin. Investigators are coming out. He is going over what we observed and clearly, this is even before the video, there are two calibers of shell casings on the ground, at least two guns, two firearms were used and then thank goodness for that video because we also have two individuals and a description of those individuals and we have what happened in this case because as Ms. Campbell said, for once, what happened really isn't in dispute with respect to the struggle, the men coming in with the guns.

It's on video. Video which I beg you to review. So they get the video. They canvass the area, follow up on tips, and he is kind of overseeing this together with Sergeant Reese, who you heard from, and they're interviewing witnesses, recording conversations. Once they get the physical evidence, the requested testing begins, and we'll get to why they did or did not do certain things.

Then they obtain search warrants for the homes, issued by a judge. We're going to talk about what

came about in the search warrants because what they did find may not have even been as important as what they didn't find.

As he went through the course of this investigation after the arrest as I said, the evidence led to these defendants' guilt. It only further corroborated. It didn't point to another person, and all those names just put those out of your mind, all they would have done is corroborate Troy Stevenson, potentially, maybe, if they're even identifiable real people, they didn't have any direct knowledge of what happened . then we have the crosses and I'm not going to go through this and he did and who he didn't interview. I believe defense counsel for Mr. Young got up here and he was like, oh, you didn't interview this person; where are your notes. Where are your notes? No. They can tick off a little list all they want to. He didn't take notes because he didn't interview them, bottom line, but he did take notes from Rolanda Coleman and that's recorded. He recorded the interview with Donald Moore. He recorded the conversations with Latoya Barnes, but let's not talk about those because that stuff isn't very helpful. And again, anyone can contact the police at any time. It's not like they shut down 24/7. Levels of

cooperation and I say this and it's been emphasized, and I know you're probably tired of hearing about it. It does change. That is a fact. That's a reality. Donald Moore, cooperative in the beginning and then moving to Sergeant Reese, Kevin Reese, who you heard from, the supervisor of this investigation, he responded to the scene. He was one of the first because he didn't even know it was a homicide. He just knew that someone had been shot and went out there. At that point he made his observations, which he spoke to you about, the signs of a struggle and he went through what he did taking down the information that he had initially and then he called out investigators.

EMTs are responding. The county coroner's office becomes present. He is at the scene. There is a lot going on. Keep it secure. Get the perimeter secure because this is a homicide.

They canvass the area, knock on doors, go to people's yards. Key point. No details in order to preserve the integrity of the investigation. Let them know who they can contact. He was present for many of those interviews with Investigator McCoy and witnesses. He spoke with Donald Moore and what did he say, that he was cooperative. Nothing out of the

ordinary. He came on his own free will, and again which we all know, but it must be said not all witnesses want to talk to the police, especially if it involves friends, family, neighbors present for the execution of search warrants and we'll get back to this point. I'm going to reemphasize them a good bit. No firearm or hoodies were found in Bronx Road or Lucille Drive and then he went through the still photos of what you could observe from the crime scene because they were doing everything they could to identify and make sure they had the right people and I submit to you the evidence supports that they did.

Now, the crime scene. We start with Tommy Circle. What did Investigation George Wise testify that he found that would become very important in this case? 45 GAP caliber fired shell casings, the spent shell casings, four of them, at least four shots fired from that firearm. Then the 40 caliber Smith and Wesson shell casings. Two of those --- at least two. Projectiles, three of them. Lead projectile. I believe a projectile fragment, and then also the victim's time card. We knew she got there at 3:00 A.M. because then the timeline is also important in this case. It corroborates what happened in the testimony and the evidence against Mr. Young and

Mr. Barnes.

Then we move to the home of Trenton Barnes and Troy Stevenson. Now, remember this search warrant, July 1st, 2013. Then we move to Lucille Drive. It's not conducted until nearly five days later, July 5th, 2013. Key evidence or that would be key, isn't found. Firearms, none to be found and importantly that gray hoodie. You'll hear it mentioned several times during my closing right now. That gray hoodie, that gray hoodie that Ms. Barnes said her son wore all the time, his older brother had ripped it. That gray hoodie wasn't present. No gray hoodie was present or red hoodie, but they did find that dark in colored hoodie, and I want to talk just a bit about it because I believe it was elicited at some point during cross-examination, oh, you didn't submit that one for testing for DNA. The person in the dark hoodie didn't go into the bakery. It wouldn't have the victim's blood on there and, of course, they can claim it's Troy or Trenton's DNA because it's their home. Their DNA is present all over the home so what does it really show, nothing. Then we go to Bronx Road. Investigator Gaston. We found several --- or investigators were there are first because they were actually executing a search warrant which is not

uncommon. It's actually quite typical, and then crime scene gets called in because they find some key evidence, and that's documented. What did they find? Ammunition box, Magtech 45 GAP. That's the same ammo that was found at the bakery, same type of ammo, consistent with, where was it --- and this becomes important, too, under the bed. Also under the bed an empty ammo tray and 45 GAP unfired bullet, the same markings as those in the murder at Tommy Circle in a plastic cup under the bed. Forty caliber unfired bullets, two of them in the dresser drawers. Like Rolanda Coleman said where he puts his ammunition. Two unfired bullets also consistent and you heard Ms. Cromer's testimony, which we'll get to. Glock magazine. Glock magazine in Rolanda Coleman's purse where it was found I believe near the bed. Then the gloves box in the top of the closet containing GSR gunshot residue. Now, what they didn't find, again, was a red hoodie or a gray hoodie, and they didn't find a firearm and first about those hoodies, I submit and I turn your attention to that web search on the phone, that media release.

They know what they're looking for are gray and red hoodies. Let's get rid of them all, and especially with Lorenzo, you're going to have those

photographs from the cell phone, those red hoodie selfies from just days before the murder. Not one red hoodie found and the baseball cap is found and firearm during the cross. Again, we get back to that phone and you'll have that video clip where Lorenzo Young is identified as being the person in the camo and the jacket and what's he saying? They have their guns. He is pulling it out. Put that 45. Put that Glock or we Glock boys. I don't know. You'll have it around there. Put it up to the camera. Firearm. And you heard Ms. Cromer's testimony that is consistent with the Glock. Now, because of the quality of it, you couldn't make out the caliber but that's a Glock just days prior to this incident that Lorenzo had, and we'll get back to the Glock. Was that firearm anywhere to be found? No. You know why? It could connect him to the scene. He knew about it. He knew about the shell casings.

The gloves with GSR. Now, the gloves, those aren't very identifying. Might not --- we are didn't say he was a rocket scientist. He might not think to get rid of everything just like that ammo box that happened to be under the bed or a couple of casings that --- or unfired bullets that he missed, and remember, they had five days to dispose of the

evidence in this case so let's talk about some of the witnesses. I apologize, my voice, too. It must be the courtroom.

Donald Moore, very important. Ignore him, but he is Trenton Barnes' friend. He told you that's my boy, and now he claims only to have met Lorenzo Young one time even though it's clear from the testimony from Ms. Barnes, Trenton's own mother that Troy, Trenton and Lorenzo hung out together. It wasn't uncommon for them to stay at the house, but he only met him one time.

July 2nd. I believe Ms. Campbell asked do you remember meeting with police and telling them about seeing Mr. Young with a gun because right now he just claims he lied. I lied, I lied, I lied about everything. But back on July 2nd what did he tell police? What did he tell police that would be corroborated by other evidence in this case. Thursday prior to the incident he saw --- he kind of heard about a plan to rob the Ale House.

Then the night before the incident he saw Young with a Glock. Kids in the street, he said go in the house and follow them in. Lorenzo was in the red hoodie that night, didn't even believe at that time that he should get paid for this information because

again if you get to the informants, even this wasn't okay, under anybody or by anyone's standards. I shouldn't even get paid for this.

Video, initially he said he recognized the hat snap back, baseball cap, and the red hoodie that Lorenzo always wears, shown the lineup, picks out Lorenzo, a/k/a Shyne, Lorenzo's nickname. Told police that Trenton Barnes and Lorenzo Young were the shooters. But then on October 20th you heard this testimony, too. He met with investigators from our office, an attorney present. At that point he said oh, just one little lie or claimed to. Then on November 3rd in front of these two men it's all a lie. I only lied because my nickname is Shorty at this. Then there's the stepfather whose name is Shorty. I thought I might be implicated in some way. The problem is he had information that was not released to the media about the struggle, about what happened and what actually occurred inside the bakery. He knew a lot. Then November 4th in a meeting, he finally says, oh, it was all lie. Remember, too, and I believe it was testified to that after this, he actually became a real informant for the police, Donald Moore. Judge his credibility. Like I said, we didn't pick him. That's his friend.

Rolanda Coleman, the mother of Lorenzo's two children. You saw how hesitant she was to take this stand under subpoena court order. Didn't want to be here, didn't want to testify, but she did. And what did she have to tell you, because this is important, too. She knew Trenton and Troy Stevenson. They hang out with Lorenzo. On the night of the incident, she was sleeping at her house and Lorenzo Young had her phone. You have the phone records in this case. We'll get to that. She knew he was at Troy's house also corroborated by the other information in this case. The house just up the street from the bakery.

So Lorenzo's mom went and picked him up around five, 6:00 A.M., whatever, and he came in with a t-shirt. Now this is the morning of the murder. We're talking July 1st. The morning of the murder, with a t-shirt, and he had a gun when he came home. He took off his shirt, wrapped that gun and put it in the baby's crib. She doesn't know much about guns, but Young had said the gun was a 45. She didn't know what meant, but now you have a better idea about what it means.

