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VOLUME I OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County
Honorable Kristi Lea Harrington, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DARREN KEITH BELT,

APPELLANT

APPELLATE CASE NO. 2015-002350

RECORD ON APPEAL

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:

State's Exhibit 1 (DVD of Traffic Stop)

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA,

vs.

DARREN KEITH BELT,

Defendant.

IN THE COURT OF GENERAL
SESSIONS FOR THE NINTH JUDICIAL
CIRCUIT

WARRANT NOs: 2013A1010202453;
2013A1010202454

MOTION TO SUPPRESS

Defendant, by and through undersigned counsel, respectfully requests that this Court suppress certain items and evidence and statements made by the Defendant as follows:

1. Any testimony and/or reference to black clothes allegedly observed in Defendant's vehicle.

The Confrontation Clause of the Sixth Amendment to the U.S. Constitution guarantees a defendant in a criminal case the right "to be confronted with witnesses against him"; this right has universally been interpreted to mean that a defendant has the right to cross-examine those witnesses.

In the present case, Defendant expects State witnesses (particularly Ofc. Alex Gillespie) to testify that he observed black clothing, a black hat, and latex gloves in plain view in the Defendant's back seat pursuant to a lawful traffic stop. Defendant further expects that Ofc. Gillespie will testify that his observation of these items gave him the particularized and reasonable suspicion regarding the commission of a serious crime necessary to detain the Defendant for questioning beyond completion of the original purpose of the stop, here, a speeding violation. Without that "reasonable suspicion of a

serious crime” any detention exceeding the scope of the initial stop is illegal. *State v. Rivera*, 384 S.C. 356, 361 (2009), citing *U.S. v. Sullivan*, 138 F.3d 126, 131 (4th Cir. 1998).

Of critical importance in determining whether the referenced items should be suppressed is the fact that law enforcement failed to collect these items from the Defendant’s vehicle following his arrest, such that they will not be available for presentation to the Court or jury at trial of this case. Without these items being presented for examination and review, the Defendant will be fundamentally denied his right to cross-examine Ofc. Gillespie or any other witness regarding the evidence being presented against him. While undersigned counsel has not been able to locate case law specifically supporting this proposition, counsel reasonably believes the absence of such case law is that this proposition is so axiomatic it has never been raised in our appellate courts previously. The prosecution must present the physical evidence it intends to use against the Defendant prior to making reference to it, so as to allow the Defendant to cross-examine the State’s witness on its validity, characteristics, etc. Perhaps the clothing was navy blue, not black? Perhaps the clothing had distinctive markings on it that failed to fit the basic description of the suspects in this matter? Perhaps law enforcement has simply provided a wholly inaccurate description of what they allegedly observed? Without an opportunity to review evidence being presented against him, the Defendant would be, in effect, entirely denied a fundamental right guaranteed to him under the Sixth Amendment.

The Court need only carry out this proposition to an extreme scenario to properly appreciate the axiomatic nature of Defendant’s position in the instant matter. What if the

State did not present any physical evidence it intended to use against the Defendant at trial, but simply relied upon the testimony of law enforcement in establishing the existence, characteristics, and validity of evidence it possessed against the Defendant? Certainly such a scenario would be violative of Defendant's Sixth Amendment rights, and would be fundamentally counter to our entire system of criminal procedure. Why then would such evidence be allowed if it is but a single piece of evidence against the Defendant? This Court should suppress any reference being made to articles of black clothing, latex clothes, hats, etc., unless it is able to produce such items for the Defendant to observe and effectively cross-examine State's witnesses on these items.

The fact that law enforcement failed to collect and preserve what the State seems to contend are critical pieces of evidence is troubling in and of itself, and leads to additional questions regarding the State's assertion that observation of black clothes and gloves was sufficient cause to seize the Defendant for a second time. If this evidence was so critical, why then did the police not seize it during the inventory search that was later conducted? There are but two possible responses to this question, both of which additionally favor suppression of reference to these items: a) the police did not, in fact, consider these items critical evidence, in which case they could not possibly serve as reasonable suspicion for purposes of extending the traffic stop of the Defendant, or b) these items did not in fact exist.

If this Court does suppress reference to such unproduced evidence, it must, as a result, suppress all items retrieved from the Defendant's vehicle pursuant to this traffic stop, as the State will be able to present no evidence or testimony that law enforcement

had the reasonable suspicion required to detain the Defendant beyond the time reasonably necessary to conduct an otherwise routine traffic stop. See *Id.*

2. Any evidence procured by law enforcement pursuant to the traffic stop conducted on the Defendant.

“A traffic stop supported by reasonable suspicion of a traffic violation remains valid until the purpose of the traffic stop has been completed.” *Arizona v. Johnson*, 555 U.S. 323, 333 (2009). “The officer may not extend the duration of a traffic stop in order to question the motorist on unrelated matters unless he possesses reasonable suspicion that warrants an additional seizure of the motorist.” See *Sullivan*, 138 F.3d at 131. The activities of a routine traffic stop include requesting a license and registration, running a computer check, and issuing a citation. *Id.* “The officer cannot avoid this rule by employing dilatory tactics.” See *United States v. Jones*, 234 F.3d 234 (5th Cir. 2000) (cited with approval in *State v. Provet*, 405 S.C. 101, 108 (2013)).

Defendant concedes that the initial stop in this matter was lawful based on Ofc. Gillespie’s suspicion that the Defendant was committing a speeding violation. Beyond that initial lawful stop, however, none of the actions taken by Gillespie and additional law enforcement at the scene comported with the applicable law. As can be observed on the video collected on Gillespie’s dashboard camera, law enforcement held the Defendant without arrest for a period of forty-five minutes, well beyond the time normally required to conduct and complete a traffic stop for a speeding violation. See *Id.* at 109: “We agree with the trial court and the Court of Appeals that ten minutes was a reasonable length of time for the initial traffic stop” In fact, it does not appear from the video that law enforcement had any designs on actually conducting a traffic stop at all. Officers can be

observed approaching the vehicle with their hands on sidearms, aggressively peering in the windows of the vehicle with their flashlights, and eventually simply standing beside the Defendant's vehicle, holding him within and ostensibly awaiting the arrival of additional law enforcement, for a period of almost 45 minutes. At no time on the video can one observe Ofc. Gillespie perform any of the tasks referenced in Sullivan; while he may have gathered license and registration, it is unclear whether he ever ran a computer check or issued the Defendant a citation prior to his eventual arrest.

The reason provided by the State for this lengthy detention, this "second seizure," as referenced above, was the observation of black clothing and gloves in the Defendant's back seat. If that (non) evidence is suppressed, as prayed for supra, the entire detention of the Defendant beyond a period of approximately 10 minutes must be found unreasonable as a matter of law, as no other articulable basis for "reasonable suspicion exists." A police officer may stop and briefly detain and question a person for investigative purposes, without treading upon his Fourth Amendment rights, when the officer has a reasonable suspicion supported by articulable facts, short of probable cause for arrest, that the person is involved in criminal activity." *Terry v. Ohio*, 392 U.S. 1, 88 (1968). The only description Ofc. Gillespie had of an alleged perpetrator was that of a black male, possibly wearing black clothes. Defendant is indeed a black male, but otherwise did not fit the description provided, meaning that Gillespie could not have had reasonable suspicion based upon articulable facts. Defendant should not have been detained beyond the time initially necessary to effect a traffic stop, meaning all items found in a search of his vehicle should be suppressed.

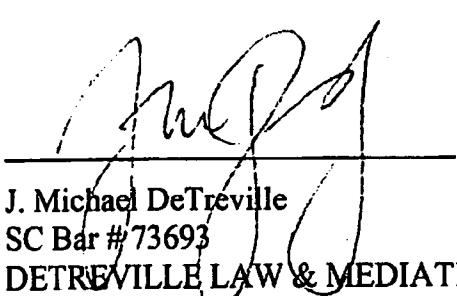
As opposed to conducting a traffic stop of reasonable duration, Ofc. Gillespie will in fact testify that he was holding the Defendant pending the results of an investigation being conducted by other officers at the Mt. Pleasant Police Department. This flies in the face of the relevant jurisprudence. An officer may not employ dilatory tactics in extending a traffic stop so that probable cause to arrest a driver may be developed. See *Provet* 405 S.C. at 108. Holding the Defendant for 45 minutes ostensibly while not taking any steps toward conducting a valid traffic stop, all while detectives are conducting co-defendant interviews in an effort to develop a description of a third suspect, should be ruled to be an unreasonable delay and second seizure of the Defendant as a matter of law, and lead to suppression of any items seized from Defendant's vehicle.

Subsequent to arrest of the Defendant, an "inventory search" of the vehicle was conducted by Cpl. Myers. During this search, Myers found a backpack, which he then opened. After opening the backpack, Myers discovered mail addressed to Ricky Lamont Hayes, a co-defendant who was already in police custody at the time of this Defendant's arrest. This inventory search was conducted pursuant to an unlawful seizure of the Defendant, and the results of any such search should be suppressed as "fruit of the poisonous tree."

3. Any statements made by the Defendant in response to police questioning during the traffic stop.

Defendant was questioned regarding the black clothing and latex gloves allegedly found in his back seat subsequent to being stopped. A review of the video of the stop makes plain the fact that the Defendant was in police custody at the time of such questioning; he was not free to go. Under those circumstances, the police questioning of

the Defendant regarding items allegedly found within his vehicle amount to a custodial interrogation, such that Defendant was entitled to be read his Miranda rights prior to questioning. No such Miranda rights were read to the Defendant, therefore any statements the Defendant made in response to police interrogation should be suppressed at trial of this matter.



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Charleston, South Carolina
September 13, 2015

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

vs.

DARREN KEITH BELT

Defendant

COURT OF GENERAL SESSIONS

DOCKET NO. 2013-GS-10-4529
2013-GS-10-4530

TRANSCRIPT OF RECORD

September 14, 2015
Charleston, South Carolina

VOLUME 1 (of 4)

B E F O R E:

THE HONORABLE KRISTI L. HARRINGTON, JUDGE

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Circuit Court Reporter

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September 14, 2015

PROCEEDINGS

THE COURT: Are you Darren Belt?

MR. BELT: Yes, ma'am.

THE COURT: Are you ready to proceed?

MR. BELT: Yes, ma'am.

MR. DETREVILLE: We are, Your Honor.

THE COURT: Tell me who you are?

UNIDENTIFIED SPEAKER: I'm Mr. DeTreville's
paralegal.

THE COURT: All right. Thank you. Mr. Ziegler,
just tell me procedurally where we are and what we plan
to do.

MR. ZIEGLER: Yes, Your Honor. As I referenced in
the email this weekend I learned over the weekend that
Corporal Myers with the Mount Pleasant Police Department
had been traveling to Pennsylvania for the funeral of his
grandmother. And he informed me that he will return to
Charleston on Tuesday night so he will be available for
court on Wednesday morning.

Regarding the suppression motion of the defendant --
Corporal Myers testimony is likely necessary for that
motion because he completed an inventory search of the
defendant's vehicle after the traffic stop and arrest of
the defendant. And there were items located in the
vehicle ---

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1 THE COURT: --- so we're not going to do any
2 pretrial motions until one witness gets here? Is that
3 what you're telling me?

4 MR. ZIEGLER: It depends if we can work the
5 pretrial motions with the other witnesses that we do have
6 and otherwise wait until Corporal Myers is here on
7 Wednesday.

8 THE COURT: So what are we doing Mr. Zeigler?

9 MR. ZIEGLER: Your Honor, I guess I was looking for
10 guidance as to ---

11 THE COURT: --- I don't know your case. I don't
12 know what you're planning on doing. I don't where your
13 witnesses are. I don't know what they are going to
14 testify to. I thought we had this discussion. This is
15 not the first time either of you have tried cases with
16 me. I don't know why we are sitting here and we're going
17 to waste two days. Is that what we're doing? We're
18 doing nothing with this case for two days other than
19 picking a jury today?

20 MR. ZIEGLER: I suppose so, Your Honor because I do
21 think -- I think there is argument whether we need
22 Corporal Myers or not.

23 THE COURT: Well how will I make that determination
24 Mr. Ziegler?

25 MR. ZIEGLER: Perhaps through I suppose the incident

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1 report and us discussing what he would be testifying to
2 if he were here.

3 THE COURT: Mr. DeTreville?

4 MR. DETREVILLE: May I Your Honor? It's my hope to
5 proceed with the pretrial motions in the absence of
6 Corporal Myers. If he is unavailable -- certainly I
7 understand his grandmother has passed away and he's at
8 her funeral. I'm not a cold-hearted individual but at
9 the same time, Your Honor, we're ready.

10 My client has been incarcerated for two and a half
11 years. And I know that a two day delay after two and a
12 half years is not a lot but we are ready to proceed with
13 our pretrial motions in Corporal Myers absence. And if
14 he is unavailable to testify I'd ask that he just be
15 unavailable to testify and that the pretrial motions be
16 decided in the absence of his testimony.

17 THE COURT: Have you made an offer? Was there an
18 offer?

19 MR. ZIEGLER: Yes, Your Honor. The offer was a
20 negotiated 12 year sentence on ---

21 THE COURT: --- what did the co-defendant receive?

22 MR. ZIEGLER: Thirty years after being convicted.

23 THE COURT: All right. Mr. DeTreville, did you
24 explain that to your client?

25 MR. DETREVILLE: I did indeed, Your Honor.

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1 THE COURT: Has he rejected it on the record, Mr.
2 Zeigler?

3 MR. ZIEGLER: Your Honor, he has not. We had a
4 plea set for him for him to be brought over and Mr.
5 DeTreville couldn't be at that. So he informed me by
6 email that the defendant would not be pleading guilty ---

7 THE COURT: --- Mr. Belt please rise.

8 [Whereupon, the defendant complies]

9 THE COURT: Mr. Belt, please raise your right hand.

10 [Whereupon, the witness is duly sworn by the Court]

11 THE COURT: Mr. Belt, an offer has been conveyed.
12 Is that offer still available?

13 MR. ZIEGLER: Your Honor, that offer expired over
14 about a month ago. If he wanted to plead guilty we could
15 have further negotiations if I consulted with my
16 supervisors but the offer has expired.

17 THE COURT: Mr. Belt, were you given a 12 year
18 offer? Did Mr. DeTreville explain that offer to you?

19 MR. BELT: Yes, ma'am.

20 THE COURT: And did you accept that offer or reject
21 that offer?

22 MR. BELT: I rejected it, ma'am.

23 THE COURT: All right. And you are facing two
24 counts of armed robbery is that correct?

25 MR. ZIEGLER: Correct, Your Honor.

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1 THE COURT: And that is 10 to 30 on each count?

2 MR. ZIEGLER: Yes, Your Honor.

3 THE COURT: Sir, you understand that if you are
4 found guilty on both indictments and I impose the maximum
5 sentence and I could run them consecutive you're facing
6 60 years in the Department of Corrections do you
7 understand that?

8 MR. BELT: Yes, ma'am.

9 THE COURT: And you still wish to go to trial here
10 today?

11 MR. BELT: Yes, ma'am.

12 THE COURT: Thank you. We just needed to place
13 that on the record. You may have a seat Mr. Belt. Thank
14 you.

15 [Whereupon, the defendant complies]

16 THE COURT: So Mr. Ziegler what I'm hearing you
17 tell me is that because you don't have one witness we
18 can't do any witnesses today for your pretrial motions.

19 MR. ZIEGLER: Your Honor, we have three witnesses
20 available for our pretrial motions. We have one who is
21 not.

22 THE COURT: All right. Then we can pick a jury
23 and begin our pretrial motions this afternoon.

24 MR. ZIEGLER: Yes, Your Honor.

25 THE COURT: All right.

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1 MR. ZIEGLER: As long as you can reserve ruling on
2 the motion until Corporal Myers ---

3 THE COURT: --- or perhaps I don't need his
4 testimony right?

5 MR. ZIEGLER: Yes, Your Honor. Thank you.

6 THE COURT: So that's how we will proceed. Can we
7 select a jury -- is there any reason we cannot select a
8 jury?

9 MR. ZIEGLER: I don't believe there is any reason
10 we can't select a jury, Your Honor.

11 MR. DETREVILLE: No reason, Your Honor.

12 THE COURT: Any objections to the State's requested
13 Voir Dire?

14 MR. DETREVILLE: None, Your Honor.

15 THE COURT: Any objections to the defendant's
16 requested Voir Dire?

17 MR. ZIEGLER: None, Your Honor.

18 THE COURT: And any objection to the indictment?

19 MR. DETREVILLE: None, Your Honor.

20 MR. ZIEGLER: No.

21 THE COURT: Strikes are five and ten?

22 MR. DETREVILLE: [Indicates affirmatively]

23 THE COURT: Is that a yes? She's got to write it
24 down.

25 MR. DETREVILLE: I'm sorry. Yes, Your Honor.

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1 MR. ZIEGLER: Yes, Your Honor.

2 THE COURT: Are we ready to bring the jury in? Are
3 we ready Mr. Ziegler?

4 MR. ZIEGLER: Yes, Your Honor.

5 THE COURT: Mr. DeTreville?

6 MR. DETREVILLE: We are, Your Honor.

7 THE COURT: All right.

8 [Whereupon, the jury panel enters at 11:15 a.m.]

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1 THE COURT: Thank you. Outside the presence of
2 the jury any motions or matters pertaining to the jury
3 selection?

4 MR. ZIEGLER: Not from the State, Your Honor.

5 MR. DETREVILLE: Nothing from the defense, Your
6 Honor.

7 THE COURT: Thank you. Ladies and gentlemen, you
8 were not selected as the jurors to try this case so you
9 are excused for the day. Please call back after 6 p.m.
10 to the number given to receive your instructions for the
11 remainder of the week. Ladies and gentlemen, it's likely
12 I will not see you again so again thank you for your
13 service to Charleston County and have a wonderful
14 afternoon. You are excused. Thank you.

15 [Whereupon, the jury panel exits at 12:01 p.m.]

16 THE COURT: So I'm going to have them come back
17 Wednesday is that correct Mr. Ziegler?

18 MR. ZIEGLER: Yes, Your Honor.

19 MR. DETREVILLE: And I'm sorry Your Honor just to
20 clarify you have a conflict tomorrow and we're not going
21 to be adjourning tomorrow is that correct?

22 THE COURT: His witness can't start until
23 Wednesday.

24 MR. DETREVILLE: Oh I'm sorry; I was under the
25 understanding that we weren't going to be moving forward

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1 on Tuesday because of the conflict that you had?

2 THE COURT: He has a witness conflict. We can't
3 start till Wednesday is that correct?

4 MR. ZIEGLER: That's correct, Your Honor. We could
5 start he would be our --in the case in chief he would be
6 our sixth witness so.

7 THE COURT: But we're making the assumption that
8 you don't need him for a suppression. Can we go forward
9 without him?