Remember, she was hesitant to tell you about when she had seen the gun or when she talked about the gun but then finally she admitted yes, it was the day

before and he had brought that gun. He had that gun the night, the morning he came home. Then how convenient is this. Lorenzo and Rolanda go to work together. Then when they come home, that gun is just mysteriously missing. No one can find it, but she also testified no one would know where it was, but Lorenzo or someone he told.

He told you there was an argument --- she told you there was an argument between Young his mother about the gun; that he often hid them in the dresser drawers and the day after the incident; they saw this on the news and Young's mother told him to find that gun and get it out of the house. Identifies Trenton in the hoodie, but yet says I can't ID the person in the red hoodie. With as much information as she came forward with, she was still protecting the father of her children. Still protecting him and what helps corroborate that? On the day of the search warrant and she admitted in her testimony that initially said she didn't know when Lorenzo was last seen. Why did she lie about that? Because she was scared he would get in trouble and I believe Ms. Bambach referred to credibility. You either believe somebody or you don't. It's not --- it's just as simple as that. Well, the reality is you can believe some of what a

witness says. You can believe all of what a witness says or you don't have to believe anything that a witness says, and yes, I agree, consider her motives. Consider her bias. Consider her demeanor on the stand.

She also says I seen Trenton with a gun before, too, but it's a different one than the one I saw Lorenzo with. The cell phone in the grandmother's name is Aretha Coleman, but Lorenzo used it.

Latoya Barnes. As Ms. Campbell said, give her credit because she has two sons charged with this crime and their actions, their choices, it's not her fault and she wanted the person responsible held accountable to a certain extent. She is the mother of them. She lives at Lucille Drive with them. It's not uncommon for Lorenzo Young to come and stay over just as he did on this night.

Lorenzo and Trenton were together night. However, Troy went to the club with his friends. The defendants were not at the house. I can't remember the time period, but it's several hours before this incident occurs. Then she gets a phone call which you will have those records. We'll talk about that call from Young to the house phone. At that point She states that she picks up and Lorenzo wanted to talk to

Marquis Johnson and she handed him the phone. Then she gets a second call about ten, 15 minutes later, somewhere in that timeframe from Young, and Young says they are down the street.

At that point she says, well, tell Trenton he needs to come home. She stated that Troy went to get his brother all three were back at the house and when she got up in the morning, that Young left and corroborates what Rolanda Coleman said, someone picked them up. Now, the clothing they were wearing that night, she was able to describe to police and to you. It was a red hoodie that Lorenzo was wearing and Trenton that gray jacket that he always wears, it has a tear. Troy didn't want it anymore. And then that dark colored shirt, which look at that person in the video, I submit the actual lookout in this case who doesn't come in, hoodie wrapped up tight, dark colored shirt. The bakery is within walking distance. She knows because she goes to the Ale House bar. She saw the video. She remembers police coming to the house with a search warrant. Why? Probably to arrest her kids and Trenton went with them, but then she went to the police station to be with Trenton and tells Troy come along too because they're looking for him.

There is the recorded phone call between

Investigator McCoy and Ms. Barnes in August. Now, on the stand she claimed it wasn't Trenton. Difficult, but then when questioned, she admitted on redirect --- she admitted --- no. I apologize. It was introduced later through Investigator McCoy's portion of the recorded phone call where he's inquiring about the about the video and she states, I know my kids. It was Trenton in the gray hoodie. I know my kids. I know them from they fingers to they [sic] toes. She also said, I believe, she recognized Lorenzo in the video she received a letter from Trenton. Now, this letter that you'll have before you, she turned it over to Troy's attorney where Trenton confesses what he did. That's his handwriting. That's how he signs his letters, and then the informants. Like I said, I'm only getting to some of the witness testimony you have before you. You heard from Alfred Wright who testified that Young approached him in the law library. I believe he was researching this stand your ground for another inmate. At that point he said he learned that three people went to rob a club. Three people, but it was closed, so they went to rob the bakery next door. Young and Stevenson, A/K/A Trigg entered with guns. She resisted and Young shot two times. They didn't get any money. Said Little Trap,

A/K/A Trenton was the lookout. It's here I'll remind you because this is the testimony that will become important. It doesn't matter if Trenton was just the lookout. Although, I submit the other evidence in this case shows that he actually is the one, by his own admission, that went into that bakery, but either way, it doesn't matter. The hand of one is the hand of all.

Then you have Michael Peterson A/K/A Big Unc. Young telling them, asking them, you already know a lot about the law. What did he say? Not too much, but, you know, if you want to talk. Young said don't tell nobody about this, but I set up a sweet lick in and out job. Told the lady to give me the money, right. She said the money was in the back. She acted like she was calling the police, so I started shooting. Well, I didn't mean to, I guess. I got scared, so little homie with me seen the blood and started running, so I ran, too.

Peterson's response? You didn't have to kill her. Young: I panicked and they can't prove nothing because we had gloves and masks on. And all they found --- all they got were the shell casings and I think that some people in the hood told them what clothes we had on.

Mr. Peterson also overhears the conversation between Troy and Lorenzo while they're in lock-up, and you heard about Young's responses and defense counsel I believe got up here and attempted to draw out the lock-up dorm, the SHU, whatever, but she didn't really want to draw out what wasn't convenient for her. Let's be clear. You've been taught. It's easy to hear through these walls and again, what did he testify to in Young's responses? All they got is the shell casings man, all they got is the shell casings.

Michael Schaefer, Young. Same dorm, played cards. Young told them that he along Trap and Trigg, we later learned their names, went out to rob a club, said he was wearing a red hoodie, Schaefer told him too, now they're talking. I robbed a bank and let's be clear. Who would you confide in. Who would you go to? Mr. Wright is charged with murder. Peterson, charged with murder, kidnapping. Another armed robber. Michael Schaefer actually doing 12 years now, which he pled guilty to. They're talking about it.

Then Schaefer said about New Years he felt kind of bad, and he said to Young, you know, I really wish I hadn't robbed that bank and Young responded I shouldn't have shot that bitch.

What was his demeanor like? Well, he was cool,

calm and collected. It was like he wasn't even in jail. Assess their credibility. Their stories aren't the same. They varied because --- who is telling them? Mr. Young, different versions, yes. That's what happens and what's he do? With each of these, he is kind of seeking out advice and he is also having to justify his actions. She resisted. I guess I got scared. I didn't mean to. Well, those two, and then what else and then what else did Mr. Peterson tell you, you know, he was asked repeatedly, do you remember this. You're not hoping for anything. You don't really want anything. He was like not necessarily, not necessarily, and then finally the 4th or 5th time when Mr. Schnee I believe asked him, well, why? Why did you do this? Why are you saying this? Well, because I know how it feels to lose your mom. I lost my mom when I was 13 years old. All these people, fellow murderers, colleagues, even this crime, he needed to justify why he did it to them. Judge their credibility and if they were going to make up something just to help themselves, why not make it easy.

Remember, I believe counsel crossed him. This was on the media, this was on the news. Okay well, say they told me two went in. There was a brief

struggle, leave it at that. That's what he told me. That's what he said, but he knew names. They had different stories about going into the back room with a cell phone, calling the police.

Mr. Young is telling him these things.

Now, the forensics in this case and basically I believe both defense counsel kind of said there is no forensics. There are no forensics and what they don't have is problematic. Well, as Ms. Garfield stated in her opening, this isn't CSI. We're not on TV, but we do actually have some forensic evidence in this case. Evidence that points to who? Lorenzo Young and Trenton Barnes.

I'll start with DNA. Jennifer Clayton at SLED, and she was crossed extensively. Specifically about the spoon and who was included in that spoon? Whose DNA is on that spoon? Lorenzo Young, Trenton Barnes and Kelly Hunnewell. What else did she tell you and I'm --- numbers aren't my thing, but 76 percent to 86 percent I believe of the entire population in the world is eliminated as having contributed to that mixture of DNA on the spoon, and this number, this big number he wrote out, I believe she said that's only when we have a complete profile. I'm never going to get this kind of number when I have a mixture.

Then he referred to one and three, went down the table, Ms. Simpson, Ms. Garfield, Ms. Campbell, one in three, pick them, Ms. Campbell eel elementary school is going to be on that spoon. Well, remember all the swabs that were taken in this case. Out of the 15 or so, who is included on that spoon? Trenton Barnes, Lorenzo Young and Kelly Hunnewell who we know touched the spoon and let's think about this spoon. It's at a bakery. She is using it probably its been washed after a previous use and then it's sterilized because that spoon is in a pot of hot boiling water before she uses it to fend off her attackers.

And we know --- I believe that he said at some point --- I'm not sure what he said about the victim's DNA only the spoon, but we know she touched it and what a big coincidence that Lorenzo Young and Trenton Barnes are included on that spoon, but you know who else is not or who is not on that spoon who was excluded? Troy Stevenson.

He was eliminated. Just like that 76 to 86 whatever it was percent of the entire population, and the entire population wasn't at Tommy Circle. They didn't live in close proximity. The friends and family hadn't testified because this evidence comes out later.

She did also there was a 40 caliber shell casing that she found with unidentified DNA on it. Transfer. Shell casings get kicked around the scene, things of that nature. Just because you have one doesn't necessarily mean you're going to put your DNA on it or it will be there. That's a shell casing. Not a spoon that we see on the video that was absolutely used in the crime which during that struggle, sweat, things of that nature that hot room, that hot bakery, Trenton Barnes, Lorenzo Young, Kelly Hunnewell. Now, are we saying you just have to rely on the DNA evidence? No, because no one piece of evidence are we telling you to rely on when you make this decision. You consider all the evidence in this case, all the testimony in this case and you determine who it points to. Fingerprints, also a big deal in a lot of cases. It's not unusual for this argument. Well, you didn't dust for prints. You didn't find any fingerprints. They means they didn't do it.

Well, what did you have in this case? Investigators told you they had the video. It didn't appear that the defendants had touched anything in a way that fingerprints would actually be recovered from that item because you heard the testimony, smudge marks, a number business, the length of time you touch

something, the nature of touching something itself, all that matters because they're volatile. While they're unique and individual to us, they're easily contaminated for lack of a better word, but that's not so important because remember the defendants had on gloves, so I submit even he knew the best way not to leave fingerprints. They had on gloves and anything else that touched --- you see the video, not long enough to leave a fingerprint. Conversation overheard by Peterson. Again, they ain't got nothing but the shell casings, nothing but the shell casings. He knew the concept of fingerprints so well. Why else would you wear gloves in July.

Then you had the testimony of Ila Simmons, one of the analysts in the trace evidence department at SLED. She talking you about gunshot residue. Yes, gunshot residue is very particular. The particles and the nature of gunshot residue when they find it is only found in I guess gunshot residue. Gunpowder. It means you fired a gun, around a gun, in close proximity of a gun. Now, it can be transferred from item to item. Now, on people and this was important testimony.

You have to collect that gunshot residue within six hours of a person firing the firearm or handling

something when it has gunshot residue on it. If it's not within that six hour time period, they won't even test people. So remember, doing any kind of GSR testing on the defendants in this case wouldn't have told them anything. It wouldn't have even being done, and what did she find? That each individual glove on --- or each individual know that was packaged together had GSR on it.

Again, access to black gloves, gunshot residue, but what wasn't present in that home? A firearm. A firearm we know Lorenzo had. He had access to firearms, and you heard from an expert, and I didn't put everything up here, but what are a few things that she told you, Ms. Cromer, regarding firearms and tool marks examinations. It's unusual --- I left out the not --- to not have a firearm at least two firearms, the number two, were present she found that a 45 GAP shell casings were from a GLOCK and a 45 GAP had the same markings, shell casings at the scene, bullet in Mr. Young's home along with that ammo box with the Magtech ammunition which was which was found at the scene and the Glock 45, she testified regarding those still shots that you have before your consistent with the Glock. When I talk about Glocks, I go to Ms. Bambach's cross-examination. She said you can buy

a Glock anywhere. You can get it at Academy Sports and she named off all the different places and the makes of them, Glock, Glock, Glock, I don't know how long the list was, but all of them were Glock manufactured. Remember, we're not saying that they can't be purchased by people just generally. What Ms. Cromer testified to is that she usually doesn't see it. The cases she sees it in are involving law enforcement, which we definitely don't have in this case and these are high end firearms. Like I said, what a big coincidence for Mr. Young that that Glock or that a Glock is in his possession and these caliber shell casings and bullets are in his home.

Now, the timeline of events for when this incident happened, now, remember, I don't know if a big deal would be made of it, but this is my one and only opportunity to address you. You have several videos in this case and you have records. You have phone records for the phones. The key ones being for Lorenzo Young with those calls to Lucille Drive where Troy was staying at the home of Trenton and Troy. You also have the Ale House video where it was testified that the timestamp was just a little bit off from the bakery as well as the phone records will probably not be exact, but what you do know from the timeline in

case is that at 3:00 A.M. Kelly Hunnewell arrived to work. At 3:05 she got a call or Lorenzo Young called Lucille Drive --- because remember, they're staking out the Ale House, but unfortunately you heard Mr. Spain testify they didn't always close at a specific time. So they got there and is when they're getting there, that final vehicle, employees are leaving at 3:09, too many people, that final vehicle departs at 3:12 A.M, which you can see on the video. Then at 3:14 A.M. what's seen is a subject wearing a hooded sweatshirt comes from behind the building and walks down the exterior bakery wall. A second hooded subject joins him several moments later. Two subjects remain there for several minutes looking toward he open front door of the bakery. One of the subjects walks to the other side of the building while the other remains at the corner kind of facing the camera. I believe at this point, too, around 13, 14:00 A.M., and like I said, the times may vary just a bit, but they're close in proximity. You get a call from Lorenzo Young to Lucille Drive. Then what happens within minutes later, 3:17 a third subject appears to be in a hooded sweatshirt. Now, he comes up from the street versus from behind the building. They remain outside the building walking back and forth and

attempting to peer in a window. At 3:21 two of the subjects walk toward the front of the building behind the parked vehicles. At 3:36 A.M. two of the subjects are observed fleeing the scene, and as I said the bakery times around 3:40 is when you'll see the murder occurred, and they're a little bit off. What does this do, when that third person arrives, there's 15 minutes. We don't have audio outside of what's going on and what's being talked about, but we know that people are leaving the Ale House, more testimony corroborated. This lick, the one they plan, it failed, and Kelly Hunnewell, she is there at work. And that bakery door remember was open. A light was on. Crime of opportunity. And at 3:44 A.M. Officer Brayboy was dispatched to the scene. Fifteen minutes after that third individual arrives and you see him in the video, the lookout, and the lookout, remember the lookout, the shooters or at least the people with the firearms and the person that caused the fatal shot I submit based on the evidence and testimony you've heard from Dr. Durso in the video, that is all consistent with that being Trenton Barnes, the person in that gray hooded sweatshirt, the person with the 40 caliber pistol, evidence that the defendants were at the at the scene. What do you have them there.

Well, you have a lot. You have the video of the crime. What else do you have? Rolanda Coleman, Trenton is in the gray hoodie. I don't know who is in the red hoodie. I submit again who is she protecting, the father of her children. Still doesn't want to get him in trouble.

Lorenzo Young is identified. I'm sorry. Still protecting. Alfred Wright, Lorenzo Young, three people, he's told three people they went to rob a club. It was closed at Ale House, corroborated, so we went to the bakery next door. Young and Stevenson A/K/A Trigg, entered with guns, she resisted and Young shot two times. They didn't get any money. Little Trap A/K/A Trenton was the lookout. Again, three individuals, the hand of one is the hand of all. It doesn't matter if it was Trenton or Troy, but in this case I submit supports Trenton as the shooter.

Let me go back. I'm getting ahead of myself.

Michael Schaefer what did he say that Young said, and he said it several times. You heard him. Well, I shouldn't have shot that bitch. Michael Peterson. Lorenzo Young don't tell nobody I set up a sweet lick. She acted like she was calling the police so I shot. Can't prove nothing because we had gloves and masks on. All they found were shell casings. I think some

people in the hood told them the clothes we had on. What else puts them there, Trenton Barnes' own letter confessing, admitting and then finally to Latoya Barnes, yeah, it was Trenton with the gray on; like I said, I know my kid's build. I know them from they [sic] fingers to they toes. I know my kids and the DNA on that spoon.

Like I said, it's not one thing or two things. It's the evidence in its totality that we're asking you to consider. With respect to Lorenzo Young who says it wasn't me, I wasn't there. There is nothing connecting me to this crime whatsoever. That's their defense. Latoya Barnes. She puts Trenton and Lorenzo together. Those phone calls that she testified to, 3:05, 3:15 just before this crime. She puts him in the red hoodie. He is at the house. He goes, he leaves and he is there the next morning.

You also have Donald Moore, and I I'm not going to go through all the details of their testimony again, but you heard it and we went through it. Donald Moore said Lorenzo is one of the shooters. Evidence from the search warrant at 3054 Bronx Road. What did they find? We went through it. The shell casings or the unfired bullets were consistent with the shell casings. The ammunition and what they

didn't find. Not one red hoodie, gray hoodie, or firearm, and we know he had it based on the evidence you have in this case. Rolanda Coleman, that gun he had that morning that mysterious goes missing. That gun he wrapped up and put in the baby's crib, just gone. Yeah, he has nothing do with it. Alfred Wright. We went through that. Michael Schaefer. Michael Peterson's testimony.

The phone records in this case. Video, the GSR on the gloves, the DNA on the spoon, the video from the phone examination, the Glock 45 that he discusses, the red hoodie selfies.

Now, remember that video 6/25/2013 the red hoodie selfies just two days before the crime or three on the phone, the search history, finding our, I submit, what police know. What do I need to get rid of.

Q They know --- he knows they're looking for him. I submit he knows kind of what the word on the street is.

Now, the evidence with respect to Trenton Barnes you have the letter. I'll get to that, to his own mother confessing to the crime, and what does he say? I'm sorry for blaming Troy.

Video, and I point this out because one of defense counsel's argument for Mr. Barnes is that if

you actually believe he was there and that this isn't some terrible investigation and police misconduct and rush to judgment or pressure, if you believe he was there, then it isn't malice, and oh, yeah, he is just protecting his brother. He was only 16 at the time, but you look at that video and Sergeant Reese went through those actions. They came in. Trenton came in behind Lorenzo. Nobody forced him to go in and he had his gun out, too, in seconds. Lorenzo goes straight to the woman. He knows something happened, but rather than turn around and go out that door they came from, he proceeds around, gets up to her and fires at least two shots, one of them killing her and no one forced him to pull that trigger. As Ms. Campbell demonstrated one, two, with Lorenzo, three, four, five, multiple shots.

No one was forcing him.

This goes to that letter that you read.

The DNA on the spoon. Again, Alfred Wright, Michael Schaefer and Rolanda Coleman identifies him as being the person on the video in the gray hoodie.