10 MR. ZIEGLER: At this point I don't believe -- I
11 don't know Your Honor and I don't believe ---

12 THE COURT: --- well Mr. Ziegler I need you to know
13 so that I can schedule. That's my frustration is I am
14 willing to accommodate all right, but you've given me --
15 you've indicated it's a three day trial and I want to
16 make sure that we get done by Friday. So do you need a
17 moment to kind of figure out your scheduling because I
18 only want to tell the jury one thing right?

19 MR. ZIEGLER: Yes, Your Honor.

20 THE COURT: I'm going to take a comfort break --
21 could you help in this scheduling?

22 UNIDENTIFIED SPEAKER: Yes, Your Honor.

23 THE COURT: I don't know that I'm communicating
24 with Mr. Ziegler correctly. I'm able to go forward and
25 will do as much pretrial until the witness comes and I'm

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1 willing to accommodate that; that's fine. However I just
2 need to know what we're doing and I can't start a trial
3 based upon -- you don't want me to start the trial
4 tomorrow with the possibility that I may grant the
5 suppression motion right?

6 MR. DETREVILLE: Your Honor, at this point I think
7 we would take the position that I think Your Honor would
8 have to grant the suppression motion if that witness were
9 not present and -- let me rephrase ---

10 THE COURT: --- why don't y'all figure that out.
11 I'm going to take a comfort break. Y'all take what you
12 need because we're going to get the jury's phone numbers
13 and get them set up. What I intend to do is bring them
14 back in after they have done that and give them my
15 general admonition but I just need to know are we going
16 to start tomorrow or are we going to start Wednesday
17 okay? Thank you.

18 [Whereupon, court is in recess from 12:05 p.m. till
19 12:18 p.m.]

20 THE COURT: Thank you. So what's our schedule Mr.
21 Ziegler?

22 MR. ZIEGLER: If you'll allow me to Your Honor
23 talk about the alternative or several alternatives that
24 could happen. If you were to grant the defense's
25 suppression motion obviously that would compromise the

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1 entire trial. If you were to deny the defense's
2 suppression motion it would be conceivable that we could
3 start tomorrow. If you were not able to rule on the
4 suppression motion at all because Corporal Myers isn't
5 here then the earliest we would be able to start would be
6 Wednesday morning. And we would be pushing up against
7 the end of Friday if we started Wednesday morning. It's
8 difficult to know exactly how long it will take but I
9 believe all the testimony would be about two and a half
10 days if there are no major breaks or delays.

11 MR. DETREVILLE: Judge, the defense takes the
12 position that we're ready to move forward with the
13 pretrial motions now even in the absence of the witness
14 and certainly I think there is an interest on my client's
15 part. Like I said earlier Your Honor he's been
16 incarcerated for two and a half years and we're ready to
17 get this trial done and ---

18 THE COURT: --- are your witnesses here ready to
19 start Mr. Ziegler?

20 MR. ZIEGLER: For the pretrial motion yes.

21 THE COURT: All right. Let's bring the jury in.
22 I'm just going to have them -- we'll call them this
23 afternoon. Can they call back -- can I just tell them to
24 ---

25 CLERK OF COURT: --- call back after 6:00 tonight

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1 Judge and just give them Judge Harrington's jury or
2 however you want to call it.

3 THE COURT: Okay. Let's do it that way. Mr.
4 Shine has been selected as the Foreperson. Please rise
5 for the jury.

6 [Whereupon, the jury enters at 12:25 p.m.]

7 THE COURT: Thank you. Please be seated. Mr.
8 Shine you have been selected as the jury's Foreperson.
9 What that means is that you are the jury's spokesperson
10 here in court. So if at any time any of you need any
11 additional breaks or have any concerns or questions
12 please let your Foreperson know. He will alert the
13 bailiffs. And often times they can handle it but if they
14 cannot they will alert me and we'll handle the matter as
15 quickly as we can.

16 As such Mr. Shine that is your seat. To my two
17 alternates those are your assigned seats as well and so
18 the three of you have assigned seats. The rest of you
19 just come in and take whatever seat you're comfortable
20 in. But Mr. Shine I just need to know when I look over
21 there that that's where you are.

22 Ladies and gentlemen you may have noticed when you
23 came in this time the attorneys involved in this case and
24 the parties and members of the audience were standing.
25 This is out of respect for your new position as judges of

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1 the facts. So please come in and take your seats because
2 they will remain standing until all 14 of you are seated.
3 Ladies and gentlemen we will not begin testimony today.
4 There are some pretrial matters that I must take up
5 outside of your presence. It's time for lunch and I know
6 Mr. Shine you were already inquiring about lunch for your
7 jury so we're going to go ahead and break. We're going
8 to continue to work but I will need you to call back
9 after 6 p.m. to the number that you were given. Please
10 remember that you must call back to receive those
11 instructions.

12 I don't know what time I will have you report back
13 but you will know by 6 p.m. what you will need to do for
14 tomorrow. So ladies and gentlemen please make sure you
15 call back. It will be on the recording as Judge
16 Harrington's jury panel; Judge Harrington's jury panel.
17 So please remember that if you do not report you are
18 violating my court order to call back and to report as
19 such.

20 Please remember ladies and gentlemen I'm going to
21 give you -- and these are what I call just my
22 instructions, my general admonitions. Until you have
23 been discharged from service in this case you may not
24 perform any investigation, experiment, research of any
25 kind either on your own or as a group. You may not

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1 consult any dictionaries or look on any Internet sites
2 for the general information of the subjects that are at
3 issue in this trial. You may not look up anything
4 concerning the defendant, the defense attorney, the
5 Solicitor or any of the witnesses involved in this case
6 or the Judge. You may not go to the scene where any of
7 the events that are the subject of this trial are alleged
8 to have taken place. You may not use any Internet maps
9 or Google earth or anything of that nature to research
10 any area described.

11 You must not have any discussion about this case and
12 ladies and gentlemen this is where it gets really tricky
13 because we are in such a technologically important state
14 that we all say well this is what I'm going to do. We're
15 going to make postings about where I am and what I've
16 done. You cannot do that until I tell you otherwise.

17 You may not discuss this case with each other until
18 I tell you to begin your discussions deliberating. You
19 may not make any posts on Facebook or any other Internet
20 social media site. You may not text about this case.
21 You may not blog about this case. You may not email
22 about this case. Ladies and gentlemen there may be
23 something that I have left out but please understand you
24 may not discuss this case with anyone in any manner until
25 I tell you otherwise. I know it's difficult. People

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1 probably know that you're at jury service, your friends,
2 your family members, your spouse when you go home and you
3 simply cannot discuss this case in any form or fashion
4 with anyone. I cannot repeat that enough and so I'm
5 going to stop because you're going to say Judge, why do
6 you keep telling me the same thing over and over again?
7 Because it happens; often.

8 Jurors come back and I find out they've made a post
9 on Facebook or friended each other as a group and you
10 cannot do that until I tell you that you may begin
11 discussing this case. The reason for this is you may
12 jeopardize the outcome of this case. So please make sure
13 that you follow my instructions. If you become aware of
14 another juror's violations you must report that to me
15 immediately.

16 Ladies and gentlemen please call back after 6 p.m.
17 and follow the instructions given to you on the recording
18 for Judge Harrington's jury panel. Thank you again for
19 your service to our justice system and to Charleston
20 County. I will see you when you are told to report back.
21 Thank you. Please rise for the jury.

22 [Whereupon, the jury exits at 12:26 p.m.]

23 THE COURT: Thank you. Please be seated. All
24 right Mr. DeTreville how about 1:45? We'll start back at
25 1:45.

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1 MR. DETREVILLE: Very good, Your Honor.

2 THE COURT: 1:45.

3 [Whereupon, court is in recess from 12:31 p.m. till
4 2:56 p.m.]

5 THE COURT: Counsel, we had an issue with the in
6 chambers in camera review of the personnel file of Mr.
7 Gillespie. Anything else we need to place on the record
8 regarding that matter?

9 MR. DETREVILLE: Your Honor, the defense would seek
10 to use Officer Gillespie's termination from the Mount
11 Pleasant Police Department and the details surrounding
12 his termination from the police department as to impeach
13 the witness while he is on the stand.

14 THE COURT: Mr. Ziegler?

15 MR. ZIEGLER: Your Honor, as Your Honor mentioned
16 there was an in cameral review of Officer Gillespie's
17 personnel file and Internal Affairs file completed. At
18 that time the State disclosed the entire file to the
19 defense counsel and he was able to review them. Your
20 Honor, as far as use of the materials in those files the
21 State would submit the reason for the termination of
22 Officer Gillespie is not relevant to this case as it
23 occurred although less than two years after this incident
24 occurred and wasn't anything that was occurring at the
25 time of the incident and so it's not relevant to this

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1 matter.

2 THE COURT: Explain to me the relevance and under
3 what rule it should be admitted.

4 MR. DETREVILLE: Your Honor, having had the cause
5 of Officer Gillespie's termination revealed to me
6 recently I've been unable to research whether the alleged
7 crime in this particular case is moral turpitude. That
8 would be the basis for attempting to use that as
9 impeachment and I think we would be entitled if it isn't
10 prior moral turpitude to use that ---

11 THE COURT: --- we have no record of a conviction
12 do we?

13 MR. ZIEGLER: No, Your Honor. That would be
14 another of the State's arguments that this is not a
15 conviction and will produce a rap sheet to defense
16 counsel shortly.

17 MR. DETREVILLE: A rap sheet would be dispositive
18 on that, Your Honor and I think that that would be
19 appropriate. Thus far we've been unable to determine
20 whether there was a conviction or not I think what was
21 previously considered.

22 THE COURT: This time I did not see and there was
23 no mention during the review that there was a conviction
24 so based upon my review of rules and what is contained in
25 the file I do not find that it is relevant and would not

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1 be admissible under 609 or 608 as impeachment. Now if it
2 does fall under the rules for impeachment but a
3 conviction of a crime then we'll have a different
4 discussion. But once you get that rap sheet let me know.

5 MR. DETREVILLE: Your Honor, as a separate issue is
6 it permissible to use the fact that he has been
7 terminated from a police department in cross-examination
8 of Officer Gillespie?

9 THE COURT: And how do you anticipate doing that
10 without running afoul of what I just ruled?

11 MR. DETREVILLE: Evidence of his termination
12 without discussing the cause of the termination we -- if
13 Your Honor were to rule that the harassment or the cause
14 of the termination was not allowable for impeachment
15 purposes we would still ask to use the fact that he has
16 been terminated for cause from his employment since the
17 time of the arrest.

18 THE COURT: Mr. Ziegler what's the State's
19 position?

20 MR. ZIEGLER: The State's position is that because
21 the termination occurred a long time after the arrest
22 that was made in this case by Officer Gillespie that it
23 is not relevant to the facts of this case.

24 THE COURT: So you're objecting to any inquiry on
25 cross-examination that he was terminated or is no longer

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1 employed with Mount Pleasant?

2 MR. ZIEGLER: Your Honor, I wouldn't object to
3 questioning whether he is still employed at the police
4 department but I would object to questions about whether
5 he was terminated.

6 THE COURT: Anything further Mr. DeTreville?

7 MR. DETREVILLE: Your Honor, I think those two
8 things go hand in glove. If we're allowed to discuss
9 whether he's still employed with the town of Mount
10 Pleasant Police Department that we would also be entitled
11 to bring in the fact that he was terminated from that
12 position.

13 THE COURT: Since my review of the file and
14 discussions in chambers after the in camera review
15 indicates that the harassment is not related at all to
16 this arrest. I am not going to allow cross-examination
17 on the cause of the termination. The question will be
18 that Officer Gillespie is no longer employed by Mount
19 Pleasant Police Department. Anything further?

20 MR. ZIEGLER: Nothing further from the State, Your
21 Honor.

22 MR. DETREVILLE: Simply for purposes of
23 clarification; I don't want to step over a line that Your
24 Honor as drawn that he is no longer employed but cannot
25 bring up the fact that he was terminated for cause?

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1 THE COURT: Correct.

2 MR. DETREVILLE: Okay. Thank you, Your Honor.

3 THE COURT: So we are ready to begin our
4 suppression hearing is that correct, Mr. Ziegler, we have
5 witnesses with the exception of one?

6 MR. ZIEGLER: That's correct, Your Honor.

7 THE COURT: Mr. DeTreville are you prepared to go
8 forward?

9 MR. DETREVILLE: We're prepared, Your Honor.

10 THE COURT: And I know there had been some
11 discussion as to how we're going to proceed and your
12 position is that I need to -- that you're ready your
13 client is ready, he's been in custody but due to the fact
14 that there is a witness and that witness could
15 potentially be -- as a matter of fact I always instruct
16 the jurors don't make up your mind until you hear all the
17 witnesses. And so I think it would be unfair to the
18 State and to your client if I don't hear all of the
19 witnesses before I issue my ruling on the suppression
20 motion and I do not want to begin a trial if I grant your
21 suppression motion or it may change your strategy in your
22 opening or in the order of witnesses. So I note that you
23 are requesting for me to make my ruling on the
24 suppression hearing and begin trial if needed tomorrow is
25 that correct?

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1 MR. DETREVILLE: That's correct Your Honor
2 regardless of the presence of the witness who is unable
3 to attend the suppression hearing scheduled for today.

4 THE COURT: Mr. Ziegler anything regarding that
5 matter?

6 MR. ZIEGLER: No, Your Honor. The State -- excuse
7 me, the State would like Your Honor to reserve ruling on
8 the suppression motion until all the witnesses can be
9 heard.

10 THE COURT: All right. Call you first witness.

11 MR. ZIEGLER: Your Honor may have brief officer
12 Gillespie on Your Honor's ruling about the termination?

13 THE COURT: It's just me. I know everything. Thank
14 you.

15 MR. ZIEGLER: Thank you.
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1 MR. ZIEGLER: The state calls Officer Alex
2 Gillespie.

3 [Whereupon Officer Gillespie comes forward]

4 [Whereupon, the witness is duly sworn by the Clerk
5 of Court]

6 CLERK OF COURT: If you please state your full name
7 and spell your last name for the record.

8 THE WITNESS: Alex Gillespie, G-I-L-L-E-S-P-I-E.

9 - - - - -

10 ALEX GILLESPIE,

11 Having been first duly sworn,

12 Was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. ZIEGLER:

15 Q. Good afternoon officer Gillespie.

16 A. Good afternoon sir.

17 Q. Excuse me Mr. Gillespie. What law enforcement
18 agency were you employed by in May of 2013?

19 A. Mount Pleasant Police.

20 Q. And what was your role with the Mount Pleasant
21 Police Department?

22 A. I was a patrol officer.

23 Q. And when did you start there?

24 A. I started there in May 2011.

25 Q. And in your time there were you a patrol officer the

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- 1 whole time?
- 2 A. Yes, sir.
- 3 Q. And when did you stop working at the Mount Pleasant
- 4 Police Department?
- 5 A. I believe it was February of this year sir.
- 6 Q. And what was your employment prior to working at the
- 7 Mount Pleasant Police Department?
- 8 A. I worked at Lieber Correctional Institution in
- 9 Ridgeville.
- 10 Q. How long?
- 11 A. I think it was seven months, sir.
- 12 Q. And so how long have you been in law enforcement in
- 13 total?
- 14 A. About four and a half years.
- 15 Q. And what are you doing today? What is you -- where
- 16 are you working now?
- 17 A. Right now I'm currently going to school full-time.
- 18 Q. For what?
- 19 A. For nursing.
- 20 Q. So Officer Gillespie I want to direct you to May 7,
- 21 2013 just after midnight. Do you remember witnessing a
- 22 robbery that night?
- 23 A. Yes I do.
- 24 Q. Where you on duty at the time?
- 25 A. Yes, I was.

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1 Q. And where in Mount Pleasant were you working that
2 night?

3 A. I was in District 2 which is basically the Ravenel
4 Bridge, Coleman Boulevard to Chuck Dawley, Chuck Dawley,
5 17 back the Ravenel and everything in the middle. So
6 part of that is Moultrie Plaza where I was conducting
7 night watches just prior to witnessing the robbery.

8 Q. Okay. So you stated you worked in patrol in Mount
9 Pleasant. So what were your duties and responsibilities
10 that night?

11 A. Basically anything that would go out in my district
12 I would get dispatched to respond to those calls. At
13 this point it was kind of quiet on the radio so one of
14 our tasks is to check every business within your
15 district. During night shift you basically go around
16 checking pulling on doors to make sure they're locked and
17 then you leave the owners of the business a note stating
18 that you checked the door and it was secure.

19 Q. Okay. What area of Mount Pleasant were you in when
20 you witnessed this robbery?

21 A. Right around Moultrie Plaza. It is across the
22 street from Moultrie Middle School on Coleman Boulevard.

23 Q. What county is that in?

24 A. Charleston County.

25 Q. And approximately what time of night did the armed

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1 robbery occur?

2 A. Approximately 12:15.

3 Q. And can you describe Coleman Boulevard what it's
4 like at that time of the night?

5 A. It's five lanes. There is a middle lane unprotected
6 median, two lanes going north and two lanes going south.
7 That time of night though no traffic to speak of
8 whatsoever. It was very slow.

9 Q. And what were you doing when you -- please describe
10 when you first saw this robbery what was your first --
11 not involved but since then what was happening?

12 A. I was conducting night watches so I was checking
13 business doors. I heard two white males walking. They
14 were talking kind of loudly so I turned and saw them
15 walking on the sidewalk of Coleman on the side of
16 Moultrie Middle School.

17 In my mind I kind of just made a mental note to go
18 and talk to them after I checked one last door. I turned
19 back around and pulled on one last door and left a note.
20 When I turned back around the two white males were
21 surrounded by three black males.

22 Q. What did you do at that point?

23 A. At that point I obviously realized it was kind of
24 suspicious so I started walking across Coleman Boulevard
25 towards the five men on foot. I reached the center

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1 unprotected median at which point I saw the hands of at
2 least one of the white victims hands go up in the air.
3 At that point I unholstered my weapon and I shouted hey.
4 The three black males looked at me and they ran away from
5 me.

6 Q. Did you pursue them?

7 A. Yes, I did. I pursued them on foot. They ran
8 towards the direction of I believe it was Simmons Street
9 and through -- there is kind of like a courtyard next to
10 Moultrie Middle School where they have a farmer's market
11 and they ran directly through there and I proceeded on
12 foot.

13 Q. And did you reach any of those individuals at that
14 time?

15 A. No, I didn't. While I was running I was dispatching
16 information across the radio. I pursued until about
17 Simmons Street and then I lost sight of one of the black
18 -- excuse me, one of the suspects and the other two I
19 think ran toward Rose Lane which is off of Simmons
20 Street.

21 Q. And so why did you stop pursuing them?

22 A. Like I said I knew they had to be armed with
23 something just because of the fact the victim's hand went
24 up in the air. I didn't want to over pursue. I didn't
25 know where one of the subjects was at that point. It was

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1 very dark out so I also wanted to get back to the victims
2 and ensure that they were okay.