Again, evidence that would link them to the description of what was released on the media, no gray hoodie or red hoodie or guns found at the house, but by his own admission, Troy had a gun. Nothing found

at the house, and then mother --- his mother, Latoya Barnes, hesitantly reluctantly identified him on the stand. Now, back when she talked to police, she identified him quickly, but her hesitation is understandable.

Then letter from Trenton Barnes. Remember the date of this letter, March 31st, 2014, and in this letter it's kind of --- it cuts both ways because he is saying well, I didn't really want to do it. Renzo was hanging out at the house. My brother Troy ---

MR. KRZYSTON: Objection, Your Honor.

THE COURT: Overruled.

MR. KRZYSTON: Thank you.

MS. SIMPSON: And you can only use this testimony with respect to Trenton Barnes' guilt. You'll be instructed that you can only consider it as to him and his actions, and what you read in the letter is he ends up going. He was like I really didn't want to do it. I didn't want to go, but I was being told, come on, let's do it. There is really nothing better to do. And what were they going to do, make some easy money and he said that they go down and again, he was like damn, they're closed, referring to the Ale House. I apologize I didn't read the line on the last letter. And he says that said, come on let's go back to my

house, then he said you see that lady over there. I said no I don't see nobody. He was like come on man, and we was by the door, and I seen a lady walk past and I looked back and then I see Troy waving his hand telling me to come back. Then Renzo walked into the place. I went in behind him. Then he grabbed her and put the gun to her and told to get in front of her. Then she swung at me and I closed and I jumped and I got scared ma. I didn't mean to do it. I'm sorry. I said it was Troy because I was scared. He admits to being there and going in.

Again, is he maybe trying protect his brother some, yes, is he minimizing his own role, yes because the evidence in this case doesn't support that Lorenzo forced him to do it. He wasn't just a victim. He went there willingly and when they arm themselves, like I told you earlier, Trenton Barnes. Like I said earlier, they are young men, but when they arm themselves, they became attempted armed robbers, burglars, kidnappers and when they we want into that room or that bakery, that business, guns out face masks, gloves on hands and they chose to pull the trigger, they became killers and murderers. Their actions caused the death of Ms. Hunnewell.

And let's be clear. She did not have to die.

There was no way and nothing has been testified to that she would have been able to identify them. He said they got nothing. If it was a robbery gone wrong, they could have just ran out the door, the open door they came in, and they saw her before with the spoon.

I submit they knew she didn't have a gun. She was working at a bakery and they saw it, and they went in, but they didn't have to kill her. There's no evidence that she could identify them and finally, and I know I've said it several times, but some of the most powerful information and evidence that they want you to ignore is yes, it's sad, but judge its credibility especially with respect to Trenton Barnes. His own mother, Latoya Barnes, identified him as being the person in that gray hoodie who committed this crime. In response to Investigator McCoy's question, I mean, yeah, it was Trenton with the gray hoodie on. Like I said, I know my kid's build. I know them from they [sic] fingers to they toes. I know my kids.

Now that's just some of the evidence that you heard in this case. I submit that it is more than enough. It is proof that should leave you firmly convinced of each of these defendant's guilt and consider the evidence admissible to them relevant to

them regarding their actions and is the roles they played, because in this case how else do you defend the indefensible? That classic defense, attack the police. I wasn't there. Shoddy investigation. You can't believe the witnesses. All that just doesn't work, so I beg you, review this evidence in its totality. Again, it doesn't matter if Trenton was the lookout or the person in the door. The hand of one is the hand of all. The act of one is the act of all and each of them is responsible specifically before you today Lorenzo Young is responsible for the actions of Trenton Barnes, and Trenton Barnes responsible for the actions of Lorenzo Young.

It doesn't matter which gun killed her. It doesn't matter who went in first.

I submit that the defendants are guilty of murder, attempted armed robbery, burglary second degree violent and kidnapping, and when you go back in that jury room, you will do here in just a few moments and deliberate, I ask you to remember a famous quote from President Theodore Roosevelt. He said that no man is above the law. No man is below it and we ask no man's permission when we require him to obey it.

Now, it is said that truth is the mother of justice, and it is your job, your duty here today in

this case with these facts to seek justice and find the truth, and I submit that after you have reviewed all the evidence in this case, there will be only one just verdict as to each Lorenzo Young and Trenton Barnes and that is a verdict of guilty, guilty of murder, attempted armed robbery, kidnapping and burglary second degree violent. Guilty for Trenton Barnes of murder, kidnapping, attempted armed robbery and burglary second degree violent. Thank you.

THE COURT: Thank you Ms. Simpson. All right. Ladies and gentlemen, we've been going for about two hours. We're going to take a quick a five to ten minute break you still have not heard all the closing arguments or my charge on the law. You are not allowed to discuss this case in any way, shape or form. Keep an open mind. Do not discuss the case. We'll be back with you in just a few minutes.

THE JUROR: Thank God.

(WHEREUPON, the jury left the courtroom at 4:30 P.M.)

THE COURT: All right. Let's take about a five minute break.

(WHEREUPON, a short break was taken.)

THE COURT: Yes, sir.

MR. KRZYSTON: As the hour is growing late, we

thought it might be helpful to suggest that we finish closings, finish Mr. Schnee's closing, finish my closing, allow the jury to be released for the day, charge them in the morning and proceed with deliberations tomorrow morning.

My closing could take 20 to 30 minutes. I'm not sure how long Mr. Barnes' closing will be, but just as we approach the witching hour for the courthouse deputies, I just want to offer that for the court.

THE COURT: All right. We'll cross that bridge when we get there. Okay.

(WHEREUPON, the jury entered the courtroom at 4:39 P.M.)

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: Okay. Thank you. Mr. Krzyston.

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

THE COURT: Yes, sir.

CLOSING STATEMENT:

MR. KRZYSTON: An ancient Greek thinker once said, the law is reason free from passion. He said that because it underlines a basic idea that all good justice systems seek to follow, and that idea is that a person should be tried on a case on the facts of the case and not the emotions that drive the case.

This same idea is important to our case today, and the reason that this same idea is important to our case today is because each and every one of you sitting in this box swore an oath to render a verdict on the evidence and law alone.

Rendering a verdict on the law and evidence alone requires us to temporarily put aside our feelings for Ms. Hunnewell. Be sure there is not one single person in this courtroom that doesn't feel pain and sorrow for Ms. Hunnewell, for her children, and for her family, but ladies and gentlemen, your duty requires that we put that aside for the moment; that we render the verdict on the evidence and law that is before you.

Now, in a moment, the Judge is going to instruct you on the law, and you will hear that murder is defined as the killing of any person with malice afterthought (sic) express or implied or inferred.

What you don't see in this definition is a line that says but only if the victim is a mother or but only if the victim has a family and the reason that you don't see that in this definition and in the law is because those things have nothing to do with whether Lorenzo Young is guilty of breaking the law.

Those are things that are sad. Those are things

that touch our emotions, every single one of us, but those are exactly the things that we have to put aside temporarily. Those are exactly the things that we cannot consider when we render a verdict on the guilt or innocence of Mr. Young.

You've heard a great deal about the emotional side of this case. The side of this case that causes us all to shudder, and the reason that you've heard all about that emotion, all about her children, all about her family is because the government is light on fact, plain and simple.

We've heard from a large number of witnesses and they introduced an entire table of evidence. None of which --- I repeat, none of which can definitively connect Mr. Young to this crime scene at 93 Tommy Circle. This case boils down to a couple sets of facts, a couple sets of facts that show us the government has failed to meet its burden in this case. We can start with what you heard in opening. The testimony of Theresa Baskin. You heard about the cries and screams of terror, but what you didn't hear is that there is any science definitively connecting Mr. Young to this scene.

You were promised a witness in Mary Brown who knew Lorenzo Young who supposedly saw him hours before

the crime in a red hoodie, but what you were given when she took the stand was far short of what the government promised.

They promised to bring you in witnesses and evidence which would leave you firmly convinced of Lorenzo's guilt. They brought in two or three investigators to go over on that $5,000 television, and show you the video of the incident time and time and time again. And just this morning, they brought another investigator up here to show you still pictures that were captured from the same video that you've seen time and time and time again.

Why is that? Because the government is light on fact. They promised witnesses, but what you got were jailhouse snitches. What you got was a girlfriend looking at 15 to life. Every single one of their witnesses had something to gain. Who was Rolanda protecting? Herself, because any reasonable person facing 15 to life does what's necessary to stay home with their children, ladies and gentlemen.

They're black, said the prosecution. You can tell from the video. You can see their hands in the video. Yet the lawyers can't stop talking about gloves and this is despite the fact that SLED has tested those at gloves for blood and then because they

didn't test positive for blood, they didn't test them for DNA, ladies and gentlemen, in this courtroom with this evidence, actions speak louder than words and their actions and the State's actions tell us that is they have failed to meet their burden.

The government said it did a complete investigation; that they talked to everybody they needed to talk to and that the 12 or 13 witnesses we talked about didn't have anything to add to the investigation. That's common sense, ladies and gentlemen. How do you know what those people were going to say? I can't read your minds. If I could, this would be so much easier for me. It would be so much easier for them, but nobody can read anyone's mind.

The fact of the matter is they can get up here and make excuse after excuse after excuse, but the fact remains that they failed to do their job.

Again, actions speak louder than words, and their actions tell us they failed to investigate and failed to meet their burden. They showed you pictures of Lorenzo in a sweatshirt and those pictures show the upper third of that sweatshirt.