3 Q. And did you do that? Did you return to the victims?

4 A. Yes, I did.

5 Q. How many robbers did you see?

6 A. I saw three.

7 Q. And what was the general description of them?

8 A. Three black males dressed in all black. One of them
9 was wearing I believe a hooded sweatshirt and one of them
10 had a black baseball cap on and it looked like it had
11 white or silver lettering on it.

12 Q. And you said you saw a hooded sweatshirt or a
13 hoodie?

14 A. I believe so. I believe one of them was wearing a
15 hooded sweatshirt...

16 Q. And when you reached the victims what happened?
17 What did you do?

18 A. They were obviously very shook up. They immediately
19 stated that a gun was pointed in their face. One of the
20 victims I believe it was Mr. Burnett said that he knew
21 for a fact that it was a loaded .38 Smith and Wesson.

22 He said someone in his family had the exact same gun
23 and he immediately recognized that. The other victim
24 said that the gun was jabbed into his stomach and he was
25 in some pain. He had some previous medical issues. I

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1 then took the two victims from their location across the
2 street into Moultrie Plaza by Wild Wings café because it
3 was a lot more lit area and I felt they would be safer
4 over there. I also called for an ambulance to come check
5 out one of the victims -- both of the victims.

6 Q. And did any of those victims receive treatment from
7 E-M-S or go to the hospital?

8 A. Yes, I believe it was Mr. McElhenney he received
9 treatment and went into the ambulance to the hospital to
10 get treated.

11 Q. And did either of the victims mention any
12 description of the robber's hair that they were able to
13 see?

14 A. I don't recall.

15 Q. Would it refresh your memory if I presented your
16 report from the incident to you?

17 A. Yes, please.

18 MR. ZIEGLER: May I approach the witness, Your
19 Honor.

20 THE COURT: You may.

21 Q. [Mr. Ziegler] This is your report Officer Gillespie
22 if you could look in the second full paragraph a few
23 lines down.

24 [Whereupon, the witness reviews document]

25 A. Yes, sir. Thank you.

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1 Q. Okay. Do you remember if any of the victims
2 mentioned to you anything about the robber's hair that
3 they saw?

4 A. He said they were wearing dark black clothing and
5 one of them had braids in his hair.

6 Q. So after you dealt with the victims what happened
7 then? What did you do then?

8 A. After I dealt with the victims I joined the rest of
9 my team in the area to search for the remaining suspect.

10 Q. And you say the remaining suspect. Were you aware
11 that other individuals had been taken into custody who
12 were suspected to have participated in the robbery?

13 A. Yes, sir. While I was standing by with the two
14 victims I heard over the radio that two black male
15 subjects were apprehended.

16 Q. And ballpark about how long were you searching for
17 this last individual?

18 A. I'd say approximately 45 minutes to an hour.

19 Q. And where were you searching?

20 A. The area of Old Village in the area of Greenwich
21 Street, which is down off of Simmons. I believe there is
22 also King Street and Bank Street and areas like that.

23 Q. And was there -- when did you find a -- did you make
24 any traffic stops or did you make any stop of the third
25 person that was involved in the robbery or that you

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1 thought was involved in the robbery?

2 A. Yes. After searching for approximately like I said
3 45 minutes to an hour we decided to leave the area in
4 hopes that the third subject would believe that we were
5 leaving; giving up perhaps.

6 And as I was leaving the area in my cruiser I was
7 driving on Simmons Street towards Royall Avenue and while
8 I was at the stop sign at that intersection I saw a green
9 jeep traveling at a fast speed driven by a black male
10 down Royall Avenue.

11 So I turned behind the vehicle and paced that driver
12 going approximately 35 miles per hour in a 25 mile per
13 hour zone at which point I initiated a traffic stop. The
14 driver of the vehicle pulled over into an Exxon gas
15 station located on Coleman.

16 Q. What was the description of that vehicle?

17 A. It was a green jeep.

18 Q. Once the vehicle stopped what did you do next?

19 A. I called out the traffic stop. I also said that it
20 was a black male occupant. My sergeant said he was in
21 route to me to back me up on the call.

22 I waited until my sergeant arrived prior to walking
23 up to the vehicle just for safety precautions standpoint.
24 We obviously knew there was a weapon involved and we
25 hadn't located that weapon at that time.

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1 Q. Could you clarify what you said there; had or had
2 not?

3 A. Had not located it yet.

4 Q. Did you obtain anything from the driver once you
5 made contact?

6 A. When I was approaching the vehicle I noticed in the
7 back seat as I was approaching the vehicle that there was
8 a hooded sweat -- dark clothing and there was a baseball
9 cap in the back seat along with a used pair of latex
10 gloves. I made contact with the driver who did have
11 braids in his hair and just began to ask him what he was
12 doing in the area.

13 Q. Generally what type of dark clothing? Could you
14 tell what type of dark clothing it was?

15 A. I don't recall at this point.

16 Q. Would it refresh your memory to see your report?

17 A. Yes, sir.

18 [Whereupon, the witness reviews document]

19 A. It says here a black shirt and a black hat.

20 Q. And what did you observe about the driver of the
21 vehicle?

22 A. Like I said I observed that he had braids in his
23 hair. I also observed that there was an issue with one
24 of his eyes.

25 Q. Can you describe what it looked like to you; what

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1 his eye looked like?

2 A. It just looked like as if it was a -- something had
3 happened to it. Not necessarily deformity but possibly
4 an accident had occurred.

5 Q. And what did you do at the traffic stop?

6 A. I talked to him. While I was talking to my
7 sergeant, Sergeant Horton was on the phone with Detective
8 Eckert who was back at Mount Pleasant headquarters with
9 the two other black male subjects and they were basically
10 talking back and forth as to who I had pulled over.

11 Q. Did the driver of the vehicle say anything about
12 what he was doing?

13 A. He said he was looking -- I think he said he was
14 trying to meet one of his -- a girlfriend or a woman in
15 general. When I asked him where she lived he named some
16 neighborhood that wasn't present in Mount Pleasant. He
17 didn't really know where he was or where he was going.

18 Q. And during the traffic stop was the driver arrested?

19 A. Yes, he was.

20 Q. Was he issued a speeding ticket?

21 A. Yes, he was.

22 Q. And upon arrest after the arrest of the driver was
23 the vehicle searched?

24 A. Yes, it was.

25 Q. What was your involvement in that search?

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1 A. I didn't really assist with the search. Back at
2 headquarters I just helped put things into evidence.

3 Q. Officer Gillespie -- Mr. Gillespie I'll now present
4 the video of the traffic stop. Officer Gillespie have
5 you seen the video from your traffic stop?

6 A. Yes, I have.

7 Q. And have you watched that video before in my office?

8 A. Yes, I have.

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

11 THE COURT: You may. You have continued
12 permission.

13 Q. [Mr. Ziegler] Do you recognize this disk at all?
14 [Whereupon, the witness is shown video]

15 A. Yes, I do.

16 Q. Would this likely -- does this appear to you to be
17 your -- a video of your in car from that evening May 7th?

18 A. Yes it does, yes sir.

19 MR. ZIEGLER: Your Honor, the State moves to admit
20 Court's exhibit number 1.

21 THE COURT: We don't admit Court's exhibits so is
22 it a State's exhibit?

23 MR. ZIEGLER: Yes, Your Honor.

24 MR. DETREVILLE: Without objection, Your Honor.

25 THE COURT: Do you plan to admit it or do you just

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1 want to watch it?

2 MR. ZIEGLER: It will be admitted into the case in
3 chief Your Honor and we'll publish it.

4 THE COURT: So for purposes of this hearing State's
5 1 -- and Ms. Mia you've marked that?

6 THE COURT REPORTER: No, I have not marked it.

7 THE COURT: Oh, I thought everything had already
8 been marked from the previous case.

9 MR. ZIEGLER: This particular video was not ---

10 THE COURT: --- let her mark it.

11 [Whereupon, State's exhibit number 1 is marked by
12 the court reporter]

13 [Whereupon, the video plays]

14 Q. [Mr. Ziegler] Officer Gillespie you've testified
15 that this robbery occurred about 12:15 a.m.

16 A. Correct.

17 Q. Can you tell from your video what time the traffic
18 stop began approximately?

19 A. Approximately 1:37 in the morning.

20 Q. Now Officer Gillespie what is happening at this
21 point in the video?

22 A. At this point in the video I already advised
23 dispatch obviously of the stop. I'm waiting for my
24 backup officer which was Sergeant Horton and I had asked
25 the driver to please put his hands outside of the

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1 vehicle.

2 Q. Did he do so?

3 A. Yes, he did.

4 Q. Is that you on screen?

5 A. Yes, sir.

6 Q. What was happening there?

7 A. When I was approaching the vehicle I was obviously
8 searching throughout it to make sure there wasn't anyone
9 else present in the vehicle other than the driver.

10 When I was looking in the back window that's when I
11 saw the black shirt and the black hat and gloves. And
12 right now I'm just talking to the driver.

13 Q. Is anyone else present there at this point?

14 A. Yes sir, Sergeant Horton is on the passenger side of
15 the vehicle.

16 Q. Generally what was happening at this point?

17 A. At this point Sergeant Horton is talking to the
18 driver who was Mr. Belt and I was just going around the
19 vehicle looking through the windows once again to see if
20 I could see anything.

21 I also believe Sergeant Horton was making contact
22 with the detective back at Mount Pleasant Police
23 Department headquarters.

24 Q. Mr. Gillespie can you comment on whether your audio
25 from your person was working on this night?

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1 A. It was not working. I believe there was an issue
2 with it and it needed to be taken in to be fixed. At
3 that point we just hadn't had the time to do it so my
4 recorder was not working on my person.

5 Q. And where is -- the audio that is in this video
6 where is that coming from?

7 A. From inside my vehicle; just the in car radio.

8 MR. ZIEGLER: Your Honor, did you ask to turn the
9 audio off?

10 THE COURT: I just didn't know why we had to listen
11 to all the static.

12 MR. ZIEGLER: Okay. There is nothing ---

13 THE COURT: --- if there is significant sound I'll
14 be more than happy to put up with the ---

15 MR. ZIEGLER: --- there is nothing of note ---

16 THE COURT: --- whiney noise. But if we're just
17 listening to it to listen to it and there is no
18 significance I think everybody is appreciative that we're
19 not having to listen to it.

20 MR. ZIEGLER: Yes, Your Honor.

21 MR. DETREVILLE: And we're willing to stipulate
22 there is nothing particularly intelligible that can be
23 discerned from the video ---

24 THE COURT: --- all right thank you ---

25 MR. DETREVILLE: --- in terms of audio.

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1 MR. ZIEGLER: Thank you.

2 Q. [Mr. Ziegler] Officer Gillespie what was your role
3 at this point?

4 A. At this point we were just standing by. I was just
5 waiting to see what Sergeant Horton and the detective
6 decided to do.

7 Q. At this point Officer Gillespie what's happening?
8 Are you still waiting here?

9 A. Still waiting yes sir, just talking to Mr. Belt
10 waiting for directions, sir.

11 Q. Who is that that just walked back on the camera?

12 A. Back onto the camera?

13 Q. Yes?

14 A. Sergeant Horton, sir.

15 Q. Mr. Gillespie, how long into this particular traffic
16 stop was it when -- did you see this as solely as a
17 speeding stop?

18 A. No sir based on the fact that we were looking for a
19 single black male. One of the victims described one of
20 the three black males as having braids in his hair; this
21 gentleman had braids in his hair.

22 Additionally there were the black hat and black
23 shirt in the backseat of his vehicle. So there were
24 multiple reasons as to why we're still on this stop and
25 it's not just a speeding stop at this point we believe

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1 that he was linked to the armed robbery that had just
2 occurred.

3 Q. Did you come to believe that -- how soon did you
4 come to believe that?

5 A. I would say as soon as I approached the vehicle. I
6 saw the black shirt and black hat in the backseat and
7 realized it was just a single male black occupant.

8 Q. Is that Sergeant Horton again?

9 A. Yes, sir.

10 Q. Mr. Gillespie, about how far from the robbery
11 location was this traffic stop?

12 A. I believe it was approximately a quarter mile at
13 most down the road.

14 Q. Do you know what you're waiting for at this point in
15 the video?

16 A. Sergeant Horton is talking to Mr. Belt.

17 Q. Are you waiting on anyone to arrive at that point?

18 A. I believe we're waiting for Corporal Eckert from the
19 detective's office. I'm not sure at this point though.

20 MR. ZIEGLER: Excuse me Your Honor; we're having
21 difficulties with the power source.

22 [Off the record momentarily]

23 MR. ZIEGLER: Your Honor, I will continue to play
24 the video while we look for another power source for our
25 computer.

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1 [Off the record momentarily]

2 MR. ZIEGLER: Your Honor, our State computer has
3 lost power for some reason. I'm not sure if it's the
4 power source or the computer. We will make alternative
5 arrangements.

6 THE COURT: Why don't we go ahead and take our
7 comfort break. If you don't get one -- get the computer
8 working -- you can step down. Please do not discuss your
9 testimony with anyone. Thank you.

10 THE WITNESS: Yes, ma'am.

11 [Whereupon, the witness exits the witness stand]

12 THE COURT: It shouldn't take you very long right
13 Mr. Ziegler?

14 MR. ZIEGLER: It shouldn't; maybe ten minutes Your
15 Honor.

16 THE COURT: Thank you.

17 [Whereupon, court is in recess from 4:05 p.m. until
18 4:20 p.m.]

19 [Whereupon, Officer Gillespie resumes the witness
20 stand]

21 THE COURT: Thank you. Be seated.

22 MR. ZIEGLER: I apologize, Your Honor. The source
23 of the problem was a faulty power cord and we replaced
24 it.

25 [Whereupon, the video resumes]

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1 DIRECT EXAMINATION (resumes]

2 BY MR. ZIEGLER:

3 Q. Mr. Gillespie you testified at this point you were
4 still waiting for Detective Eckert is that correct?

5 A. Correct. Yes, sir.

6 Q. What was the name of the driver of the vehicle? I'm
7 not sure that we have gotten to that.

8 A. Mr. Darren Belt.

9 Q. The black clothing and the black hat that you
10 testified you saw in the back of the vehicle did you ever
11 collect those items for evidence?

12 A. I don't believe we did, sir.

13 Q. I'd call your attention to the video again. Who is
14 that individual that just entered the screen?

15 A. Corporal Eckert, sir.

16 Q. Is that who you were waiting for this during this
17 past period of time that we've been watching?

18 A. Yes, it was.

19 Q. What's happening at this point in the video?

20 A. I believe at this point Corporal Eckert is just
21 verifying who the driver is and just talking to him and
22 I'm just waiting to be told what to do next, sir.

23 Q. And at this point?

24 A. At this point Corporal Eckert asked Mr. Belt to exit
25 the vehicle.

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1 Q. Who was that sitting on the vehicle there in the
2 video?

3 A. That's Mr. Darren Belt the driver, sir.

4 Q. What's happening here in the video?

5 A. Corporal Eckert advised that he was under arrest and
6 placed him in handcuffs, sir.

7 Q. What was he under arrest for?

8 A. Armed robbery, sir.

9 Q. And on the time stamp of the video what is the time
10 of that arrest approximately?

11 A. It says on the video approximately 2:21 a.m. sir.

12 Q. Mr. Gillespie you testified that you noticed some
13 things when you arrived at the traffic stop. Were some
14 of those observations consistent with observations that
15 you had previously made at the site of the robbery that
16 you witnessed?

17 A. Yes they were in reference to the dark shirt, the
18 shirt in the back seat, and also the dark hat had white
19 lettering or silver lettering on it and I saw at least
20 one of the suspects wearing clothes that matched clothes
21 in the back of Mr. Belt's vehicle. Also, the description
22 of the subject with the braids in his hair Mr. Belt had
23 two braids in his hair so.

24 Q. And as far as the race and gender of the individual
25 did that match the robbery suspect that you saw?

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1 A. Yes, it did. I originally saw three black males and
2 he was a black male. We had already apprehended two of
3 them and we were looking for a third.

4 Q. Had the gun used in the, allegedly used in the
5 robbery had that been recovered yet?

6 A. No, it had not.

7 Q. Did those observations did they make you suspicious
8 of whether this driver of this vehicle had been involved
9 in the armed robbery that you had witnessed?

10 A. What? I'm sorry; can you rephrase the question?

11 Q. Yes, excuse me. The observations that you made at
12 the vehicle at the traffic stop did that arouse your
13 suspicious about whether that person, that driver, was
14 involved in the robbery that you had previously -- that
15 you were investigating?

16 A. Yes, it did. Like I said the clothing in the back,
17 the hat and the description of the driver.

18 MR. ZIEGLER: Beg the court's indulgence.

19 [Whereupon, Mr. Ziegler and Mr. Maynor confer]

20 MR. ZIEGLER: I have no further questions for this
21 witness, Your Honor.

22 [Whereupon, the video ends]

23 THE COURT: Mr. DeTreville?

24 MR. DETREVILLE: Thank you, Your Honor. May it
25 please the court?

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1 CROSS-EXAMINATION

2 BY MR. DETREVILLE:

3 Q. Good afternoon sir.

4 A. Good afternoon sir.

5 Q. As part of your law enforcement training are you
6 trained to include all of the relevant facts that you
7 observe in the police reports that you prepare?

8 A. Yes, sir.

9 Q. And you did in fact prepare a police report in
10 association with this traffic stop and eventual arrest is
11 that correct?

12 A. Yes.

13 Q. Okay. And that police report that you prepared
14 begins with you doing your business check that you were
15 referring to earlier, goes all the way through you
16 breaking up this alleged armed robbery and you taking the
17 victims across the street to a safe place and ends with
18 essentially what we just observed Mr. Belt's arrest after
19 a traffic stop is that correct?

20 A. Yes, sir.

21 Q. Okay. What was the initial purpose of the traffic
22 stop of you pulling Mr. Belt over on the evening of May
23 the 7th?

24 A. He was traveling at a fast rate of speed.

25 Q. Okay. So would it be a fair statement that you

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1 pulled him over for speeding for a traffic citation?

2 A. Yes, sir.

3 Q. Okay. And when did you first observe that a black
4 male was operating the vehicle in question; the one that
5 you observed to be speeding?

6 A. As soon as he passed me, sir.

7 Q. Okay. And after he passed you you got behind him
8 and began pacing him is that correct?

9 A. Yes, sir.

10 Q. Were you able to see any facial details or anything
11 of that nature regarding the driver of the vehicle when
12 he passed you at a high rate of speed?

13 A. Just that he was a black male, sir.

14 Q. Okay. When you first affected this traffic stop
15 what was the first thing that you did after you pulled
16 him over?

17 A. I asked that the driver please put his hands outside
18 the vehicle.

19 Q. Okay.

20 A. And that way for my backup officer which is Sergeant
21 Horton, sir.

22 Q. At that particular time had you made any
23 observations regarding black clothing or anything of that
24 nature?

25 A. No, sir.

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1 Q. Okay. But you were essentially treating this as if
2 you had just pulled over a suspect in an armed robbery is
3 that correct?

4 A. Well we were looking for a third black male and he
5 was a black male leaving the area that we were just
6 searching at a high rate of speed. So yes at that point
7 I would say I was treating it with more cautiousness than
8 I would have a regular stop.

9 Q. Okay. Would it be fair to say that you felt like
10 you had the third suspect in custody at this point?

11 A. No, sir.

12 Q. Okay. You're observed essentially unholstering
13 your service revolver as you approach the vehicle
14 initially in that video. Is that something that you
15 ordinarily do during a speeding stop to issue a traffic
16 citation?

17 A. I don't have it unholstered. I have my hand on my
18 weapon, sir.

19 Q. Okay. You're covering your weapon essentially with
20 your hand. You've got it at ready access is that
21 correct?

22 A. Correct, sir.

23 Q. Okay. Is that something that you ordinarily do as
24 part of the process of issuing a speeding ticket?

25 A. No, but in that situation like I said with

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1 everything coming together the fact that we're looking
2 for a black male, the fact that one of the three black
3 males were armed and we had not located the weapon at
4 that time.

5 Q. Okay. So based on the fact that you had pulled
6 over a black male that's why you were covering your
7 service revolver as you approached the vehicle?

8 A. Not because he was a black male because of the fact
9 we were looking for a third suspect who was in fact a
10 black male.

11 Q. Okay. And what point in that video do you retrieve
12 Mr. Belt's license and registration from him?

13 A. Initially when I walk up to the vehicle sir and make
14 first contact with them.

15 Q. Okay. What did you do with that license and
16 registration after you took it from him?

17 A. I ran it through dispatch sir; so through D-M-V.

18 Q. Did it come back with any hits; any ---

19 A. --- no, sir. I believe it came back he was
20 negative 99 which means he was not wanted.

21 Q. Okay. So that would be -- so you ran a computer
22 check on him after you took his license and registration
23 is that a fair statement?

24 A. Yes, sir.

25 Q. Okay. How long into the stop would you say that

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1 that process took?

2 A. How long did it take or how long did it take for me
3 to run it, sir?

4 Q. How long between the time that you stopped Mr. Belt
5 and the time the computer check was completed?

6 A. I would say within approximately the first five
7 minutes of the stop, sir.

8 Q. Okay. And thereafter you issued Mr. Belt a
9 citation for speeding is that correct?

10 A. Yes.

11 Q. When did you do that?

12 A. I don't recall. I mean it would have to have been
13 that same night, sir.

14 Q. Okay. Would it sound correct to you if I were to
15 tell you the speeding citation was delivered to Mr. Belt
16 at the Charleston County Detention Center?

17 A. I don't recall particularly but that has happened in
18 the past yes, sir.

19 Q. Okay. So from the time that you stopped Mr. Belt
20 until the time you issued him a traffic citation could
21 have been a period of hours? You're not sure when that
22 process was actually complete?

23 A. No, sir.

24 Q. Okay. Did you observe yourself -- you were
25 watching the video as it was playing. Did you observe

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1 yourself issue Mr. Belt a speeding citation at any point
2 during that video?

3 A. No, sir.

4 Q. Okay. And I believe your testimony was that the
5 actual arrest of Mr. Belt took place at 2:21 in the
6 morning is that correct according to the video?

7 A. Yes, sir.

8 Q. Okay. And I believe your previous testimony was
9 that you began the traffic stop of Mr. Belt at 1:37 a.m.
10 is that also a correct statement?

11 A. Yes, sir.

12 Q. Okay. So math is not my thing and correct me if
13 I'm wrong 44 minutes passed between the time you pulled
14 Mr. Belt over and the time that Mr. Belt was arrested?

15 A. That sounds correct sir.

16 Q. Okay. And at no point in at least that 44 minutes
17 did you issue Mr. Belt a speeding citation?

18 A. No, sir.

19 Q. Okay. So it was at least more than 44 minutes
20 could have been hours later is that a fair statement?

21 A. It could have been yes, sir.

22 Q. Okay. At any point during this traffic stop that
23 we observed on this video was Mr. Belt free to go?

24 A. No sir, he wasn't.

25 Q. Okay. Did you advise Mr. Belt that he was not free

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1 to go at any point or was that just sort of understood
2 from circumstances?

3 A. It was just sort of understood sir.

4 Q. Okay. If you had issued him a traffic citation at
5 some point would he have been free to go at that point?

6 A. No, sir.

7 Q. And if I understand correct the reason why -- well
8 why don't you tell me what is the reason why he was not
9 free to go?

10 A. Just all the facts concerned with the stop sir and
11 we were still looking for a third black male subject that
12 just had been involved in an armed robbery. At that
13 point we were able to hold him there for a reasonable
14 amount of time.

15 When you're referring to an armed robbery where a
16 loaded weapon was used a reasonable amount of time is
17 kind of extended past that normal traffic stop, sir.

18 Q. Would that have applied to any black male that you
19 had pulled over on that particular evening you would have
20 been able to hold them for some period of time?

21 A. No, sir. It had to do with the fact that there was
22 dark clothing in the backseat, a dark hat, latex gloves
23 and he also had braids in his hair and one of the victims
24 stated that one of the three subjects did have braids in
25 his hair.

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1 Q. Now I'm interested in the braids in the hair issue.
2 I note in your police report that you do in fact state
3 that one of the victims said that one of the suspects had
4 braids in his hair. Do you recall that from your report?

5 A. Yes, sir.

6 Q. Okay. Have you also read the written statements
7 given by the victims in this case?

8 A. I don't believe I have, sir.

9 Q. Okay. If I were to -- I'm going to refer to the
10 statement given by Mr. Burnett who is one of the victims,
11 and I'd be happy to share that with you if you'd like to
12 review it, he describes four assailants. Does that sound

13 ---

14 MR. ZIEGLER: --- objection, Your Honor.

15 THE COURT: What's the basis?

16 MR. ZIEGLER: Hearsay.

17 THE COURT: Overruled.

18 Q. [Mr. DeTreville] Mr. Burnett initially described
19 four assailants is that correct?

20 A. I believe at one point when I was walking them
21 across the street or when we were in the Wild Wings in
22 Moultrie Plaza they might have referred it was either
23 three or four. I myself observed three suspects.

24 Q. Did you take a statement from Mr. Burnett at the
25 scene?

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1 A. No, I was just asking him questions. I didn't take
2 an actual statement, sir.

3 Q. Okay. Where were you at 1:45 a.m. on May 7th?

4 A. I don't recall, sir.

5 Q. Well, if this traffic stop started at 1:37 a.m. you
6 were at this traffic stop ---

7 A. --- yes sir, I was at the traffic stop.

8 Q. Okay. Now Mr. Burnett also described four black
9 males between the ages of 18 and 25 wearing all black
10 clothing and with a single individual who had shoulder
11 length hair. Would you like to see this statement given
12 by Mr. Burnett?

13 A. That's fine, yes sir.

14 MR. DETREVILLE: May I approach the witness, Your
15 Honor?

16 THE COURT: You may.

17 MR. ZIEGLER: Objection, Your Honor, Officer
18 Gillespie didn't take this statement. He doesn't have
19 any firsthand knowledge of what it was.

20 THE COURT: Mr. DeTreville?

21 MR. DETREVILLE: Your Honor, the witness testified
22 that he did in fact speak with the witnesses. He did not
23 in fact take this statement but this statement conflicts
24 with the statement that he's made regarding the witness
25 stating that one of the perpetrators had braids in his

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1 hair. I'm using this statement to impeach him on that.

2 THE COURT: Impeach this witness?

3 MR. DETREVILLE: That's correct, Your Honor.

4 THE COURT: How are you going to impeach him on
5 something he didn't write?

6 MR. DETREVILLE: He's already testified that in his
7 report he stated that the victim said that there was
8 braids in one of the victim's hair -- in the victim's
9 hair. This statement given by that same victim does not
10 correspond with that description.

11 THE COURT: But this witness didn't write that
12 statement correct?

13 MR. DETREVILLE: That's true, Your Honor.

14 THE COURT: So if he doesn't have any knowledge of
15 that statement he can't ---

16 MR. DETREVILLE: --- I understand, Your Honor ---

17 THE COURT: --- that can't be used for impeachment
18 for this witness.

19 MR. DETREVILLE: I do understand, Your Honor.

20 THE COURT: I know it's getting late.

21 Q. [Mr. DeTreville] Are you certain that one of the
22 victims described one of the perpetrators as having
23 braids in his hair?

24 A. Yes, sir.

25 Q. In your police report Mr. Gillespie you don't

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1 include any mention of a black hat to which you referred
2 on numerous occasions as having both personally observed
3 and being described to you by witnesses. Is there a
4 reason for the absence of that item from your police
5 report?

6 A. No reason, sir.

7 Q. Okay. But you later stated the presence of a black
8 hat in the backseat of Mr. Belt's vehicle gave you
9 reasonable suspicion, at least partially the reason why
10 you had reasonable suspicion to hold Mr. Belt 45 minutes
11 is that correct?

12 A. I would say its part of it, yes sir.

13 Q. Okay. When the car was being searched after Mr.
14 Belt was arrested did you take part in that search?

15 A. I believe it was primarily Corporal Myers sir.

16 Q. Okay. At any time did you direct Corporal Myers to
17 say collect the black hat and the black shirt and the
18 latex gloves that you relied upon for reasonable
19 suspicion? Did you direct him at any point to collect
20 those as being important pieces of evidence?

21 A. At the point in which I was in my career I was not
22 able to direct anyone to do anything, sir.

23 Q. Okay. Did you mention those items to anybody as
24 being something that they may wish to collect?

25 A. I believe -- I'm sure when someone got on scene that

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1 I mentioned the fact that there was dark clothing and
2 latex gloves in the backseat, sir.

3 Q. Okay. Would it be part of normal police procedure
4 to collect important items of evidence such as a black
5 hat and a black shirt that potentially links somebody to
6 the scene of a crime?

7 A. Yes, sir.

8 Q. Okay. Do you have any explanation as to why that
9 didn't take place?

10 A. I don't, no sir.

11 Q. Have you at any time since May the 7th of 2013 seen
12 a black hat or a black shirt or latex gloves or anything
13 of that nature?

14 A. Those specific?

15 Q. Those specific ones that you observed in the
16 backseat of Mr. Belt's vehicle?

17 A. I have not, sir.

18 Q. Okay. And you've not seen anywhere where those
19 items were ever logged into evidence?

20 A. I have not.

21 Q. Is it possible that the items that you observed in
22 the backseat were not in fact black but they were navy
23 blue?

24 A. No, it's not possible.

25 Q. Okay. Is it possible -- what size was the shirt

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1 that you observed in Mr. Belt's backseat?

2 A. I didn't check the size, sir.

3 Q. Okay. What was the lettering that was on the hat
4 in the backseat of the car?

5 A. I'm not sure sir.

6 Q. Okay. Without being able to look at those items
7 you'd have a difficult time responding to such questions
8 would you not?

9 A. Correct.

10 Q. Thank you. Did you observe any black pants in the
11 backseat of Mr. Belt's car?

12 A. No, sir.

13 Q. Okay. What color pants was Mr. Belt wearing when
14 he was taken from the vehicle and arrested?

15 A. I believe they were khaki, sir.

16 Q. Okay. And in your police report you mentioned
17 repeatedly that you were looking for three black males
18 wearing all black clothing is that correct?

19 A. Dark clothing yes, sir.

20 Q. Okay. Dark -- navy blue would have been possible
21 though?

22 A. Yes, sir.

23 Q. Okay. But it's very specific in saying it was all
24 one color correct?

25 A. Not all one color; all dark clothing, sir.

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1 Q. Okay. Would the khaki trousers that Mr. Belt was
2 wearing when he was arrested qualify as dark clothing?

3 A. No, sir.

4 Q. Okay. And -- how long does it usually take you to
5 issue a speeding ticket after you pull somebody over?

6 A. I'd say approximately five or ten minutes, sir.

7 Q. Five or ten minutes? And the total duration of this
8 stop, this seizure in this particular video we already
9 established was 44 minutes is that a correct statement?

10 A. Yes, sir.

11 Q. Okay. What was going on during this 45 minute -- I
12 say 45 -- I'm sorry I'm rounding up a little bit, but in
13 this 44 minute period what was going on that was let's
14 say advancing your case against Mr. Belt?

15 A. Sergeant Horton was speaking directly to Corporal
16 Eckert who was back at Mount Pleasant headquarters with
17 the other two suspects, sir.

18 Q. Okay. So to the best of your knowledge Corporal
19 Eckert was questioning potential witnesses in this case
20 at headquarters while this stop was going on?

21 A. I believe so, yes sir.

22 Q. Okay. And essentially your instructions were to
23 hold Mr. Belt at the gas station until that investigation
24 could be completed?

25 A. I wasn't told to hold him no, sir. I was just

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1 talking to him and waiting for directions, sir.

2 Q. Okay. How long -- would there have been any point
3 at any length of time that you would have held Mr. Belt
4 before you got uncomfortable and decided to let him go?

5 A. Like I previously stated sir I think it's a
6 reasonable amount of time and when you're referring an
7 armed robbery I think that extends quite a bit.

8 So I think it could have been extended longer but at
9 that point I believe 44 minutes is a reasonable amount of
10 time when you're dealing with those circumstances, sir.

11 Q. My question to you though Mr. Gillespie was what
12 period of time would you have held Mr. Belt before you
13 would have reached the point where you decided this is no
14 longer reasonable I have to let this man go?

15 A. I really can't say sir. I don't know ---

16 MR. ZIEGLER: --- objection, Your Honor, that's
17 speculation.

18 THE COURT: He answered. That's exactly what he
19 said. Sustained.

20 Q. [Mr. DeTreville] We observed in the video Mr.
21 Gillespie that we just reviewed what appears to be a lot
22 of standing around. Is that a fair statement?

23 A. On my part, yes.

24 Q. And there was a Sergeant Horton present there with
25 you as well is that correct?

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1 A. Yes, he was my supervisor, sir.

2 Q. He was your supervisor; did I get his rank correct?

3 A. Yes, Sergeant Horton.

4 Q. Sergeant Horton okay. That you and Sergeant Horton
5 are essentially standing by the defendant's vehicle and
6 apparently sort of staring at Mr. Belt through his
7 window?

8 A. No, his window is down sir and his hands are outside
9 the window. We're talking and we're trying to establish
10 why he was in that area and what he was doing in that
11 area.

12 And I was just essentially making small talk while
13 Sergeant Horton and Corporal Eckert spoke on the phone
14 and through the radio and other means, sir.

15 Q. Now you refer to that as being small talk with the
16 defendant. You testified previously that Mr. Belt was
17 not free to leave the scene is that correct?

18 A. At that -- no, sir.

19 Q. Okay. Your small talk that you refer to reference
20 where he was coming from, where he was going and things
21 of that nature is that correct?

22 A. Yes. I referenced his tattoos, I referenced why he
23 was in Mount Pleasant, what he was doing in Old Village;
24 different things like that.

25 Q. Okay. And at any point previous to or during this

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1 questioning of Mr. Belt did you advise him of his Miranda
2 rights?

3 A. No, sir.

4 Q. Did you personally observe one of the suspects in
5 this armed robbery wearing a hat when you first
6 approached the scene on Coleman Boulevard?

7 A. I believe I stated one of them was wearing a hat and
8 one of them at least on a hoodie on, yes sir.

9 Q. Okay.

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

12 THE COURT: You may.

13 Q. [Mr. DeTreville] Mr. Gillespie, I'm showing you a
14 copy of the police report that you issued that evening.
15 Could you review that police report and show me where you
16 refer to one of the suspects wearing a black hat?

17 [Whereupon, the witness reviews document]

18 A. I don't know if I referenced it in the report, sir.

19 Q. Okay. But you testified earlier that your police
20 training was such that you were to include all relevant
21 material facts within police reports that you prepared?

22 A. Correct.

23 Q. So if it's not in your police report which was
24 prepared shortly after your observations is it possible,
25 and given your training as to including all of those

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1 things in your police report, is it possible that the
2 passage of time has caused you to recall a black hat
3 where no black hat actually existed?

4 A. No, sir.

5 Q. Okay. You referenced the description of one of the
6 suspects wearing a hooded sweatshirt also?

7 A. Yes, sir.

8 Q. Did you see anything about a hooded sweatshirt in
9 this report that I just handed you?

10 A. No, sir.

11 Q. Okay. Same question; is it possible that the
12 passage of time has caused you to remember a hooded
13 sweatshirt where one never existed?

14 A. No, sir.

15 Q. Okay. In your testimony on direct examination Mr.
16 Gillespie you stated that it was very dark out and that
17 was one of the reasons why you stopped pursuing the
18 suspects immediately after the alleged robbery is that
19 correct do you recall that?

20 A. Yes.

21 Q. But you're certain despite it being very dark out
22 and despite those details not being included in your
23 report that one of the suspects is wearing a black hat?

24 A. When I initially saw them they were on the street
25 side where there were street lamps sir and when I ran

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1 after them we were on a much darker street; Simmons
2 Street.

3 Q. Okay. You also testified on your direct
4 examination that at the time that you made this traffic
5 stop on Mr. Belt that you knew that a weapon was involved
6 in this crime and that that had not been located. Do you
7 recall that testimony?

8 A. Yes.

9 Q. Okay. And as a safety precaution you decided to
10 wait on backup is that correct also? Do you remember
11 that testimony?

12 A. Yes, sir.

13 Q. Now at that particular juncture in this traffic stop
14 you hadn't had the opportunity to see Mr. Belt in any
15 detail had you?

16 A. Other than having his hands outside the window, no
17 sir.

18 Q. Okay. So you didn't see his hair?

19 A. I don't believe so, no sir.

20 Q. You didn't see his skin -- could you see his skin
21 color on his hands?

22 A. Yes, sir.

23 Q. Okay. You hadn't observed anything in plain view
24 through the windows of Mr. Belt's vehicle at that
25 particular time had you?

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1 A. No, sir.

2 Q. Okay. But based on your testimony it seems fairly
3 clear that you considered the driver of this vehicle to
4 be a suspect in an armed robbery wouldn't that be a fair
5 statement?

6 A. A possible suspect yes, sir.

7 Q. Okay. And your decision to deem the driver of this
8 vehicle a possible suspect at that point was based upon
9 what?

10 A. The fact that we were looking for a black male in
11 that area and he was seen leaving the area at a high rate
12 of speed.

13 Q. Essentially that he was a black man who was speeding
14 correct?

15 A. Essentially that he was a suspect, a possible
16 suspect we were looking for ---

17 Q. --- I'm asking you what made him a possible suspect
18 in your mind though. And I believe your testimony is
19 that he was a black male who was speeding?