Those pictures can't tell us if that sweatshirt is a red and white striped sweatshirt. Those pictures

can't tell us if that sweatshirt is solid red and those pictures can't tell us if that sweatshirt is consistent with the one that they paraded on the video in front of you time and time again.

Again, they have introduced a table full of evidence, a stack of poster boards that's no less than six or seven inches and the reason they done that and the reason they paraded that video in front of you time and time again is because they are light on facts.

They claim Lorenzo had a Glock. They introduced no weapon, and even if he did have a weapon, there are 13 models of Glock firearm at a minimum that fired the projectile that was located at 93 Tommy Circle on that fateful morning.

The bullet that they found there, the bullet from which that projectile left can be purchased at no less than five locations in and around Columbia.

The says we excluded 70 percent of the population from being at the crime scene (clapping.) good job. That's a one to three match. That's as close as they come to placing Lorenzo Young at the scene of the crime.

Of the 300 million people in America today, 100 million are statistically likely to match the DNA

profile that they found at the scene. That's one third of everybody in this courtroom. That's one third of everybody in that jury box. You are statistically likely to match the DNA that they have.

Ladies and gentlemen, that is not reasonable doubt. One out of every three people, that by definition is reasonable doubt, and what's more, what's more, they found the DNA profile of an unidentified male at the crime scene at 93 Tommy Circle. Do not let them gloss over that fact. That means they have the DNA profile of somebody at the scene who they never arrested. They want to tell you those 12 or 13 people didn't have any additional information? When I was a young boy, my father gave me some words of wisdom. He looked me in the eye, and he said son, any job worth doing is worth doing correctly. You could be a stock boy at the grocery store or you could be president of the United States, but son, whatever you want to do, if it's worth doing at all, it's worth doing correctly and those are words of wisdom that the government failed to put in its pocket when investigating this case.

To convict Lorenzo Young in this matter would be to ignore the fact, to ignore the evidence and the science and to embrace the emotion that they have

flaunted in your face since they stepped foot in this courtroom. There is nothing that they have introduced that definitively connects Lorenzo to the crime scene at 93 Tommy Circle and is no amount of excuse making, no amount of glossing over the facts can change that, ladies and gentlemen. The government failed to establish beyond a reasonable doubt that Lorenzo Young was there at 93 Tommy Circle. The government failed to establish beyond a reasonable doubt that Lorenzo Young was involved in this incident and the government failed to meet its burden in this matter because of it. Ladies and gentlemen, looking at the evidence or lack thereof, the government failed to prove beyond a reasonable doubt that Lorenzo is guilty of murder, that Lorenzo is guilty of attempted armed robbery or that Lorenzo is guilty of guilty of kidnapping or that Lorenzo is guilty of burglary in the second degree.

Ladies and gentlemen, you deserve a better case. We all do, but it's for precisely that reason that you cannot convict Lorenzo Young. They failed to prove their burden. They're pawning it off on you.

Ladies and gentlemen, you can't judge the case you wish the government had given you. You must judge the case that the government gave you, and it's precisely for that reason that you cannot convict

Lorenzo Young on any of the counts as charged.

Thank you.

THE COURT: Mr. Krzyston.

Mr. Schnee?

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

THE COURT: Yes, sir.

CLOSING STATEMENT:

MR. SCHNEE: A few minutes ago, Ms. Simpson claimed that the defense picked the witnesses in this case. This is the State's witness list. Their chosen witnesses to testify in this case. Officer Bowling, Officer Bunton, Investigator Scott, Investigator Rickburg, Investigator McKeller, Sergeant Smalls, Officer Bracket, Captain Marsh, Captain Eargle, Investigator Hilton, Lieutenant Smith, Assistant Chief Riser, Officer Carol, Sergeant Adams --- the second Sergeant Adams. This is a different one. Officer Steadly, Officer Gilliam --- I'm sorry, Investigator Gilliam, Sergeant Shuler, Sergeant Brown, Officer Martin, Officer Ford, Deputy Linfert from the sheriff's department, Sergeant Walls, Officer Labonte, Investigator Reeves, Officer Webster, Officer Newman, Officer Wiley, Officer Moore, Officer Beckman. The list goes on. These are all the police officers that the State put on the list and never called to the

stand (throwing paper down.)

But I picked those witnesses, right? Did my client pick those witnesses? Did we pick Investigator McCoy.

Let's talk about the State's chosen witnesses and I'm going to start with DNA and I'm going to start with one piece of evidence and we've talked about a lot. It's this spoon right here.

This spoon that they are saying is definitively linked to Kelly Hunnewell, Trenton Barnes and Lorenzo Young.

Well, we certainly know Ms. Hunnewell is holding those. We're certain of that. You have it right here. You have it on video that she is holding that spoon. Now, what did the DNA person actually say? She did not say that Kelly Hunnewell is included in it, that Trenton Barnes is included as a possible contributor, that Lorenzo Young is included as a possible contributor. Now, I suggest that you probably watch this again. You'll notice that Ms. Hunnewell swings it, hits one of them, not both but one, so their theory that both of their DNA is on here as is preposterous, as a matter of fact. What the DNA expert actually said is that they could not be excluded as a possible contributor.

She said that Kelly Hunnewell possibly her DNA isn't even on there because it's such a tiny part of the profile. That is the closest physical object that you can see that both Ms. Hunnewell and whoever is inside of that bakery have touched and the best that they can come up with is well, there are 100 million people in the United States who are just as likely or unlikely to have contributed that sample. That's their idea of solid forensics, of corroboration. Fingerprints, never tested for any of them apparently. Although in November of 2013, Investigator McCoy said oh we absolutely tested for fingerprints. He testified to that after swearing the same oath he swore up there. Not only did he say he tested for prints, he corrected himself on the transcript and said I'm sorry, dusted for prints. That's not misspeaking. I don't know if he's wrong or if they just didn't find them. It doesn't really matter. That's their chosen witness. Their chosen lead investigator. The defendants didn't choose any of that.

Now, let's get back to this corroboration issue that they love to talk about.

The State says that they did not release a lot of details from the video so they could determine if

witnesses are being truthful, that they actually have independent knowledge. So what does the State present to you? Let's see. We've got Michael Peterson. He has a pending murder charge. Among other things, and he says that Lorenzo confessed and said that they were all going to the back room and she pulled out a cell phone and he got scared and he shot her. Watch the video. Watch it as many times as you want. It's never going change. None of those things ever happened. They claim corroboration. Yes, look for corroboration, what is factually true that we can all agree on. We can all agree that two people went into that bakery. I think we can all agree that Ms. Hunnewell never touched her cell phone. She didn't pick it up and try to call anyone. I think we can all agree they didn't walk towards the back room to open up a safe that doesn't exist. Michael Peterson is a liar. He made it up.

He has the same information that almost anyone else on the street does, what the media policed, what the police released to the media. Now, they began getting nicknames from word at the jail in yeah, sure. So what. That was how long afterwards? Who doesn't know those names that has any idea about anything? Anyone can find that out. Even said he watched it on

TV when he heard about it. So he knows the names of who is arrested. Relevance. There is no corroboration there. What does Michael Schaefer say? Oh, he just says Lorenzo confessed. Lorenzo confessed, Trenton is outside, Troy is inside. That's fine because that's exactly what the news had said from July 7th of last year on. That's not corroboration. There is not a single unique fact, not a single fact.

The State, they chose him as a witness. They put him up. Alfred Wright, also pending murder charge, same thing, not one single detail that wasn't released to the media or anyone who doesn't have an internet connection couldn't have looked up. Everything that was hidden from the public is still hidden from all these jailhouse snitches. Why? Because they didn't talk to anyone. They made it up because they want a deal and who gives them the deals? Them. The State of South Carolina. The solicitor's office that is prosecuting this case, and yet I'm going to point to them a whole bunch. You know why. They love pointing over here. Oh, let the record reflect someone identified Lorenzo Young or someone identified Trenton Barnes. Did you see a single witness get up on that stand and say I watched Trenton Barnes shoot that

woman? No.

The closest thing they have is Rolanda Coleman. She says well, he's small and is moving in a sneaky way, so it must be him. That's her identification of Trenton Barnes. The same woman who is facing 15 to life for burglary, the same woman who is being prosecuted by that office. The same woman who clearly doesn't want to go to prison for 15 years to life with a one-year-old and an eight month old child.

Investigator McCoy. On the stand, he listed someone as a quote criminal informant that apparently contacted the sheriff's department and then he had a conversation with whoever this informant is. To this day, I have no idea who it is. I asked him five times. Who is it? Only answered it was an informant. I don't even know what that person said. I don't know that that the person exists.

They concealing it. Still concealing it. Concealing it from the jury here today, more than year afterwards, and they won't even give a name. We're the ones to put witnesses up? Let's talk about who else Investigator McCoy did or didn't do.

What he did clearly as he admitted on the stand, is threaten Lorenzo Young with the death penalty, with a needle in his arm. Am I the only one in this entire

world that thinks that is improper? Do you know what that is, that's called a felony and guess who chooses who prosecutes? That table right there. Do you think they're going to end his career and throw every single case he has ever worked on or will ever work on? He knew it was improper. I don't think there is a single person in the State of South Carolina would say that when you're interrogating someone, you're allowed to threaten them with a needle in their arm, preposterous.