20 A. He was a black male leaving the area in which three
21 black males had just robbed two white males at gunpoint.

22 Q. Do you know where Mr. Belt was coming from?

23 A. I don't ---

24 Q. --- when you pulled him over?

25 A. I mean he was leaving Old Village traveling on

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1 Royall Avenue towards Coleman, sir.

2 Q. Okay. But do you know where he was coming from
3 prior to having observed him traveling at a high rate of
4 speed?

5 A. No, sir.

6 Q. Okay. And this traffic stop that you affected on
7 Mr. Belt took place approximately an hour and 15 minutes,
8 an hour and 20 minutes after the alleged robbery took
9 place is that correct?

10 A. I'm not sure, sir.

11 Q. Okay. You testified previously the robbery took
12 place approximately 12:15 p.m.?

13 A. Yes, sir.

14 Q. And you testified previously that you initiated the
15 traffic stop on Mr. Belt at 1:37 a.m. is that correct?

16 A. Yes, sir.

17 Q. So that would be -- is it a fair statement it was
18 approximately an hour and 15 minutes an hour and 20
19 minutes later?

20 A. Yes, sir.

21 Q. Okay. So the fact that Mr. Belt was in the
22 vicinity you considered to be strongly indicative of him
23 being a suspect in this case even though he could have
24 driven to that vicinity from let's say Orangeburg in the
25 interim is that a fair statement?

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1 A. You can't get to Old Village from Orangeburg. From
2 where he was coming he was coming from inside of Old
3 Village.

4 Q. There's more than one entrance into Old Village is
5 there not?

6 A. There is.

7 Q. A plethora of entrances into Old Village is there
8 not?

9 A. There was about 15 police officers in the area so
10 the chances of him entering and then exiting at that
11 point are very slim but it is possible.

12 Q. But with 15 police officers in the area he had
13 managed to elude detection and or capture for a period of
14 an hour and 20 minutes?

15 A. Yes, sir.

16 Q. Okay. You testified previously that upon
17 approaching Mr. Belt in his vehicle you observed a black
18 male with braids in his hair who also had an issue with
19 one of his eyes. Do you recall giving that testimony?

20 A. Yes, sir.

21 Q. Okay. You've had an opportunity to review your
22 police report. Do you recall any of those details being
23 included in your police report as well?

24 A. I believe the braids, yes sir.

25 Q. Okay. Now you wouldn't have had any reason to know

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1 at this particular point when you pulled Mr. Belt over
2 that one of the suspects allegedly had a problem with one
3 of his eyes is that correct?

4 A. That's correct.

5 Q. Okay. But you made note in your testimony that
6 that was one of the things that you observed when you
7 pulled him over?

8 A. Yes, sir.

9 Q. How long after this stop was affected did it take
10 for Sergeant Horton and Detective Eckert to be in touch
11 with one another?

12 A. I couldn't say, sir.

13 Q. Okay. We probably would be able to know those
14 sorts of things if the audio had been working on your --
15 did you have audio on your belt is that correct? Is that
16 how it worked?

17 A. I believe at that time I had a piece that went in my
18 pocket. But like I said I think I was having issues
19 prior to that so I don't even think it was working
20 properly.

21 Q. Was it a requirement of the Mount Pleasant Police
22 Department that you have functioning audio on you?

23 A. Yes, it is.

24 Q. Okay. So the fact that we don't have functioning
25 audio in this case and can make determinations about when

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1 people were contacting one another and what they were
2 discussing as a result of your failure to abide by Mount
3 Pleasant Police Department policy?

4 A. No, sir. I reported it to my supervisor at which
5 point it is in his hands to take care of it. He advised
6 me that we didn't have the -- we were working third shift
7 so not too many radio shops are open at 9 p.m. at night
8 so I didn't have the means to get it fixed at that point
9 sir.

10 Q. Okay. But it was a requirement?

11 A. It was a requirement but unfortunately we weren't
12 able to fix it at that point.

13 Q. Okay. At some point I believe you testified that
14 you'd asked Mr. Belt about the latex gloves that you
15 observed, allegedly observed in the backseat of his car
16 is that correct?

17 A. Yes, sir.

18 Q. Okay. And he gave you a response to that question?

19 A. Yes, he did.

20 Q. Okay. At this particular time had Mr. Belt been
21 Mirandized?

22 A. No, sir.

23 Q. Okay. You also asked him and I believe you
24 testified recently you asked him what he was doing, where
25 he was going; all those sorts of things. What were his

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1 responses to those questions?

2 A. I believe he said he was looking for a friend and he
3 was talking about a neighborhood that I had never heard
4 of in Mount Pleasant, sir.

5 Q. Okay. Did the name of the neighborhood he gave you
6 sound similar to the name of a street that is not far
7 away from where you actually pulled him over?

8 A. I honestly can't remember sir.

9 Q. Okay. I'm curious if you felt like you had
10 reasonable suspicion to hold Mr. Belt at this traffic
11 stop why you did not feel like you could search the
12 interior of Mr. Belt's vehicle within his reach,
13 particularly if you were concerned about a firearm?

14 A. Like I said his arms were outside of the window the
15 whole time so I felt like our safety was secure at that
16 point and I was waiting like I said to be told what to do
17 my next step.

18 Q. Who was telling you what to do?

19 A. My supervisor, sir.

20 Q. And your supervisor was Sergeant Horton?

21 A. Correct.

22 Q. Who was present at the scene also?

23 A. Yes, sir.

24 Q. Okay. Now I think you testified in that regard on
25 a number of occasions during direct examination that you

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1 were standing by to see what Sergeant Horton and
2 Detective Eckert wanted you to do that you were waiting
3 looking for directions from your superiors is that
4 correct?

5 A. Yes, sir.

6 Q. And this would have been during the period of time
7 that you all are sort of standing observing the vehicle?

8 A. Yes, sir.

9 Q. Is that normal police procedure during a traffic
10 stop?

11 A. In that circumstance yes.

12 Q. Okay. Why didn't you arrest Mr. Belt when you
13 pulled him over?

14 A. I didn't feel like I had a reason to arrest him at
15 that point, sir.

16 Q. Why did you not feel like you had a reason to arrest
17 him at that point?

18 A. At that point all I had was a suspicion that he
19 could be involved with the armed robbery, sir.

20 Q. Okay. So would it be safe to say that because you
21 didn't feel like you could arrest him at that point that
22 you and Sergeant Horton were holding him until probable
23 cause to arrest him could be developed elsewhere?

24 A. Well technically sir with the speeding ticket we
25 could have arrested him because of that so we did have

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1 reason to hold him.

2 Q. For 45 minutes?

3 A. A reasonable amount of time yes, sir. It started
4 with the speeding ticket and like I said we were looking
5 for a black male suspect in that area.

6 Q. And I think you testified earlier that a normal
7 speeding citation takes you about five minutes?

8 A. Correct, five to ten, sir.

9 Q. Okay. So whether you could have arrested him for
10 the speeding ticket or not is somewhat immaterial. You
11 stopped him for speeding and a normal speeding citation
12 would take you five minutes.

13 The remaining 40 minutes on that video is you
14 holding Mr. Belt awaiting probable cause to arrest him
15 from some other source. Would that be an accurate
16 statement?

17 A. Like I said sir, I was just waiting for direction.

18 Q. Okay. Would it be an accurate statement to say
19 that Detective Eckert first arrived on the scene in this
20 video 33 minutes after your initial stop of Mr. Belt?

21 A. I believe it was around there, yes sir.

22 Q. Okay. You noted in your report that it was about
23 20 minutes but you're okay with testifying today that it
24 was approximately 33 minutes.

25 A. I'm just going on what you said, sir.

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1 Q. Okay.

2 MR. DETREVILLE: If I may have a moment?

3 THE COURT: You may.

4 MR. DETREVILLE: Thank you.

5 [Whereupon, Mr. DeTreville reviews documents]

6 THE COURT: Mr. Ziegler do you have much redirect?

7 MR. ZIEGLER: Not very much at all, Your Honor.

8 MR. DETREVILLE: I have no other questions for this
9 witness, Your Honor.

10 THE COURT: Thank you.

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Suppression Hearing-Alex Gillespie-Redirect Examination by Mr. Ziegler
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REDIRECT EXAMINATION

BY MR. ZIEGLER:

Q. Mr. Gillespie defense counsel stated that you didn't mention in your report seeing a black hat in the vehicle. If I were to show you your report would you be refreshed on that matter?

A. Yes, sir.

Q. Take a look at the last paragraph.

[Whereupon, the witness reviews document]

A. Yes, sir. I mentioned there was a black shirt, black hat and a used pair of latex gloves in the backseat of Mr. Belt's vehicle, sir.

Q. Thank you.

MR. ZIEGLER: No further questions, Your Honor.

MR. DETREVILLE: Just one question, Your Honor.

2 BY MR. DETREVILLE:

8 A. Yes, sir.

13 A. I'm not sure if I relayed it, sir.

14 Q. Okay. But did you note it in your police report?

15 A. It was noted that we found it in the back of the car
16 but no sir in reference to the initial view of the
17 suspects, no sir.

18 | Q. Okay.

19 | MR. DETREVILLE: No other questions, Your Honor.

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

21 THE WITNESS: Thank you, Your Honor.

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1 THE COURT: Okay. So counsel just approach just
2 for scheduling.

3 [Whereupon, an off the record bench conference is
4 held]

5 THE COURT: So tomorrow what time, Mr. Ziegler?

6 MR. ZIEGLER: 9 a.m.

7 THE COURT: What time does that mean?

8 MR. ZIEGLER: 8:30 a.m.

9 THE COURT: I want you in your seats ready to go
10 promptly at 9:00. Please make sure Mr. Belt is
11 transported. Thank you. Counsel, I want you to really
12 consider because I did not Voir Dire -- as a matter of
13 fact I said we will not go past Friday. So I really need
14 a good faith estimate as to what we're doing okay.

15 MR. ZIEGLER: Yes, Your Honor.

16 [Whereupon, court adjourns at 5:26 p.m.]
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STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

STATE OF SOUTH CAROLINA)

vs.)

DARREN KEITH BELT)

Defendant)

COURT OF GENERAL SESSIONS)

DOCKET NO. 2013-GS-10-4529)
2013-GS-10-4530)

TRANSCRIPT OF RECORD)

September 15, 2015
Charleston, South Carolina**VOLUME 2 (of 4)**

B E F O R E:

THE HONORABLE KRISTI L. HARRINGTON, JUDGE

A P P E A R A N C E S:

ALEX ZEIGLER, ESQ.
SCOTT MAYNOR, ESQ.
Attorneys for the StateMICHAEL DETREVILLE, ESQ.
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Circuit Court Reporter

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PROCEEDINGS

THE COURT: Thank you. Be seated. Mr. Ziegler, is
the State ready?

MR. ZIEGLER: Yes, Your Honor.

THE COURT: Mr. DeTreville?

MR. DETREVILLE: We are, Your Honor.

THE COURT: Call your next witness.

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1 MR. ZIEGLER: The State calls Sergeant Horton from
2 the Mount Pleasant Police Department.

3 [Whereupon, Sergeant Horton comes forward]

4 [Whereupon, the witness is duly sworn by the Clerk
5 of Court]

6 CLERK OF COURT: State your full name and spell
7 your last name for the record.

8 THE WITNESS: It's Gregory Horton, H-O-R-T-O-N.

9 - - - - -

10 GREGORY HORTON,

11 Having been first duly sworn,

12 Was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. ZIEGLER:

15 Q. Good morning Sergeant Horton.

16 A. Good morning.

17 Q. How long have you been with the Mount Pleasant
18 Police Department?

19 A. Twenty-five years.

20 Q. What roles have you served with the department?

21 A. Patrol officer, field training officer, I was a
22 corporal for a period of time, and sergeant for the last
23 eight years. And pretty much my jobs have been in
24 patrol, training, narcotics, and now with crime scene.

25 Q. Okay. And on May 7th 2013 what department were you

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1 in you as a sergeant?

2 A. I was a patrol supervisor over team two.

3 Q. And on May 7th, 2013 do you remember a robbery
4 incident from that night?

5 A. I do.

6 Q. And where were you when you got the call for that?

7 A. When the initial call came out I was up north around
8 the Highway 41 area. I was contacted by CIB of a search
9 warrant they wanted to serve off of Highway 41 so I was
10 meeting with them. And during that time we had another
11 call come out a fight in progress at Brickyard so we
12 responded over there.

13 Q. And where did you respond to the robbery call?

14 A. When we had the fight at Brickyard going on the
15 robbery call came out. So as soon as I cleared up from
16 Brickyard I started heading that way.

17 Q. Where did you go? What was the first place you
18 went?

19 A. The first place I went was to Wild Wings. I
20 responded there to meet with the initial officer and the
21 victims.

22 Q. Okay. And where was the next place you went after
23 that to investigate?

24 A. After that officers had already begun searching the
25 area around Bank Street and Hamp Fludd area. And Officer

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1 Ivey had called out that he was detaining one suspect so
2 I started heading that way. And by the time I got there
3 the second officer -- or second suspect had been
4 apprehended.

5 Q. A second suspect you said?

6 A. Yes, sir.

7 Q. And when you arrived there at that scene what did
8 you do generally?

9 A. At that point we knew there was still a third
10 suspect at large so we pretty much got the two that we
11 had in custody transported out of there and established a
12 perimeter and began searching the area for the third
13 suspect.

14 Q. Okay. And were you able to -- in that search were
15 you able to locate the third suspect right away?

16 A. Not right away. We probably searched I would say 45
17 minutes or so at which time I made the decision that we
18 would pull back.

19 I was thinking more than likely that the third
20 suspect was still there and probably watching us. So I
21 made the decision to pull back and kind of get out of the
22 area and see what starts moving.

23 Q. Okay. And did anything happen after that?

24 A. Yes, sir. After that Officer Gillespie called out
25 that he was performing a traffic stop on a vehicle that

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1 was on Royall heading towards Whilden towards Coleman
2 Boulevard. I was just up the road so I responded to back
3 him up.

4 Q. And what happened when you arrived at that traffic
5 stop?

6 A. When I arrived Officer Gillespie then began to
7 approach the vehicle. I approached the passenger side
8 and began to speak with the driver of the vehicle.

9 Q. And what were you speaking to him about?

10 A. His identification, where he was coming from, where
11 he was headed; things like that. Just typical questions
12 to see if he belonged in the area or not.

13 Q. And what did he answer about what he was doing?

14 A. Kind of evasive. He said he was looking for an area
15 that did not exist in Mount Pleasant. And off the top of
16 my head I can't remember what area it was but I do
17 remember it was fictitious.

18 He couldn't really give us a description how to get
19 there. And looking at his driver's license he was from
20 North Charleston, which was out of the area also so
21 nothing was matching up.

22 Q. In the course of your investigation did you learn
23 whether the driver of the vehicle was the owner of the
24 vehicle?

25 A. No sir, he was not the owner of the vehicle. I

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1 think it was a family vehicle or belonged to someone in
2 the family but the vehicle was also registered out of the
3 area; not in Charleston County.

4 Q. Was it registered in this defendant's name?

5 A. No sir, it was in the last name of Belt but I don't
6 think it was in his name.

7 Q. And what was the next step after you spoke to him
8 initially and made contact?

9 A. At this point we believed that we probably had the
10 third suspect and began trying to get more information
11 from the victims and the other suspects that were taken
12 into custody to see if we could positively identify him
13 as a third suspect.

14 Q. And what steps did you take to get more information?

15 A. At that point I knew Corporal Eckert was
16 interviewing the other two suspects so I tried to call
17 him on the phone but spoke with Officer Ivey because he
18 was in the interview and told him to tell Corporal Eckert
19 to give me a call as quick as possible.

20 Q. And if I were to tell you that on the video you were
21 seen walking off camera the first time on time stamp
22 about 1:47 what would you have been doing at that time
23 when you walked off camera?

24 A. That was probably when I was trying to call Corporal
25 Eckert.

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1 Q. And would it make sense to you if I told you you
2 were seen on the phone on the video from the traffic stop
3 at about 1:51 would that make sense?

4 A. Yes, sir.

5 Q. And who were you talking to on the phone at that
6 time?

7 A. At that time I was talking with Corporal Eckert
8 telling him basically the information I had, the
9 description of the person we were out with and what
10 information he had obtained from the other suspects.

11 At that time he was giving me the physical
12 descriptors and I walked basically back up to the vehicle
13 to see if that was the same subject.

14 Q. So in your recollection of your conversation with
15 Corporal Eckert who was the information about the third
16 individual in the robbery who was that information coming
17 from?

18 A. The name of the subject?

19 Q. Well, was it -- who was it? From another ---

20 A. --- it was from one of the suspects we had detained.

21 Q. Okay. And as far as -- what was the information
22 that you remember that was given to you by Corporal
23 Eckert as far as how it matched up ---

24 A. --- the descriptors ---

25 Q. --- or didn't match up with what was seen at the

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1 traffic stop ---

2 A. --- the biggest thing that stood out was a deformity
3 with an eye. That was the biggest part. But basically
4 the description was a black male with cornrows, and a
5 deformity with the eye.

6 Q. Okay. Was there any description of a vehicle that
7 was being driven?

8 A. None that I can recall.

9 Q. So there was -- you said there was a hair style,
10 there was an unusual eye, and you said was a black male
11 that was being described?

12 A. Yes, sir.

13 Q. Anything about the contents of the vehicle whether
14 there were any containers in the vehicle or?

15 A. The only thing I can specifically remember was on
16 the passenger side when I was looking in I saw a book bag
17 on the rear seat.

18 Q. Was that information communicated from Corporal
19 Eckert about the possibility of a book bag?

20 A. Not at that time but it did get my interest up
21 because we still had not recovered a weapon or some of
22 the monies.

23 Q. And so if you could please describe the whole of the
24 circumstances that you remember up until that point that
25 you were aware of as far as this traffic stop? What was

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1 in your mind?

2 A. At this point and confirmed with Corporal Eckert we
3 just had the robbery occur where we got two suspects out
4 of an area. A search in that area came up with no
5 results until we made the decision to pull back out and
6 see what started moving.

7 At that time this vehicle came out of the area that
8 we were searching. And upon stopping the vehicle in the
9 gas station parking lot and talking with him the stories
10 didn't match up with why he would be in the area. And
11 then after conferring with him the description matched
12 our third suspect.

13 Q. And was the driver of the vehicle arrested?

14 A. Eventually he was; not at that point.

15 Q. What was he arrested for?

16 A. For armed robbery. After conferring with Corporal
17 Eckert I asked him to come to the scene in case he had
18 obtained information that I wasn't aware of from the
19 other two defendants that he could question Mr. Belt
20 about.

21 When he arrived on scene he did speak with Mr. Belt
22 but nothing was revealed as far as furthering any other
23 probable cause. At that time me and Corporal Eckert
24 conferred about the facts that we did have at that time
25 and made a decision to arrest him for armed robbery.

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1 Q. And after he was arrested what happened?

2 A. At that point he was taken away. I stayed on scene.
3 The vehicle was towed from the scene; inventoried and
4 then towed.

5 Q. So was it searched?

6 A. It was inventoried, yes sir.

7 Q. Okay. And did you participate in that search?

8 A. Somewhat. My interest was trying to locate a
9 weapon, the gun specifically that we were looking for so
10 I did look in various places for a gun.

11 Q. Okay. Did you locate a gun in the vehicle?

12 A. Not in the vehicle.

13 Q. And can you comment is there a policy in the Mount
14 Pleasant Police Department for towing vehicles?

15 A. Yes, sir.

16 Q. And how did that apply to this situation?

17 A. Basically our policy is when we make an arrest if
18 the vehicle is not in a secured area that it would be
19 secured for the property owner's safekeeping. And we did
20 follow that policy and towed it.

21 Q. And again was -- did the vehicle belong to the
22 driver that you arrested as far as you could tell or was
23 it registered to ---

24 A. --- it was registered to a different owner, not to
25 Mr. Belt.

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1 MR. ZIEGLER: Beg the court's indulgence.

2 THE COURT: Take your time.

3 [Whereupon, Mr. Ziegler and Mr. Maynor confer]

4 MR. ZIEGLER: I have no further questions for this
5 witness, Your Honor. Please answer the questions of
6 defense counsel.

7 THE COURT: Mr. DeTreville?

8 MR. DETREVILLE: May it please the court?

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1 CROSS-EXAMINATION

2 BY MR. DETREVILLE:

3 Q. Good morning Sergeant.

4 A. Good morning.

5 Q. When you arrived on the scene I think you testified
6 the first thing you did is you went to Wild Wings where
7 the victims were being kept? Is that what you said?

8 A. Yes, sir.

9 Q. Did you interview them at all at that time?

10 A. No, sir. They were being -- medical attention was
11 there; fire and E-M-S. And I'm trying to remember maybe
12 a detective was on the scene also. But they were kind of
13 hysterical at the time.

14 So I just got the basic information from the officer
15 that was there. It was kind of quick because at that
16 time is when the officers called out in the Old Village
17 that they had detained someone.

18 Q. And the basic information that you got was what?

19 A. That the two male subjects were robbed at gunpoint
20 by three black males around or at Moultrie Middle School
21 and that the officer then gave pursuit back down into the
22 Old Village.

23 Q. Okay. Did you have at that particular time any
24 particular description of any of the suspects?

25 A. Not that I can recall other than three black males.

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1 Q. Okay. And I believe your testimony was shortly
2 thereafter you spoke to Detective Eckert for the first
3 time. Is that correct? Do I have that correct?

4 A. I spoke with Detective Eckert at the station -- or I
5 called him on the phone at the station.

6 Q. He was at the station when you were at the scene?

7 A. He was -- yes I was on the scene. Are you talking
8 about the traffic stop or initially?

9 Q. I'm talking about initially when you ---

10 A. --- the first interaction I remember with Corporal
11 Eckert is making the phone call. I know that the two
12 suspects were taken to the station and Corporal Eckert
13 was supposed to meet them there.

14 Q. So your first contact with Detective Eckert was
15 after two suspects had been taken into custody?

16 A. That I can recall, yes sir.

17 Q. Okay. Do you recall the time that was?

18 A. No, sir.

19 Q. Okay. But that was before the traffic stop ---

20 A. --- that was before the traffic ---

21 Q. --- involving Mr. Belt is that correct?

22 A. Yes, sir.

23 Q. Okay. And what was the substance of the
24 conversation that you had with Detective Eckert at that
25 time?

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1 A. After the traffic stop?

2 Q. Before -- in the initial phone call before the
3 traffic stop that you had with Detective Eckert?

4 A. I don't remember the phone call before. I made the
5 phone call after the traffic stop.

6 Q. After the traffic stop was the first time you spoke
7 with Detective Eckert on the telephone?

8 A. That I can remember, yes sir.

9 Q. Okay. How many total phone calls did you make to or
10 how many did you receive, make to Detective Eckert during
11 this process?

12 A. The one is what I can remember when I initially
13 called and then he called me back because when I
14 initially called he was in the interview.

15 Q. Okay. So two phone calls?

16 A. Two phone calls.

17 Q. Okay. And do you recall what time those telephone
18 calls took place?

19 A. No sir, not specifically.

20 Q. That was after the traffic stop?

21 A. That was after the traffic stop.

22 Q. Okay. And do you recall the substance of those
23 telephone conversations?

24 A. Just trying to get identifying information that
25 basically we felt we were with the third suspect and we

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1 wanted to see what Corporal Eckert could tell us as far
2 as any descriptors.

3 Q. Okay. So would it be safe to say that those
4 telephone calls between yourself and Detective Eckert
5 were for purposes of investigating an armed robbery?

6 A. Yes, sir.

7 Q. Okay. And I believe your testimony previously was
8 that the description that you had of the potential armed
9 robbers was that they were three black males is that
10 correct?

11 A. Yes, sir.

12 Q. Okay. So was it your decision to hold Mr. Belt at
13 the gas station for 45 minutes?

14 A. Yes sir, while we were investigating. Yes, sir.

15 Q. While you were investigating. And that decision to
16 hold Mr. Belt for 45 minutes was based on his description
17 as a black male and ---

18 A. --- partly, yes sir. It was based on a totality of
19 circumstances of everything I've already mentioned if you
20 want me to go through that again but yes sir; we made a
21 decision to continue our investigation.

22 Q. Okay. Was Mr. Belt ever free to go at any point
23 during that 45 minute traffic stop?

24 A. No, sir.

25 Q. Okay. Was Mr. Belt ever issued a traffic citation

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1 that you are aware of?

2 A. Officer Gillespie did issue him a citation.

3 Q. Okay. Do you recall when that citation was

4 actually delivered to Mr. Belt?

5 A. No, sir.

6 Q. Did you witness ---

7 A. --- I didn't witness it ---

8 Q. --- him delivering that citation?

9 A. No, sir.

10 Q. Okay. You referenced having asked Mr. Belt a

11 series of questions subsequent to the traffic stop. Did

12 you ever advise Mr. Belt of his Miranda rights prior to

13 asking him those questions?

14 A. No, sir.

15 Q. Okay. But he was not free to go?

16 A. Not at that time. Again we were still investigating

17 to see if he had any involvement in the incident and just

18 answering the questions basically of why you are here

19 type of thing.

20 Q. Okay. Would it be fair to say then if he wasn't

21 free to go that he was in your custody at that particular

22 time?

23 A. He was being detained, yes sir.

24 Q. Okay. Being detained would you describe that as

25 being the same thing as being in your custody?

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1 A. Generally yes but with a little bit of difference.
2 Again custody implies that we have charged him with a
3 crime. Detention basically is we're still investigating.
4 He's not free to go at this time but we are trying to get
5 information to either further our investigation or
6 eliminate him as a suspect.

7 Q. Okay. Would Mr. Belt have reasonably believed at
8 this point that he was free to go?

9 A. I don't recall him asking to leave or anything like
10 that.

11 Q. Okay. Would he reasonably have believed that he
12 was in your custody at the time?

13 A. Again, he made no indications that he believed one
14 way or the other.

15 Q. Okay. You asked him questions about -- I believe
16 your testimony was you asked him questions about where he
17 was coming from and where he was going and things of that
18 nature.

19 A. Yes, sir.

20 Q. And stated I guess essentially that you were
21 dissatisfied with his responses to those questions?

22 A. I don't know if I would use the word dissatisfied
23 but it was just kind of strange ---

24 Q. --- I apologize I'm paraphrasing a bit.

25 A. It was just kind of strange as far as the time he

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1 was discovered in the area. He didn't really know where
2 he was at and what he was looking for; just some unusual
3 answers to those types of questions.

4 Q. Do you recall what his responses were?

5 A. Not off the top of my head, no sir.

6 Q. As part of a traffic stop for a speeding violation
7 are those normal questions that you ask somebody as part
8 of issuing a speeding ticket?

9 A. As far as a speeding ticket it's -- we routinely ask
10 where you going, where you coming from and things like
11 that. But this was more again of the investigative
12 nature of why you're coming from this area and what's
13 going on. It was more than just a traffic stop. It was
14 an investigative detention at that time.

15 Q. Okay. At what point did the investigative
16 detention commence?

17 A. At the point that me and Corporal Eckert conferred
18 to what the facts that we had at that time and then
19 placed him under arrest.

20 Q. Okay. Do you recall how much time had elapsed
21 between when in your view this more from a traffic
22 citation than to an investigative detention?

23 A. From a traffic stop -- from a normal traffic stop to
24 an investigation? Fairly quickly into the stop basically
25 when we asked him where he was coming from and he

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1 couldn't give a clear answer at that time it became more
2 than just a traffic stop.

3 Q. Okay. And that was the basis for your reasonable
4 suspicion for holding him for an investigative stop? And
5 I believe earlier you testified that it was also based on
6 the fact that he was a black male?

7 A. That was part of it yes, sir..

8 Q. Based on your testimony that you were in contact
9 with Detective Eckert who ostensibly was interviewing
10 witnesses during this period of traffic stop is that
11 correct?

12 A. I think he was actually interviewing the other
13 suspects.

14 Q. Okay. He was interviewing the other suspects. So
15 at this point the purpose of the stop is to hold Mr. Belt
16 at the location while an investigation could be completed
17 elsewhere. Is that a fair statement?

18 A. I wouldn't say an independent investigation at all.
19 It was pieces and parts coming together.

20 Q. Okay. You weren't actually conducting an
21 investigation at the time Detective Eckert was conducting
22 an investigation at headquarters and he was communicating
23 the results of that investigation to you by telephone?

24 A. To again see if this was our third suspect, yes sir.

25 Q. Okay. Was there a reason why y'all were

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1 communicating by cell phone and not by police radio or
2 something of that nature?

3 A. It's just easier and it keeps the radio free for
4 other calls. We did have other things going on also so
5 it just keeps the radio freed up for those
6 communications.

7 Q. But wouldn't it be a true statement that the
8 contents of the conversations that you had between
9 yourself and Detective Eckert would have been recorded
10 had they been conducted over the police radio as opposed
11 to by cell phone?

12 A. On our main channel yes, sir it is recorded. I'm
13 not sure if all our channels are. I don't think our --
14 channel is recorded.

15 Q. Was that part of the decision-making process to use
16 a cell phone instead of using the police radio that y'all
17 didn't want the contents of your conversation recorded?

18 A. No sir, it was just easier at the time to pick the
19 phone up.

20 Q. Okay. Is that standard police procedure to conduct
21 an investigation, official police investigation, by cell
22 phone as opposed to police channels?

23 A. We've done it many times yes, sir.

24 Q. Is that part of some written policy? Is that
25 something that is permissible? Is that something that is

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1 frowned upon?

2 A. It's permissible yes, sir.

3 Q. It's permissible, okay. At what point during this
4 traffic stop did you receive information from Detective
5 Eckert that the defendant or the suspect that you were
6 seeking a description of him?

7 A. A specific time or how far into the stop?

8 Q. How far into the stop I think would be sufficient.

9 A. I would probably say maybe ten minutes into the
10 stop, ten or twelve minutes.

11 Q. And no traffic citations had been issued at that
12 point?

13 A. No, sir.

14 Q. Is that a correct statement? Had you or Officer
15 Gillespie retrieved Mr. Belt's license and registration?

16 A. I believe Officer Gillespie had his license. I'm
17 not sure about the registration.

18 Q. Okay. Had there been any kind of background check
19 run on that license and registration at this point?

20 A. Yes sir, probably.

21 Q. Okay. But no citation was issued?

22 A. Not at that time, no sir.

23 Q. Okay. You've seen the video of the stop. I don't
24 think we probably need to play the 45 minutes video for
25 your benefit I hope.

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1 A. Yes, sir.

2 Q. There seem to be extended periods of time in which
3 you and detective or, I'm sorry Officer Gillespie are
4 simply standing next to the car looking at Mr. Belt but
5 there don't seem to be any conversations taking place or
6 anything of that nature. Is that a fair statement?

7 A. I don't know. That's what it appears but I'm sure
8 there was some conversation going on. I don't recall
9 specifically what was being said.

10 Q. Okay. Would it have been small talk? Would it have
11 been asking him, interrogating him in some fashion?

12 A. If it was between the time after I contacted
13 Corporal Eckert and asked him to respond to the scene it
14 was probably in the area of more small talk than
15 anything.

16 Q. Based on the fact that you were satisfied with your
17 conversations with Detective Eckert that you had the
18 third suspect in custody why was he not placed under
19 arrest at that time?

20 A. At that time we still wanted further information. I
21 don't like to arrest people that do not need to be
22 arrested. We had enough facts that supported it but I
23 didn't know what Corporal Eckert had learned from the
24 other two suspects that may again either develop him
25 further as a suspect or eliminate him.

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1 Q. Wasn't he sharing that information with you via cell
2 phone?

3 A. No, sir. I didn't ask him for it. I wanted him to
4 respond there because it would be first hand information
5 basically.

6 Q. You stated that the description that was provided to
7 you of the third suspect by Detective Eckert was that of
8 a black male with cornrows is that correct?

9 A. Yes, sir.

10 Q. In your mind is there a difference in cornrows and
11 braids?

12 A. Not enough that I could tell you what they are.

13 Q. Do you consider the term cornrows and the term
14 braids to be synonymous with one another?

15 A. For me probably yes, sir.

16 Q. Okay. I believe you also testified there was no
17 description of the vehicle provided to you by Detective
18 Eckert is that correct?

19 A. Not that I can recall about the vehicle no, sir.

20 Q. And you're seen on the video I think fairly shortly
21 after the stop looking in the windows of the vehicle with
22 your flashlight is that correct?

23 A. Yes, sir.

24 Q. And that's when you observed a book bag in the rear
25 seat I believe you testified?

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1 A. Yes, sir.

2 Q. And I believe you testified that book bag was of
3 interest to you?

4 A. It was.

5 Q. Why was that book bag of interest to you?

6 A. Again if he was involved with the armed robbery it
7 could contain evidence of that robbery. We were still
8 looking for a gun and some of the monies at that time.

9 Q. I'm curious as to if you were concerned that there
10 may be a gun in this vehicle why the defendant was left
11 in the vehicle for a period of 45 minutes without being
12 taken out and frisked, patted down; that sort of thing.

13 A. At that point it was just safer to leave him in the
14 vehicle and keep his hands in plain view than to bring
15 him out of the vehicle.

16 Q. You stated in our testimony Sergeant Horton that you
17 participated in the what I believe you refer to as an
18 inventory search of the vehicle?

19 A. Yes, sir.

20 Q. Post arrest of Mr. Belt is that correct?

21 A. Yes, sir.

22 Q. What items did you collect from the vehicle as part
23 of the inventory?

24 A. I didn't collect any. Again my interest was solely
25 looking for the evidence of the armed robbery, a gun, or

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1 any type of monies from that. I looked through the
2 vehicle but I didn't collect any. There was nothing,
3 there was no weapon or no money that I was looking for
4 specifically.

5 Q. Okay. So as part of an inventory search you were
6 specifically searching for a gun or evidence that would
7 indicate that this person had been involved in an armed
8 robbery?

9 A. As far as that goes yes sir, I was. It was areas
10 that were assessable during the inventory so I was
11 looking.

12 Q. Is not the purpose of an inventory search however
13 served to make an inventory of what's in the vehicle?

14 A. It is.

15 Q. Okay. I guess your testimony is you participated
16 in an inventory search but did not inventory anything.

17 A. I looked basically for things of interest and when I
18 didn't see it I let them continue their inventory of the
19 vehicle.

20 Q. Okay. So would it be safe to say that your search
21 of the vehicle was essentially a generalized search
22 looking for incriminating evidence?

23 A. Yes, sir.

24 THE COURT: Mr. DeTreville you seemed to have
25 paused. We're going to take a short comfort break.

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1 There is a matter I need to address.

2 MR. DETREVILLE: Of course, Your Honor.

3 THE COURT: Do not discuss your testimony. We'll
4 take about seven, ten minutes. Thank you.

5 [Whereupon, court is in recess from 9:45 a.m. till
6 9:54 a.m.]

7 THE COURT: Please be seated. Mr. DeTreville, you
8 may continue.

9 MR. DETREVILLE: Thank you, Your Honor. May it
10 please the court?

11 CROSS-EXAMINATION (resumes)

12 BY MR. DETREVILLE:

13 Q. During your search of Mr. Belt's vehicle do you
14 recall locating a black shirt?

15 A. No sir, not off the top of my head, no sir.

16 Q. Do you recall locating a black hat?

17 A. No, sir.

18 Q. Latex gloves? Do you recall locating and taking
19 into custody a pair of latex gloves?

20 A. No, sir.

21 Q. Okay. Do you recall observing those items at all?

22 A. No, sir.

23 Q. If Corporal Myers was the individual who was
24 conducting I guess the lead search person conducting the
25 inventory search is that a correct statement?

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1 A. I believe it was Corporal Myers, yes sir.

2 Q. Now if Corporal Myers was in the midst of conducting
3 an inventory search why were you searching the vehicle
4 also?

5 A. Like I said I was just looking for a specific -- I
6 just wanted to know that we had the right guy and that we
7 may have recovered some evidence.

8 During my looking into the vehicle I didn't really
9 go into areas that I shouldn't go that didn't include --
10 that wasn't included in the inventory. I looked in the
11 trunk area, I looked in closed compartments but did not
12 extend the search beyond that.

13 MR. DETREVILLE: If I might have a moment, Your
14 Honor.

15 [Whereupon, Mr. DeTreville reviews documents]

16 Q. [Mr. DeTreville] Did the defendant at any point
17 during this traffic stop specifically ask you to issue
18 him a speeding citation and allow him to leave?

19 A. Not that I can recall, no sir.

20 Q. Okay. And so when you were searching the vehicle
21 would it be a fair synopsis of your testimony to say that
22 you were looking for a gun?

23 A. Yes, sir.

24 Q. Was a gun ever located or included in any inventory
25 search?

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1 A. Not in that vehicle, no sir.

2 Q. Okay.

3 MR. DETREVILLE: I have no other questions for this
4 witness, Your Honor.

5 THE COURT: Mr. Ziegler?

6 MR. ZIEGLER: Thank you, Your Honor.

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State v Darren Belt
Suppression Hearing-Gregory Horton-Redirect Examination by Mr. Ziegler
September 15, 2015

1 REDIRECT EXAMINATION

2 BY MR. ZIEGLER:

3 Q. Sergeant Horton the observations you made at the
4 traffic stop what about the description of that driver
5 was consistent with what the information that was
6 conveyed from Corporal Eckert just to reiterate from your
7 testimony?

8 A. After conferring with him looking for a black male,
9 cornrows, and again something distinctive about an eye is
10 what I remember.

11 Q. Did you observe those?

12 A. Yes, sir.

13 Q. Those traits in the driver?

14 A. Yes, sir.

15 Q. And the black hat and the black shirt and latex
16 gloves that were mentioned to you do you know for a fact
17 that they were not there? Do you have any recollection
18 about them at this point?