When he interviews Troy Stevenson in March 2014, he even said hold on, hold on. I'm writing this down. Where are the notes? He said they don't exist even though clearly, as he admitted, he is on audio recording saying he is writing it down. Now, he just says well, he was saying that so he can process it. Okay. Let me see a single thing from him that says he even interviewed someone from March of 2014. He didn't write that down in his case notes past December of last year. What happened this entire year? Let's see. They had a sweatshirt that they got at Trenton's house. It was a dark blue sweatshirt, which they say was wet. They found Trenton there. Well, they didn't find a gray sweatshirt. They didn't find a gun and they didn't find Troy Stevenson either. I'd be really

curious to see whose DNA is on the inside of that blue sweatshirt. They never checked. They had a year-and-a-half to check it. They could have done it any day. They still haven't done it. Investigator McCoy said he didn't even bother to follow up on it.

The gloves that allegedly have gunshot residue on them, even though we've heard lots of testimony, see, there were hands touching items. That's why they dusted for fingerprints. That's why they did all of these DNA tests. Great, they have GSR on a number of sets of gloves from someone's closet. I have a set of gloves on there. I guarantee there's GSR on those. I go shooting all the time. So what. Do you know what they didn't bother to do? Test the gloves on the inside for DNA to see actually wore them, if anybody ever wore them. Now, could I guarantee that would actually result in useful information? I have no idea. It's not my job to check that. It's theirs. It's the State's job to try and they didn't try and they didn't try for one of the most important reasons why we're all here right now.

Ms. Campbell said it best during he closing remarks, she begged you, begged you not to hold it against the victim's family for anything the lawyers have done that may have on offended you as jurors.

Well the victim's family, they're not on trial. Not a single one of them even testified. Why would she be concerned about you holding them responsible or blaming them?

That is nothing short of a pathetic attempt get to your emotions stirred up. That's all it is. Emotion from you as jurors because they don't have the facts, so they want emotion.

I already told you in my opening statement that I expected this to be an emotional trial, and I don't blame anyone for having emotions, but this is the closing argument. This is the time when we're all having to think about facts and analyze it with the law. Emotion has no place in this room. Certainly doesn't have any place in your deliberation room. Yes, you're going to have emotions. Your job, and you took an oath to push that to the side and think about facts. Now when you're thinking about facts, let's talk a little bit about what the law really is.

The State has the burden of proving each and every element of each separate offense. They have to convince you beyond a reasonable doubt.

Now, the judge will instruct you that a reasonable doubt is something that if you doubt that would not be reasonable based on if you are firmly

convinced. Another way of saying that is if it would cause you to hesitate to act.

Now, this morning just like almost every morning, wake up, take a shower. I start a pot of coffee. I walk outside, take my dog out and let him do his thing. This morning was faster than normal because it was a little bit freezing. I walked back inside, poured a cup of coffee and try to get ready for the morning. I go to the refrigerator, bring the half and half out. The past two weeks I've been in here, half and half haven't done a lot. It expired on Sunday. The milk expired on Sunday. Well, I had some apparently yesterday, didn't even realize that it was expired. I opened it up and I sniffed it. That sniff, that's hesitation. I mean, I had used it the day before. It's half and half, it's ultra pasteurized and usually lasts quite a while anyway. I still sniffed it. Your job as jurors is to sniff all this and what I'll tell you right now that you need to sniff is pretty much this, and you can throw out almost all of these items, all of these photographs, all of these diagrams, all of these other documents. What does this really tell you? A woman was shot. There were two guns, six bullet casings, two different calibers. That's what all of that shows you. All of

that and not a single bit of it is in dispute. Your job is to figure out who did it.

Well, actually I should rephrase that. That's not your job. Your job to is to figure out if they proved their case. You want to figure out who did it and what happened, as curious animals that we are, we always do, but that is not your job as jurors. Your job is to hold them to their burden.

Now, you heard from Latoya Barnes that in August of last year, she had a phone conversation with Investigator McCoy and he told her unequivocally one of your sons is going down for this. Well, at the time they were both in jail. They were both charged with the same things. What do you do? Well, you wait. You see what the State has. You see where they're going, and then you discuss it as a family. You make a decision. Then in March 2014, Troy Stevenson goes, talks to law enforcement. That was on the 24th and then you have a letter, a letter from Trenton Barnes dated March 31st. Seven days later, seven days later he writes a letter saying he did it all and that Troy had nothing to do with it.

Huh. That's rather convenient for Troy, isn't it. It's rather convenient for Troy that he wasn't home when his house was searched. It's rather

convenient for Troy that there was no gun found when the house was searched, no gray hoodie nor him, and he is also the one that's not on trial. That's rather curious, isn't it? Why is he not on trial.

Because, you know, if the State believes that letter as they want you to believe it, that it's the truth, then why is Troy Stevenson still in jail. Why are those charges still pending. Read that letter. He didn't do anything. According to that letter, he went down to stop everything and bring Trenton back. The government is putting that letter up for you as jurors. They want do you believe it, but they don't believe it. If they believed it, they would be required, as attorneys. We take an oath ourselves. They would be required to dismiss all the charges against Troy Stevenson. They would be required to do it the minute they got that letter if they actually believed it. They haven't done.

In just a few minutes, the judge is going to read you what the law is and how to apply it in the case. Thankfully, you won't have to hear anymore from me. I'm almost done. When you go back to the jury room and you're sitting there and you're waiting for all this evidence to come in and you're tearing up all those little pieces of paper to take an initial vote,

I went you to keep one thing in mind. This is the only thing from the State that I actually agree with. It came from Kevin Reese. I want to make sure I got this, right. Before you take someone's liberty, you need to be sure you have it right. Well, members of the jury, you need to make sure you have this one right. There is a 16-year-old child on trial for a murder that he didn't do, for a burglary he didn't do, for attempted armed robbery that he didn't do and a kidnapping that he didn't do. Take the blame to save his brother? He didn't do it. This is no evidence he did it. The State knows it and that's why they have all this, almost 450 exhibits and not a single one of them that says anything about who is actually inside.

THE COURT: Thank you very much. Already. Ladies and gentlemen. The time is now 5:20, approximately, and I'm going to let you all make the next decision. You're not going to make decision out here. You're going to make it back in the jury room. Here are your two choices. I'm giving you these choices because I don't ever limit attorneys on time because I want --- I don't want them to ever feel pressure from me about how long you're allowed to talk or not to. That's their opportunity to make closing arguments. I want everybody to not feel any pressure

from me on keeping anybody to a specific time limit, but I also don't want you to feel any pressure in getting out of here tonight either, so your options are this. I'll do whichever one you want to. It does not matter to me. In my mind I'm probably 50/50 on doing it either way. It doesn't matter to me. I'll let you be the decisions on this. You are the citizens of our community who have given up time from your family, friends, and work to be here so you will make the decision.

Option number one is I charge you on the law right now, okay. That will take roughly 30 minutes. That's not an exact number. That's just an average of how long it takes me. Once that happens, you would go back to your jury room. You would still not be allowed to deliberate until all of the exhibits come back in the jury room. Best case scenario that's probably going to take at least 20 or 30 minuets because of the number of exhibits that are involved. You wouldn't be allowed to discuss the case at all until those exhibits came in the room. Okay. At that point in time, we would order you some kind of dinner and you could deliberate for as long tonight as you want to. It doesn't matter to me. I'm happy to stay here as long as I need to, okay. That's option number

one. And then at some point tonight we would reach a point in time where I kind of call it for the evening and I say let's go home and come back tomorrow morning and start again.

Option number two is for me to send you home now, okay. So I can give you my normal evening instructions, you're not allowed to discuss the case with anybody. You're not allowed to do any research, all these things. We come back and tomorrow morning the first thing that happens is I charge you on the law and between now and then we would be able to get the exhibits together before we started and then you would go back into your jury room and start deliberating once exhibits come back.

Okay. So Mr. Foreman, I want you to go back to your jury room. Do not discuss the case and come to a consensus on whether or not you want to come back in, get charged and keep working tonight or whether or not you want to go home for the evening and come back tomorrow morning to start with a jury charge and then move into deliberations and then when you're --- when you've made that decision, just come back in. You can just write it on a note, give it to the bailiff and we'll go from that point. Okay. Take however much time you need. We're all going to be right here.

Just let us know when you're ready. Everyone remain seated while the jury is excused.

(WHEREUPON, the jury left the courtroom at 5:24 P.M.)

THE COURT: All right. We're going to be bring them back in. They want to go home. I think that's reasonable given the hour and the amount of information they collected today and the length of the trial. You can bring them back in, Mr. Tolbert.

(WHEREUPON, the jury entered the courtroom at 5:27 P.M. and they handed a note to His Honor.)

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: All right. Ladies and gentlemen, I got your note that said you want to go home tonight. That's perfectly fine. We're going do that. I was joking with the attorneys. Some of the judges, I would say in the old days, but that would make myself older than I want to be, but they would just keep you here all night long. I think it's reasonable under the amount of time that you've been here and the amount of evidence that you've heard in the case to go ahead and go home for the evening and start afresh tomorrow morning when everybody has had a good night's sleep and is ready to go. So I will let you go home for the evening Now, you will recall that I have

previously instructed you in great detail that you must decide this case solely on the evidence presented in this courtroom. Because we're about to take a break for the evening, I'm now reminding you of that warning and I want you to once again if you will commit to each other, to the parties in case and to the court that you will not use any type of cell phone, television, electronic device, computer, radio, print media or anything else to get information about this case, send information about this case, read, view, listen to, look up, anything and I know I've said this over and over and over again and I know you're tired out of hearing me say this, but that's how important it is. You are to decide this case solely on the evidence presented in the courtroom.

There is one final thing you that you need to hear about this case and that's why you still can't discuss it and you still can't talk about it amongst yourselves is because you have not heard what the law is as it applies to this case from the Court. So that will be the first thing that we will do tomorrow morning. We will do our best to have all the exhibits already organized out and laid out so they're packaged and ready to come back to you. As to your second request that you made tonight, I will work on that. I

cannot promise it, Mr. Foreman, but I will do my best to work on that and see what is available. All right. Thank you very much. Everyone remain seated while the jury is dismissed.

THE BAILIFF: What time, Your Honor?

THE COURT: Oh. Let's do 9:30, 9:30. Thank you very much.

(WHEREUPON, the jury left the courtroom at 5:31 P.M.) anything before we break for the night?

MS. CAMPBELL: Your Honor, we think have a scheduling matter. May I just approach in.

THE COURT: Sure.

MR. KRZYSTON: Nothing, Your Honor.

MR. SCHNEE: I don't have anything.

(WHEREUPON, there was a bench conference.)

THE COURT: All right. Now, let's --- if the attorneys can be here tonight. The let's meet at nine in the morning. All the attorneys or at least one attorney from each party to the case, meet to organize all the evidence so we have that part of it ready to go. Okay.

(WHEREUPON, the proceedings were adjourned.)

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

NOVFMBER 19, 2014

THE COURT: All right. Now, have you been through the evidence?

MS. GARFIELD: Our office has been through it. Everything is clear, Judge.

THE COURT: Have you ---

MS. PINNOCK: Yes, we went through it.

THE COURT: Okay.

MR. SCHNEE: Yes, Your Honor. We fixed the issues with the CDs. This is still the exterior of the Ale House. The CDs are fine. They just work on the laptop the solicitors have.

MS. GARFIELD: If they want to review it, they have to come back in here.

MR. SCHNEE: I don't know if you want to tell them ahead of time or wait and see if they ask.

MS. GARFIELD: It will play on this just not the laptop.

THE COURT: How mobile is that thing?

MS. CAMPBELL: Very.

THE COURT: I'm sorry. I couldn't hear you.

MS. GARFIELD: It's easily.

THE COURT: Okay. Maybe we can just move that. I mean, they need be able to watch it and discuss what they want to discuss without the fear of everybody seeing it. We'll cross that bridge when we get there.

All right. Now, listen, everybody that's out in the audience I'm happy for you to be here. When they come in, I'm going to charge them on what the law is. I don't know how long that is, but it will be approximately 30 minutes and the back door will be locked. Don't get up, don't move, don't try to leave. You're welcome to stay in here. I don't have a problem with that. I'm just telling you, if you think hey I think I may need to get up in the next 30 or 40 minutes, just go ahead and you may need to leave now. I'm going to tell them what the law is they're going to go out. If you want to leave now, just ahead and leave. If not, once they come in, just stay seated until I finish. All right. Let's bring them in.

(State's Exhibit Number 396 was withdrawn because the State said it was not in evidence.)

(WHEREUPON, the jury entered the courtroom at 9:45 A.M.)

THE COURT: Good morning, ladies and gentlemen. Welcome back. Has anybody viewed any news media, any type of story about this case in any way, shape, or form? If so, please raise your hand.

(There was no response.)

JURY CHARGE

THE COURT: Okay. At this point in time, as I

told you, I'm going to charge you. That's actually the term on what the law is in South Carolina as it pertains to this case. Now, this document that I'm about to read to you is about 25, 26 pages, okay. So as I go through it I will do my best to keep you with me and keep you awake. I think it's actually good that we came back this morning. That way you're fresh and ready to go and ready to pay attention. Just stay with me. As we go through it, then at the end, I'll come down and give you the verdict form and all the different things that you need.

The indictments have charged the defendants with murder, attempted armed robbery, kidnapping and burglary in the second degree. I remind you that the fact that the defendants were arrested, charged and indicted in this case is not evidence in this case, and it cannot be considered by you as evidence of guilt in this case, nor does it create any presumption or inference of guilt. These documents are simply the formal written instruments which contain the charges made against the defendants. They are the formal documents by which this case is brought into this court.

I charge you that there are two defendants in this case, each of whom is charged with murder,

attempted armed robbery, kidnapping and burglary in the second degree.

The case of each defendant and the evidence and the law concerning that defendant should be considered separately and individually. Your verdict does not have to be the same for both defendants.

The fact that you may find one defendant guilty or not guilty should not control your verdict as to the other defendant. Where more than one person is charged with a crime, if the evidence warrants it, you may convict one and acquit the other or you may acquit both or you may convict both. It will depend on your view of the testimony and the evidence. You must take each defendant and consider the evidence as to that defendant and my instructions to you on the law.

You will then write a separate verdict of guilty or not guilty for each individual defendant, and I will explain that to you at the end.

The indictments in this case allege several different offenses against the defendants. The charges are murder, attempted armed robbery, kidnapping and burglary in the second degree.

Each indictment charges a separate and distinct offense. You must decide each indictment separately on the evidence and the law applicable to it

uninfluenced by your decision as to any other indictment. The defendants may be convicted or acquitted on any or all of the offenses charged.

You will be asked to write a separate verdict of guilty or not guilty for each indictment. I remind you that during this trial you and I have certain duties to perform. As the trial judge, it is my responsibility to preside over this trial, and I also have the duty to rule on the admissibility of the evidence offered during the trial. You are to consider only the competent evidence before you.

If there was any testimony ordered stricken from the record in this case during this trial, you must disregard that testimony. You are to consider only the testimony which has been presented from this witness stand, any exhibits which have been made part of the record in this case or any stipulations of counsel.

I have the additional duty to charge you the law applicable to this case. As the presiding Judge, I am the sole judge of the law in this case, and it is your duty as jurors to accept the law and apply the law as I now state it to you. If you already have an idea as to what the law is or what the law ought to be or should be, and it does not agree with what I now tell

you the law is, you must abandon your own idea because you are sworn. The oath that you took at the very beginning of this trial to accept the law and apply the law exactly as I state it to you.

In every case tried in this court before a jury, the jury becomes the sole and exclusive judge of the facts.

A trial judge, that is me, I cannot state, comment on or make any statement to a trial jury about the facts in a case since you the jury are the sole judge of the facts in this case, you are not to from anything that I have said during this trial or done during this trial in ruling upon the admissibility of the evidence or otherwise or anything that I say now and during the course of this instruction to you that I have any opinion about the facts in this case. The law doesn't allow me to have an opinion about facts of this case. This is a matter solely for you to determine.

As jurors, it is your duty to determine the effect, the value, the weight and the truth of the evidence presented during this trial. Now, to these charges the defendants have pled not guilty and that plea puts the burden on the State to prove the defendants guilty.

A person charged with committing a criminal offense in South Carolina is never required to prove himself innocent. I charge you that it is an important rule of law that a defendant in a criminal it trial, no matter what the seriousness of the charge may be will always be presumed to be innocent of the crime for which the indictment was issued unless guilt has been proven by evidence satisfying you of that guilt beyond a reasonable doubt.

This presumption of innocence does not end when you begin your deliberations, but it accompanies the defendant throughout the trial until you reach a verdict of guilt based upon evidence satisfying you of that guilt beyond a reasonable doubt.

The presumption of innocence is like a robe of righteousness placed about the shoulders of the defendant which remains with the defendant until it has been stripped from the defendant by evidence that satisfies you of the defendant's guilt beyond a reasonable doubt.

The presumption of innocence is not a mere legal theory. It is not just a legal phrase. It is a substantial right to which every defendant is entitled unless you the jury are satisfied from the evidence of the defendant's guilt beyond a reasonable doubt.

Now, I just explained to you that the State has the burden of proving the defendants guilty beyond a reasonable doubt. Some of you may have served as jurors in civil cases where you were told that it is only necessary to prove that a fact is more likely true than not true, such as by the greater weight or the preponderance of the evidence.

In criminal cases the State's proof must be more powerful than that. It must be beyond a reasonable doubt. Proof beyond a reasonable doubt is proof that you leaves you firmly convinced of the defendant's guilt. There are very few things in this world that we know with absolute certainty. In criminal cases the law does not require proof that overcomes every possible doubt.

If based upon your consideration of the evidence, you are firmly convinced that the defendants are guilty of the crime charged, you must find them guilty. If on the other hand you think there is a real possibility that the defendants are not guilty, you must give the defendants the benefit of the doubt and find them not guilty.

Again, you are to consider each defendant and each charge separately and individually from each other. Now, there are two types of evidence which are

generally presented during a trial: Direct evidence and circumstantial evidence.

Direct evidence is the testimony of a person who claims to have actual knowledge of a fact. For example, an eye witnesses. It is evidence which immediately establishes the main fact to be proved.

Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact. Crimes may be proven by circumstantial evidence. The law makes no distinction between the weight or the value to be given to either direct or circumstantial evidence. However, to the extent that the State relies on circumstantial evidence, all of the circumstances must be consistent with each other and when taken together point conclusively to the guilt of the accused beyond a reasonable doubt.

If these circumstances merely portray the defendant's behavior as suspicious, the proof has failed. The State has the burden of proving the defendants guilty beyond a reasonable doubt. This burden rests with the State regardless of whether the State relies on direct evidence, circumstantial evidence or some combination of the two.

Now, as I told you in the very beginning of this trial, you must determine the credibility of the

witnesses who have testified in this case. Credibility simply means believability. It becomes your duty as jurors to analyze and to evaluate the evidence and determine which evidence convinces you of its truth.