19 A. I have no recollection. I know they were on the tow
20 sheet. I don't have any recollection of those items.
21 Again when I was looking at the vehicle I was
22 concentrated on just looking for a gun basically.

23 So with the inventory I knew they were completing
24 the inventory. I was just satisfying some curiosities of
25 my own by looking.

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Suppression Hearing-Gregory Horton-Redirect Examination by Mr. Ziegler
September 15, 2015

1 MR. ZIEGLER: No further questions, Your Honor.

2 MR. DETREVILLE: Briefly, Your Honor?

3 THE COURT: Take all the time you need.

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2 BY MR. DETREVILLE:

7 | A. Yes, sir.

10 A. Yes, sir.

16 | A. Yes, sir.

20 A. On a tow sheet there is areas where we put in
21 information of valuables that were removed or items that
22 were seen in the vehicle. And I think I recall seeing
23 that on the tow sheet.

24 Q. Would that be the same thing as a property receipt?

25 A. No, sir.

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1 Q. Consequent to an inventory search?

2 A. No, sir. Property receipt would be things that we
3 have taken into evidence.

4 Q. Okay.

5 MR. DETREVILLE: No other questions, Your Honor.

6 THE COURT: You may step down. Thank you very
7 much.

8 [Whereupon, the witness is excused and exits the
9 witness stand]

10 THE COURT: Call your next witness.

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State v Darren Belt
Suppression Hearing-Daniel Eckert-Direct Examination by Mr. Ziegler
September 15, 2015

1 MR. ZIEGLER: The State calls Corporal Dan Eckert.

2 [Whereupon, Corporal Eckert comes forward]

3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]

5 CLERK OF COURT: If you will please state your full
6 name and spell your last name for the record.

7 THE WITNESS: It's Daniel Eckert. It's E-C-K-E-R-T.
8 I'm a detective with the Mount Pleasant Police
9 Department.

10

11

DANIEL ECKERT,

12

Having been first duly sworn,

13

Was examined and testified as follows:

14

DIRECT EXAMINATION

15 BY MR. ZIEGLER:

16 Q. Good morning Corporal Eckert.

17 A. Good morning.

18 Q. How long have you been with Mount Pleasant Police
19 Department?

20 A. I started with the Mount Pleasant Police Department
21 November 5th, 2001.

22 Q. And briefly what were your various assignments in
23 the police department?

24 A. I've been assigned to many different aspects at the
25 police department. I've moved up through the ranks. I

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1 started out as a dispatcher; 911 operator. From there
2 the Mount Pleasant Police Department has a civilian
3 position where you handle calls for service where there
4 is no suspect there. For safety issues it is an unarmed
5 position.

6 It gives officers in the street time to be more
7 proactive and prevent crimes from occurring because
8 you've got a civilian going around handling all the calls
9 where there is not a suspect at.

10 And in 2005 I had the opportunity to go to the South
11 Carolina Criminal Justice Academy. I graduated from
12 there in 2006 at which time I went to the patrol
13 division. I did a five year stint in the patrol
14 division.

15 From there there was a promotional assessment board
16 to become a supervisor. I put in and was successfully
17 promoted to the rank of corporal. I did about six months
18 on the street as a patrol corporal at which time I went
19 into the Criminal Investigations Bureau.

20 Q. Is that where you were in May of 2013?

21 A. That is correct, yes. I went into CIB. It was
22 December 5, 2011.

23 Q. And are you the lead investigator on the case that
24 we are here about today?

25 A. I am.

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1 Q. Do you remember responding to an armed robbery
2 incident the night of May 7, 2013?

3 A. I do.

4 Q. Where did that robbery occur?

5 A. It occurred in the area of Moultrie Middle School
6 which is at 645 Coleman Boulevard. It's in the town of
7 Mount Pleasant, county of Charleston, state of South
8 Carolina.

9 Q. And when you responded to the armed robbery where
10 did you first go?

11 A. I was -- I had been called out earlier that night
12 for other investigations that were being handled by
13 another detective in my office. I was assisting him with
14 those investigations.

15 We had responded originally to the area of Hamp
16 Fludd Street in the Old Village. It's adjacent to King
17 and Simmons Street behind a water tower. So I was on
18 Hamp Fludd Street.

19 Q. Was that close to Moultrie Middle School?

20 A. As the old saying as the crow flies. I mean maybe a
21 block or two away.

22 Q. And what was going on on that scene on Hamp Fludd
23 when you got there?

24 A. As I was traveling to the scene I learned that they
25 had detained one individual in the area of Simmons and

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1 King Street in front of the water tower. As I continued
2 down to the scene listening to the police radio I heard
3 that they had detained a second subject who was located
4 hiding up underneath a truck like the super structure of
5 a truck.

6 Q. Okay. So as far as you knew at that point there
7 were two suspects in custody?

8 A. I knew that there were two in custody. I knew that
9 there was still a third outstanding subject.

10 Q. And where did you go after that scene?

11 A. At that scene I met briefly with Sergeant Horton and
12 got a rundown of what he knew from talking to the victims
13 over at Wild Wings.

14 I did a little canvas in the area and then from
15 there I directed people to be transported back to the
16 station as we wanted to begin the interview process.

17 Q. And who were the suspects at the station?

18 A. At the station there was a Ricky Lamont Hayes and a
19 Randi Parks.

20 Q. Did you interview Mr. Hayes?

21 A. I did.

22 Q. Did he give any information about the robbery ---

23 A. --- he was less than cooperative.

24 Q. Okay. Did you interview Mr. Parks?

25 A. I had started the process of interviewing Mr. Parks

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1 it must have been around to the best of my recollection,
2 and obviously I don't have my report in front of me. It
3 must have been around 1:50 in the morning when I started
4 the interview process with Mr. Parks.

5 Q. And what happened when you started the interview?

6 A. As I was starting the interview and Miranda -- and
7 mind you we were in what is called a data master room at
8 the Mount Pleasant Police Department.

9 Really we only have two interview rooms at the Mount
10 Pleasant Police Department so often times we branch into
11 these other interview rooms in other areas of the
12 department. I heard a knock on the door.

13 And you know when I'm interviewing somebody I like
14 privacy; I like to keep it quiet. You know it's just me
15 and the suspect in the interview room. And to the best
16 of my recollection it had to be about 1:50 and I was
17 asked to contact Sergeant Horton at that point.

18 Q. And did you do so?

19 A. I did. I called him from the department phone in
20 the sergeant's office, yes.

21 Q. And what was the content of that conversation? What
22 was happening?

23 A. The gist of the phone call was we believe that we're
24 out with the third subject involved in this robbery and
25 are any of the suspects that are currently in custody are

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1 they cooperating with you during the interview process.
2 At that time I explained to him I had spoken with Mr.
3 Hayes. He wasn't cooperating and I had just sat down
4 with Mr. Parks and he told me he was going to cooperate
5 and be forthcoming.

6 Sergeant Horton asked me to get some information on
7 this potential third suspect who is involved and relay it
8 to him as they you know were on a traffic stop with what
9 they thought was another individual involved.

10 Q. Did you convey to Mr. Parks any details about this
11 potential third person who was at the traffic stop?

12 A. What I told Mr. Parks was that Mr. Hayes didn't
13 cooperate during the investigation, that he had an
14 opportunity now to tell his story and to be honest and
15 that we had a potential what we thought was a third
16 individual.

17 And I asked him if he could describe who this third
18 individual that they were with when this robbery
19 occurred, if he could describe him to me.

20 Q. And as far as that description goes did he provide a
21 nickname?

22 A. He did. He called him "L".

23 Q. Did he say where this third robber was from?

24 A. The Columbia area. They had all tripped down from
25 Columbia earlier in that day.

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1 Q. Did he have -- what about -- was he from the
2 Charleston area at all? Did he have any connections?

3 A. I'm sorry, I'm sorry. He said that he was from the
4 North Charleston area. They had been in Columbia earlier
5 in the day and tripped down together. He said "L" was
6 from North Charleston.

7 Q. Did he give any description of the third person's
8 hair, the third suspect's hair?

9 A. He said he had cornrows.

10 Q. Anything about his face, the third suspect's face?

11 A. He mentioned that he had some sort of eye deformity,
12 something had happened to his eye.

13 Q. Did he mention anything about the vehicle?

14 A. He said that he was either in a -- he originally
15 said it was either a blue or green truck and then he
16 changed his story and said it was a truck or a jeep.

17 Q. Did Mr. Parks say anything to you about the contents
18 of the vehicle?

19 A. Mr. Parks when he got in the vehicle he indicated
20 that he was tired and that he laid down and went to
21 sleep. But one thing he did remember in the vehicle was
22 a book bag in the backseat where he was riding prior to
23 this robbery.

24 Q. To reiterate all this information was provided by
25 Mr. Parks to you?

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1 A. To me, yes. Yes, I had no -- I mean I wasn't on the
2 stop with those guys. I had no information who they were
3 out with; nothing.

4 Q. And that was in response to you asking Mr. Parks who
5 was the third person who robbed the victims?

6 A. That is correct, yes.

7 Q. How did your conversations -- how did your actions
8 proceed after that?

9 A. When I developed that basic information such as that
10 he was a black male, that he had cornrows, that he had
11 the eye injury I stopped and relayed that -- I contacted
12 Sergeant Horton again from the office phone and said this
13 is the basic information that I have.

14 He told me that the guy was matching up matching the
15 description and I told him to stand by I'll see if I can
16 get any more information. I went back in and talked more
17 to Parks and that's when he started to relay the
18 information about the car and the book bag in the car.
19 I then contacted Sergeant Horton again and relayed that
20 information.

21 And at that point I asked Sergeant Horton if the
22 potential suspect that they were out with if he would be
23 willing to come to the station and meet with me. It was
24 me and another detective that were out and we were both
25 tied up in interviews at that point. Sergeant Horton

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1 indicated to me that no, he didn't want to come to the
2 station. And due to the fact that I had gathered some
3 basic information on a potential identity of this third
4 subject I asked Sergeant Horton if it would be more
5 beneficial if I came out to the scene and he thought that
6 it would.

7 Q. So did you respond to the scene?

8 A. I did. I had to arrange with officers that were
9 doing paperwork in the patrol room to sit with Mr. Parks
10 and to watch Mr. Parks because I didn't want to leave him
11 unattended.

12 And at that point I gathered my radio that was on my
13 desk across the hall and jumped in my car and rode out to
14 323 Coleman where they had stopped this car at.

15 Q. Was that -- that location where the stop was
16 happening was that close in distance to the Moultrie
17 Middle School?

18 A. That's correct. The next stop light is Simmons
19 Street and just on the other side of Simmons Street is
20 the Moultrie Middle School so it's within close
21 proximity, yes.

22 Q. And what did you do when you arrived at that traffic
23 stop?

24 A. First I made brief contact with the officers then I
25 went up and made contact with the sole occupant of the

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1 green jeep.

2 Q. And what were your observations about the occupant
3 of that vehicle?

4 A. The observations were synonymous with what Mr. Parks
5 had described to me. I observed a black male with what I
6 thought had cornrows in this hair and he had some sort of
7 eye injury that caught my attention.

8 Q. And again was the vehicle matching up with what Mr.
9 Parks had said?

10 A. Again it was a green jeep and Mr. Parks had
11 described originally a blue or green truck and then he
12 changed his story to a blue or green jeep.

13 Q. Did you speak to -- who was the occupant of that
14 vehicle?

15 A. Mr. Belt.

16 Q. Did you speak to him?

17 A. I did. I told him -- I explained to him that we had
18 an armed robbery that occurred earlier in the evening
19 that we had two subjects in custody and we were actively
20 investigating this robbery.

21 And I asked him if he would be willing to come to
22 the station with me as you know his description was
23 matching up to a potential third subject.

24 There was also conversation as to where he had been,
25 where he was going, what subdivision you know what

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1 neighborhood he had been in. He then mentioned that he
2 was in a neighborhood and I didn't get a chance to write
3 it down what neighborhood he said but in my report I did
4 note that it was a neighborhood that I had never heard of
5 and I've lived in Mount Pleasant since December of 2000.

6 Q. And what was your next step as far as the decision
7 on what to do next?

8 A. Again it's a decision that you have to make. I'm
9 not a guy that wants to put an innocent person in jail
10 but based on the totality of the circumstances you know I
11 conferred with the officers on the scene more
12 specifically Sergeant Horton who had a lot more
13 experience than I did.

14 At that point we made the decision that we were
15 going to arrest him. We felt that there was probable
16 cause to affect the arrest for armed robbery based on the
17 statements and everything matching up.

18 Q. What were the overall factors?

19 A. The overall factors were an armed robbery had
20 occurred. We had canvassed in the area for a third
21 subject when officers pulled out of the area they
22 witnessed this vehicle leaving the area at a high rate of
23 speed.

24 The officer's firsthand knowledge of the third
25 subject then the fact that I was at the station

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1 interviewing a cooperating suspect who provided a
2 description of the third occupant as well as the type of
3 vehicle that he was in as well as personal items that
4 were in that vehicle.

5 And at that point I responded to the scene and had
6 firsthand knowledge that everything that had been told to
7 me was matching up. Based on my training and experience
8 I felt that there was probable cause to go ahead and
9 affect the arrest for armed robbery.

10 Q. Had in your interview with Mr. Parks at the police
11 station did he indicate he was involved in the robbery?

12 A. He did. He said it was him and his two other co-
13 defendants.

14 Q. And was -- what happened after the arrest was made?

15 A. After we took the defendant into custody I had him
16 placed in the front seat of my unmarked patrol car
17 because I was going to drive him back to the station. I
18 then briefly looked in the vehicle to see if there was
19 any evidence related to the robbery.

20 I knew that I had interviewed Hayes. I was going
21 back to continue interviewing Parks, which I had started
22 prior to going to the scene and I was going to have
23 Detective Decamp interview the defendant. If there was
24 anything in plain view that stood out to me I wanted to
25 use that to our advantage when we were conducting these

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1 interviews. So I briefly glanced through the vehicle you
2 know not manipulating anything moving anything around;
3 anything like that. After looking through it I returned
4 to the station with the defendant, Mr. Belt.

5 Q. And did you complete the interviews -- what did you
6 do the rest of that night just in a nutshell?

7 A. In a nutshell we interviewed Randi Parks in depth,
8 took a written statement from him, and I had directed
9 Detective Decamp to interview Mr. Belt.

10 Then it was a massive amount of paperwork to get
11 completed from booking people in jail, typing warrant
12 affidavits, preparing bond packets, letting victims know
13 of bond hearings, relaying information to command staff;
14 just the paperwork train.

15 Q. About when did you go off duty?

16 A. About 7 o'clock, 7 o'clock that morning. It had
17 been a long day indeed.

18 MR. ZIEGLER: No further questions at this time.

19 THE COURT: Mr. DeTreville?

20 MR. DETREVILLE: Thank you, Your Honor. May it
21 please the court?

22

23

24

25

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1 CROSS-EXAMINATION

2 BY MR. DETREVILLE:

3 Q. Good morning Sergeant Horton.

4 A. Good morning.

5 Q. You prepared a report as I guess as part of the
6 extensive paperwork you were just referring to that took
7 you all night I would suppose.

8 A. Correct.

9 Q. Okay. And ---

10 A. --- there were -- sorry to interrupt you. There
11 were numerous reports that were prepared after my
12 original supplemental report, yes.

13 Q. Okay. But you prepared a report that evening?

14 A. Correct.

15 Q. Okay. And your police training is such that you
16 are trained to include all relevant facts in as great a
17 detail as possible in your report is that correct?

18 A. Correct.

19 Q. Okay. In your report you state that you and
20 Sergeant Horton spoke prior to the traffic stop being
21 conducted on Darren Belt is that correct?

22 A. That is correct.

23 Q. Okay. And that the substance of that conversation
24 that you had with Sergeant Horton was that your plan was
25 to go back to the station to interview witnesses.

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1 A. Yes. We spoke about what information he had from
2 victims about one of the victims getting transported.
3 And you know we spoke about that we needed to get Parks
4 and Hayes back to the station to try and interview them
5 in a safe secure environment. It beats interviewing them
6 in the front seat of patrol vehicles.

7 Q. At the time of this conversation with Sergeant
8 Horton were Hayes and Parks already at the station?

9 A. No, they hadn't been brought back -- Hayes might
10 have already started being in route but Parks left
11 shortly after I left.

12 Q. Okay. Do you recall what time this conversation
13 with Sergeant Horton took place?

14 A. I don't unfortunately. I do apologize.

15 Q. Okay. Would you be able to provide an approximation
16 to how long it was after the armed robbery took place?

17 A. I'd say it was probably around 12:45 in the morning
18 to the best of my recollection.

19 Q. So at approximately -- and I won't hold you to that
20 number; I asked for an approximation. At approximately
21 12:45 you and Sergeant Horton had already developed a
22 plan whereby you were going to the station to interview
23 witnesses and Sergeant Horton was going to remain on the
24 scene and continue searching for the third suspect?

25 A. Correct.

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1 Q. I believe -- was Officer Decamp at the station
2 already interviewing the victim Shane Burnett at that
3 time?

4 A. I'm not 100 percent sure. I know Decamp had gone
5 over to Wild Wings in the area of Moultrie Plaza where
6 they were staging victims. One victim had gone to the
7 hospital and then I know Decamp was being tasked with
8 interviewing Burnett.

9 I don't know if he was back doing that interview yet
10 at that time or not. I'm not sure exactly what time he
11 went back to the station. I tasked him with interviewing
12 the victims though.

13 Q. Were you privy to the contents of any interview that
14 was conducted with Mr. Burnett that evening?

15 A. I would say ---

16 Q. --- or were you made aware of the contents of that
17 interview at some later time?

18 A. I would say a later time after the fact.

19 Q. So at this particular juncture you're not armed with
20 any statements from victims?

21 A. No.

22 Q. You don't have any victim I.D.'s, descriptions from
23 them; anything of that nature?

24 A. Just the basic information that I had heard
25 firsthand over the radio that PFC Gillespie was relaying

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1 when he was chasing them you know three black male
2 subjects.

3 Q. Was there any other description given other than
4 three black male subjects?

5 A. I don't recall 100 percent, no.

6 Q. You -- I believe your testimony was upon your
7 arrival back at the station the first person that you
8 began to interview was Hayes is that correct?