In determining the believability of the witnesses who have testified in this case, you may believe one witness over several witnesses, or several witnesses over one witness. You may believe a part of the testimony of a witness and reject the remaining part of the testimony of that same witness. You may believe the testimony of a witness in its entirety or reject the testimony of a witness in its entirety.

You may consider whether any witness has exhibited to you any interest, bias, prejudice or other motive in this case. You may also consider the appearance and the manner of a witness while on the witness stand.

Now, as I told you in the beginning, and I have told you throughout this trial, there are certain things that have happened in this case that are not in evidence, and you must not consider them as evidence in deciding the facts of this case: Number one, the statements and the arguments of the attorneys. Number two, the questions and the objections of the

attorneys, and number three, the testimony that I have ordered you to disregard throughout this trial.

Now, the Rules of Evidence ordinarily do not permit witnesses to testify to opinions or conclusions. An exception to this rule exists for witnesses that we call expert witnesses. This is a witness who by education and experience has become an expert in some art, science, profession or other calling and may state an opinion as to relevant and material matter in which the witness claims to be an expert and may also state the reasons they claim to give that opinion.

You should consider any expert opinion received in evidence in this case and like any other evidence, give it the weight you think it deserves. If you decide that the opinion of an expert witness is not based on sufficient education or experience or if you conclude that the reasons given in support of the opinion are not sound or that the opinion is outweighed by other evidence, you may disregard the opinion entirely. An expert witness's testimony is to be given no greater weight than that of any other witness simply because the witness is an expert. Further, you are not required to accept an expert's opinion even though it is not contradicted.

Now, I instruct you and emphasize to you that the fact that the defendants did not testify in this case is not a factor to be considered by you in any way in your deliberations and in the consideration on the question of the guilt or innocence of the defendants. A defendant has the constitutional right to remain silent. The assertion of this right must not be considered by you in your deliberations. I repeat, you are to draw no conclusion whatsoever from the fact the defendants in this case did not testify. The fact that these defendants did not testify should not even be discussed in the jury room. The burden of proof as I have told you from the very beginning of this case, is on the state. The defendants are not required to prove their innocence. The burden of proof remains on the State to prove guilt beyond a reasonable doubt.

Now, in order to establish criminal liability, criminal intent is required. For example, these are examples, the mental state required to be proven by the state for a particular crime might be purpose, intent, knowledge, recklessness or criminal negligence.

Criminal intent must be proven by the State beyond a reasonable doubt. Criminal intent is always a matter that must be determined by the jury from the

circumstances surrounding the situation.

There is no way to prove intent to a mathematical certainty. There is no way that medical science can dissect a person's brain and determine what that person had in mind so the law says that criminal intent may be inferred from the circumstances shown to have existed. This is how you make a determination of whether or not the element that requires intent was present.

It is not necessary to establish intent by direct and positive evidence, but intent may be established by inference in the same way as any other fact by taking into consideration the acts of the parties and all the facts and circumstances of the case. Criminal intent is a mental state, a conscious wrongdoing. It is up to you to determine what the defendant intended to do based upon the circumstances that are shown to have existed.

Criminal intent can arise from an action or a failure to act. It may arise from negligence, recklessness or an indifference to duty or to consequences that are considered by the law to be the equivalent of criminal intent. The next thing I'm going to do is go through each charge that the defendant is charged with, each separate crime, and

explain each one of them to you and the elements of those crimes each of them individually.

Now, the defendant are both charged with murder. The State must prove beyond a reasonable doubt that the defendants killed another person with malice aforethought. Malice ask is hatred, ill will or hostility towards another person. It is the intentional doing of a wrongful act without just cause or excuse and with the intent to inflict an injury or under circumstances that the law will infer, an evil intent. In its legal sense, however, malice does not necessarily mean ill will toward the individual injured, but signifies a general malignant recklessness for the lives and safety of others or a condition of the mind which shows a heart regardless of social duty and fatally bent on mischief. Malice aforethought does not require that the malice exists for any particular time before the act is committed, but malice must exist in the mind of the defendant just before and at the time of the act that the act is committed. Therefore, there must be a combination of previous evil intent and the act. Malice may be conceived at the very moment the fatal blow is given.

Malice aforethought may be express or inferred. These terms express and inferred do not mean different

kind of malice, but merely the manner in which malice may be shown to exist. That is either by direct evidence or by inference from the facts and circumstances which are proved. Express malice is shown when a person speaks words or which express hatred or ill will for another or when a person prepared beforehand to do the act which was later accomplished, for example, lying in wait for a person or any other acts of preparation going to show that the deed was within the defendant's mind would be expressed malice. Malice may be inferred from conduct showing a total disregard for human life. The law says if one intentionally kills another during the commission of a felony, the implication of malice may arise. If facts are proved beyond a reasonable doubt sufficient to raise an inference of malice to your satisfaction, this inference would be simply an evidentiary fact to be taken into consideration by you along with other evidence in the case, and you may give it the weight, such weight, as you determine it should receive. The law allows the jury to infer malice if you conclude the homicide was a proximate direct result of the commission of a felony. For the purposes of this case and for that regard, kidnapping and burglary and attempted armed robbery would be

considered felonies under our law. You can imply that malice existed if a person is in the commission of a felony at the time of the attempted fatal blow.

Now, the defendants are also charged with kidnapping. The State must prove beyond a reasonable doubt that the defendant knowingly and unlawful seized or confined another person without authority of law. To do a thing lawfully is to do it willfully against the law. Knowingly means with knowledge and consciously, not accidently. The word seize means to take hold of suddenly or forcibly. The word confine means to limit, restrict, confine within bounds, imprison, or shut, or keep in. The State does not have to prove that the defendant did all of these things, that being seize and confine. Instead if you mind beyond a reasonable doubt that the defendant did any of these things, you may find the defendant guilty of kidnapping.

Something done without authority of law is something which the law does not sanction, permit, allow, condone or provide justification for.

Now, the kidnapping does not have to be for any personal or monetary gain or any illegal purpose, but may be for any reason whatsoever. Kidnapping is a continuing offense which commences when one is

wrongfully deprived of freedom and continues until the freedom is restored.

The next crime that the defendants are charged with and these are in no particular order, is attempted armed robbery. The defendants are charged with attempted armed robbery. An attempt is an effort to accomplish a crime, which does not succeed. An attempt includes a specific intent do a particular criminal act along with an act falling short the act intended. The State must show more than mere preparation and intent. There must be some overt act committed in the effort to commit the crime. Intent means intending the result which actually occurs, not accidentally or involuntarily. Intent may be shown by the acts and the conduct of the defendant and other circumstances from which you may naturally and reasonably infer intent.

In order to prove this offense, the State must first prove beyond a reasonable doubt that the defendants attempted to take personal property from the person or presence of another person. Property is in the presence of a person if it is in --- within the person's reach, inspection, observation or control so that the person could, if not overcome with violence or prevented by fear, keep possession of the property.

The State must also prove beyond a reasonable doubt that the defendant carried the property away intending to permanently deprive the owner of the property and to keep the property for the defendants' own use. The slightest removal of the property or the complete possession of the property even for an instant by the defendant is sufficient to show a taking and caring away of the property. The taking and carrying of the property must have been done with violence or by putting the owner of the property in fear of violence.

Finally the State must prove beyond a reasonable doubt that a defendant was armed with a deadly weapon during the robbery. A deadly weapon is an article, an instrument or a substance which is likely to cause death or great bodily harm. Whether an instrument has been used as a deadly weapon depends on the facts and circumstances of each case. The following are examples of instruments which may be deadly weapons, a pistol, a shotgun, a rifle, a knife, a sling slot, metal knuckles, a razor, gasoline, lighter fluid.

A gun may be a deadly weapon even if it is not operating.

Now, the last charge that the defendants are charged with is burglary in the second degree. To

prove burglary in the second degree, the State must prove beyond a reasonable doubt that a defendant entered a building without consent and with the intent to commit a crime in the building.

A building is defined as any structure, vehicle, water craft or aircraft where any person lodges or lives or where people assemble for the purpose of business, government, education, religion, entertainment, public transportation or public use or where goods are stored.

Finally, the State must prove beyond a reasonable doubt that when entering the building --- excuse me. When entering while in --- excuse me.

(Pause.)

When entering while in the building or when fleeing, the defendant or an accomplice was armed with a deadly weapon or explosive. A deadly weapon as I have explained to you before is an article, instrument or substance which is likely to cause death or great bodily harm. Whether an instrument has been used as a deadly weapon depends upon the facts and circumstances of each case. The following are examples of deadly weapons, a pistol, shotgun, a knife, sling slot, metal knuckles, razor, gasoline, lighter fluid and a gun may be a deadly weapon even if it is not operating.

So finally the State must prove beyond a reasonable doubt that number one when entering the defendant or an accomplice was armed with a deadly weapon or when entering or while in the building or when fleeing the defendant or an accomplice caused physical injury to anyone not participating in the crime or when entering or while in the building or when fleeing the defendant or an accomplice used or threatened to use a dangerous object or when entering or while in the building or when fleeing the defendant or an accomplice displayed what appeared to be a knife, pistol, revolver, rifle, shotgun, machine gun or other firearm or the defendant entered or remained in the building in the nighttime. Nighttime is the period between sunset and sunrise during which there is not enough daylight to recognize a person's face except by artificial light or moon light.

Now, if two or more people combine together to commit an unlawful act or a crime and in the execution of that criminal act, a homicide is committed by one of the actors as a probable or natural consequence of the acts done, in pursuance of the common design, all present, participating, all people who are present and participating in the unlawful undertaking are as guilty as the one who committed the fatal act.