9 A. That is correct, yes.

10 Q. And did Hayes provide you with any helpful
11 information?

12 A. No, sir.

13 Q. Do you recall approximately what time you began
14 interviewing Mr. Hayes?

15 A. Probably around to the best of my recollection maybe
16 around 1:10, 1:20 in the morning.

17 Q. And how long ---

18 A. --- it should be noted though on my Advisement of
19 Rights forms that I read to him the exact time.

20 Q. Okay. How long after you began -- how long did you
21 interview Mr. Hayes for?

22 A. Maybe you know we went in there and talked probably
23 20 minutes, 25 minutes at the most.

24 Q. So until based on your approximations, and again
25 I'll concede that they are approximations, you

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1 interviewed Mr. Hayes from approximately 1:20 a.m. until
2 approximately 1:45 a.m. Would that be ---
3 A. --- that's a fair statement.
4 Q. That's a fair statement, okay. What did you do
5 after you completed your interrogation of Mr. Hayes?
6 A. At that point I began the process of interviewing
7 Mr. Parks.
8 Q. Okay. Were you in touch with Sergeant Horton via
9 telephone at any time during this prior to talking to Mr.
10 Parks?
11 A. No.
12 Q. So you began your interview of Mr. Parks at
13 approximately 1:50 ---
14 A. --- I want to say 1:50.
15 Q. 1:50?
16 A. To the best of my recollection and again it should
17 be noted on his Advisement of Rights forms.
18 Q. And actually now that I'm looking at my notes I
19 think that's what your previous testimony was that you
20 began interviewing Mr. Parks at 1:50. Fair statement?
21 A. Uh Huh.
22 Q. Okay. How long did that interview with Mr. Parks
23 take?
24 A. We started the standard Mount Pleasant Police
25 Department Advisement of Rights form and we were working

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1 through the Miranda process and seeing if he was going to
2 waive his rights and talk to me and that's when I was
3 interrupted being asked by an officer who was in the
4 patrol room being asked to contact Sergeant Horton.

5 He had tried to contact me on my cell phone and I
6 didn't have my cell phone in my pocket. Like I said when
7 I go into an interview I want it quiet. I don't want any
8 distractions. I leave all that stuff on my desk in the
9 Criminal Investigations Unit.

10 Q. Okay. So the process, the administrative process
11 that you were just describing, the advisement of rights
12 and all that sort of stuff how long did that take?

13 A. Probably ten minutes or so.

14 Q. Okay. Would it be fair to say that by the time you
15 completed based on your previous testimony and your
16 estimate of ten minutes by the time you completed that
17 initial part of the interview with Mr. Parks its 2
18 o'clock in the morning?

19 A. Roughly.

20 Q. Okay. So at 2 o'clock in the morning you began
21 interviewing Mr. Parks. He's indicated that he is
22 willing to speak with you.

23 A. Yes.

24 Q. Okay. How long did your interview with Mr. Parks
25 take?

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1 A. From beginning to end or from beginning to
2 interruption, after interruption to going to the scene?

3 Q. Okay. You're at the station with Mr. Parks. I
4 think you testified you were interviewing him in BA room?

5 A. Correct.

6 Q. So this portion of your interview with Mr. Parks
7 that's taking place in a BA room how long did that take?

8 A. Again we're going on approximation of times.

9 Q. I'm comfortable with that if you're comfortable with
10 that.

11 A. So I would say around 1:57 was the first
12 interruption when I went and called Sergeant Horton;
13 1:57, 1:58 something like that in the morning when I go
14 and call Sergeant Horton. Sergeant Horton and I talk. I
15 go back in and talk to Mr. Parks.

16 Mr. Parks relays information to me of the third
17 individual involved in this armed robbery. I go back out
18 and call Horton. I come back in and gather a little bit
19 more information and at that point I make the
20 determination that I'm responding to the scene.

21 Q. If I could ask my question in another way perhaps.
22 You testified just now that you called Sergeant Horton at
23 1:57. That's a pretty specific time. You're certain ---

24 A. --- to the best of my recollection, yes.

25 Q. Okay. You also testified at approximately 2

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1 o'clock was when you finished the administrative --
2 giving Mr. Parks his Miranda rights?

3 A. Yes.

4 Q. So those were simultaneous with one another then
5 1:57, 2 o'clock?

6 A. I mean it was right in that timeframe. And again if
7 I had the advisement I could tell you because after he
8 signs saying he's going to waive his rights and talk to
9 me that's practice and usually what I do is note the time
10 that I'm signing that form. To lock me into an exact
11 time without my form right here in front of me I don't
12 want to do.

13 Q. And please I'm not trying to lock you into a time.
14 Did the call to Sergeant Horton and the completion of the
15 Miranda process ---

16 A. --- they kind of went hand and hand together ---

17 Q. --- happen simultaneously ---

18 A. --- real quickly, yes.

19 Q. Okay. That's what I was looking for.

20 A. And we were at the point that he was going to
21 cooperate that he was willing to talk to me about what
22 occurred that night and the players involved.

23 Q. What was the substance of the conversation that you
24 had with Sergeant Horton at 1:57?

25 A. The conversation was we think that we have a third

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1 individual involved in this robbery. He knew --if you
2 have any suspect that is cooperating could you see if he
3 can get me any information to further this stop, to
4 further this investigation.

5 Q. Did Sergeant Horton tell you why he believed he had
6 the third suspect in custody?

7 A. He said that they had stopped a vehicle leaving the
8 area of the Old Village and they felt that he could
9 potentially be involved in this armed robbery. I don't
10 recall him going into specific details as to why they
11 thought he was involved.

12 It was basically hey you're there, you're
13 interviewing this guy, we think we have a third
14 individual on this traffic stop. See what information
15 you can gather for us on a potential third subject
16 involved in this robbery.

17 Q. Would you describe that as normal procedure or did
18 it strike you as odd that Sergeant Horton didn't provide
19 you with any information as to why they felt like they
20 had the third suspect in custody?

21 A. First and foremost no traffic stop is normal.
22 Secondly we're investigating an armed robbery where we
23 potentially have a third individual that is still at
24 large and a gun floating on the street. So obviously
25 it's kind of known that we are going to work together and

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1 work through this because number one we want to get a gun
2 off the street. I don't want a random kid walking down
3 the street picking up a gun and potentially harming
4 themselves.

5 So it's not that he needed to go into detail. He
6 said hey we believe we have a third subject on a traffic
7 stop. It's not for me to ask him why do you believe you
8 have a third subject. He asked me to get him something
9 and so I began getting facts for him.

10 Q. You didn't -- it didn't seem like it would be
11 something important in terms of you furthering your
12 investigation as to why Sergeant Horton believed that he
13 had the third suspect in custody?

14 A. Can you ask that one more time ---

15 Q. --- that the reason why he believed he thought he
16 had the third suspect in custody wouldn't that have been
17 helpful to you in your investigation?

18 A. No, not at that point because we were just beginning
19 the process and I was trying to measure Randi Parks
20 compliance; if he was going to be honest and be
21 cooperative in this investigation or not.

22 Had I walked back into that room and he said hey
23 man, I'm not talking to you it would have been a call to
24 Horton you know this guy is not cooperating I don't know
25 what to tell you. But Parks began relaying pertinent

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1 information about the description and the identity of
2 this third individual. And so in turn I called Sergeant
3 Horton back and relayed that to him.

4 Q. Okay. And that was the call at 1:57?

5 A. He called me and I went in and talked to Parks and
6 got basic descriptive information, what kind of vehicle
7 they were in and a description of the individual and
8 relayed that back to Horton.

9 We talked briefly about those facts and he said see
10 if you can get me anything else about this guy; if there
11 are any contents in the vehicle that he remembers
12 sticking out or anything like that. I go back in and I
13 talk to Parks. I don't know exactly what time it was.

14 Q. May I stop you for a second? The initial post
15 Miranda interview that you had with Randi Parks previous
16 to you being able to relay descriptive information to
17 Sergeant Horton by telephone how long did that interview
18 take place? How long was that interview?

19 A. It was very short. I mean I don't even...

20 Q. Ten minutes?

21 A. Probably five or ten minutes I'm thinking. It was
22 very -- it could be less than that. It was very short
23 lived. It was hey, you know these guys are saying that I
24 need to go call this supervisor. He had agreed to waive
25 his rights and talk to me. Give me a second; I'll be

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1 right back with you. I go out and make the call and come
2 back in and this is what I've got. They think they are
3 out with the third subject if you are willing to
4 cooperate, give me a description of this guy. And there
5 was no time stamp. At the time we didn't have video
6 cameras in our interview rooms to record. So I wasn't ---

7 Q. --- wasn't it not in a BA room?

8 A. That's for -- I mean you know as well as I know
9 that's for a municipal magistrate level offense. That's
10 mandated by SLED. I can't fire up the old BA camera; you
11 know that.

12 Q. So by the time you received -- according to your
13 testimony by the time you received this scripted
14 information that you could relay to Sergeant Horton it
15 was approximately 2:10?

16 A. I think it was -- I mean I think it was even before
17 that.

18 Q. So 2 o'clock?

19 A. Sure.

20 Q. And that would have been you would have placed a
21 call to Sergeant Horton immediately thereafter?

22 A. Correct.

23 Q. So in that 2:05, 2:10 range is when you first
24 provided information from Randi Parks to Sergeant Horton?

25 A. Correct.

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1 Q. Okay. The initial information that Mr. Parks gave
2 you was that this third suspect would have been a black
3 male with cornrows driving a blue or green truck or jeep.
4 Was that the balance of the description that you provided
5 to Sergeant Horton the first time?

6 A. Correct.

7 Q. Okay. Subsequent to speaking to Sergeant Horton
8 you went back to interview Mr. Parks more?

9 A. And I wouldn't even call it an interview. Basic
10 questions, hey is there anything else you can tell me
11 about this vehicle or the contents or anything about what
12 happened.

13 Q. Okay. How long was the telephone conversation that
14 you had with Sergeant Horton at that time?

15 A. Probably less than a minute.

16 Q. Okay. And was there some discussion about the
17 officer's on the scene making an arrest based on that
18 description that was provided at that time?

19 A. No. It was you know the discussion was let's see if
20 we can get him to come to the station and talk to us.

21 Q. I'm curious as to why he wasn't arrested at that
22 time particularly if there was some concern about a gun
23 and things of that nature and that he matched the
24 description ---

25 A. -- it was probable cause because the investigation

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1 was developing and probable cause was continuing to
2 develop.

3 Q. Okay. So the investigation was developed while
4 Sergeant Horton and Officer Gillespie were holding Darren
5 Belt at the Scotchman on Coleman Boulevard is that a fair
6 statement?

7 A. The investigation -- I mean I wanted to go out
8 there. My goal was you know to see if he was going to
9 comply and come to the station and talk with us. If he
10 would have said okay, I'll come to the station and talk
11 to you I would have never gone to the Scotchman that
12 night. So the investigation was developing, yes.

13 Q. Okay. My question to you was essentially a
14 restatement of your previous testimony. The
15 investigation was ongoing while Sergeant Horton and
16 Officer Gillespie were holding Mr. Belt at the Scotchman
17 on Coleman Boulevard ---

18 A. --- correct.

19 Q. Okay. When did you -- was it in your subsequent
20 interview with Mr. Parks that you first -- when was the
21 third suspect identified as "L" do you recall?

22 A. It was either in the first or the -- I believe it
23 was in the first.

24 Q. Okay. So it was the second interview with Mr. Belt
25 that you learned about the book bag?

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1 A. Mr. Parks? Yes.

2 Q. I'm sorry; what did I say?

3 A. Belt.

4 Q. I apologize. In the second half of your interview
5 with Mr. Parks that's when he first informed you about
6 this book bag that was supposedly in the car?

7 A. Correct. To the best of my recollection, yes.

8 Q. Okay. Do you recall how long that second interview
9 or the second -- or I guess it's not a second interview
10 but the second half of that interview do you recall
11 approximately how long that took?

12 A. Maybe a minute at the most. It was very short
13 lived.

14 Q. Okay. So I'm going to ask you Detective Eckert
15 based on some of the approximations that we've sort of
16 agreed upon in terms of time would you say that at this
17 point we're in the 2:50, 2:20 in the morning range? Is
18 that fair?

19 A. I mean I've been in here and watched the video just
20 as you have and it was 2:10 when I got there. I mean I
21 don't know if the clocks weren't marked right. I don't
22 know.

23 Q. I'm just going by your testimony about your
24 estimates about how long these things took.

25 A. Sure. And again those aren't set times. I didn't

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1 write down each time.

2 Q. How long did it take you to drive from the police
3 station to ---

4 A. --- three to four minutes.

5 Q. Okay. You testified that the third suspect Mr.
6 Belt looked identical to the description that was
7 provided to you by Mr. Parks?

8 A. Yes. I mean I felt that he matched up, yes.

9 Q. And that description being of a black male with
10 cornrows?

11 A. Uh Huh.

12 Q. And an injured eye?

13 A. Uh Huh.

14 Q. Okay. Did he provide -- did Mr. Parks provide any
15 description of clothing that the third suspect might be
16 wearing?

17 A. No.

18 Q. Okay. Now you've been in the courtroom during the
19 testimony of the previous officers and you've heard
20 Officer Gillespie refer to the third suspect's hair being
21 in braids. Do you recall that?

22 A. Correct.

23 Q. Okay. And you've also testified that Mr. Parks
24 stated that the third suspect's hair was in cornrows.

25 A. Correct.

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1 Q. Are those hair styles synonymous in your mind?

2 A. You know when I saw him I saw two portions of his
3 hair that looked like in the shape of a row. I guess you
4 know I'm not a barber by trade I guess there are
5 different hairstyles. I cut mine completely off.

6 When he said cornrows and I saw the two portions on
7 top of his head it looked like rows and then they came
8 down into braids. I didn't see the braids originally
9 when I was talking to him when he was in the car. I saw
10 these two stripes I guess up on top of his head and I
11 associated that as being cornrows.

12 Q. Two stripes? Is his hair parted down the middle?
13 Is that what we're talking about?

14 A. No. I mean they were raised on the sides.

15 Q. Okay. How would you describe if you were talking
16 to somebody on the street and you were trying to describe
17 to them what a cornrow hairstyle looked like how would
18 you describe cornrow hairstyle?

19 A. Going back now and doing more research on cornrows
20 its more rows of hair raised up.

21 Q. Okay. Would that have matched the description that
22 you observed on ---

23 A. --- no he didn't have rows of hair raised up. What
24 I'm trying to say is when I saw the two sides that looked
25 raised opposed to what was in the middle...

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1 Q. That was cornrows to you?
2 A. Well ---
3 Q. --- at the time?
4 A. I mean I thought it was going with the description
5 that had been relayed to me by Parks.
6 Q. Okay.
7 A. And I don't know Parks knowledge of hair. And I
8 didn't ask him to elaborate on that.
9 Q. Okay. You upon your arrival and you arrived on the
10 scene at did you say 2:21?
11 A. I don't know. I don't recall exactly.
12 Q. Okay. You began questioning Mr. Belt. Is that an
13 accurate statement?
14 A. I began speaking with him yes about where he was,
15 where he was coming from.
16 Q. Did you read him his Miranda rights ---
17 A. --- no, sir ---
18 Q. --- prior to asking any of those questions?
19 A. No, sir.
20 Q. In your mind at that particular time was Mr. Belt
21 free to go if he didn't want to answer your questions?
22 A. We were working through that. I was there to make a
23 decision as to if he was involved or if he wasn't
24 involved. Again I go back to I wanted him to come to the
25 station. That's the main reason I went there was to see

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1 if he would ride with me to the station so we could
2 discuss the events of that evening.

3 Q. And when he told you that he would not go to the
4 station with you was he free to go at that point?

5 A. No, because at that point I felt that we were there
6 still investigating and that's when I stepped off and
7 conferred with Sergeant Horton about the totality of
8 everything that we had.

9 Q. Was Mr. Belt free to do -- to the best of your
10 knowledge was he free to go at any time prior to your
11 arrival on the scene?

12 A. No because I mean they had developed their own
13 cause, their own facts supporting why they thought he was
14 involved and it was a continuous investigation.

15 Q. So would it be a fair statement to say that Mr. Belt
16 was in custody of police essentially from the time he was
17 pulled over?

18 A. I would say he was detained and not free to go as we
19 were still investigating this armed robbery that had
20 occurred.

21 Q. You asked Mr. Belt where he was going and where he
22 was coming from and things of that nature?

23 A. Correct.

24 Q. And I believe your testimony was that he provided
25 you the name of some neighborhood that didn't exist ---

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1 A. --- the name of the neighborhood he provided me I
2 never heard of in Mount Pleasant and I've been there
3 since 2000.

4 Q. Do you recall what that name was?

5 A. I didn't write it down. It had something to do with
6 Shadows. I don't recall exactly what he said.

7 Q. And isn't it true there is a North Shadow Drive that
8 is not terribly far from where you pulled over ---

9 A. --- it's a good distance up the road from where we
10 are, yes.

11 Q. How far away are we talking?

12 A. I would say probably three to five miles.

13 Q. If somebody was lost looking for that is it possible
14 that person would be in that vicinity at that particular
15 time?

16 A. I mean they were well off the beaten path from
17 Hickory Shadows; well off the beaten path.

18 Q. Okay. Now Mr. Parks in your interview with him
19 provided you with information that the three suspects had
20 been at a house on North Shadow Drive earlier in the day
21 is that correct?

22 A. Correct.

23 Q. Okay. So it's not unreasonable to think that
24 perhaps Mr. Belt was trying to go back to the same
25 location?

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1 A. But at that point I had not been provided with that
2 information from Mr. Parks. At that point in the
3 investigation I had it wasn't until after we took Mr.
4 Belt into custody and delivered him back to the station
5 and then continued to interview Mr. Parks had I learned,
6 and it might have even have been the day after when we
7 did a reinterview with Mr. Parks, that specifically where
8 they had been in the Hickory Shadows subdivision. So at
9 that point I didn't know they had been in Hickory
10 Shadows.

11 Q. Fair enough. Now Mr. Parks gave you all of this
12 information that you used to develop probable cause to
13 arrest Mr. Belt is that correct?

14 A. That is correct.

15 Q. Okay. Was the information that Mr. Parks gave you
16 also the basis for reasonable suspicion to hold Mr. Belt
17 pending investigation?

18 A. The information that Mr. Parks had provided me was
19 developing this case. And when he said that he wouldn't
20 -- when Mr. Belt said that he wouldn't come to the
21 station that's when I made the determination to go out
22 there. So yes that's why we continued to hold onto Mr.
23 Belt.

24 Q. Would it be a fair statement to say you're a
25 detective with the Town of Mount Pleasant Police

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1 Department is this your case? Is this your baby shall we
2 say?

3 A. I wouldn't call it my baby.

4 Q. Were you the lead detective in this case?

5 A. I was the lead detective. I've have 715 different
6 cases in my four years of being in there. I mean I
7 wouldn't call this a baby.

8 Q. This is one of you many, many babies shall we say?
9 Fair?

10 A. We'll call it that.

11 Q. What is your understanding of the reasonable
12 suspicion that officers had to hold Mr. Belt at the
13 Scotchman?

14 A. My understanding is that there was an armed robbery
15 that occurred at 12:15, at approximately 12:15 in the
16 morning while I was out following up on another case.
17 That three suspects had fled from the scene, that two
18 were captured shortly after the fact, that there was a
19 perimeter set up in the Old Village to try and locate a
20 third suspect.

21 Then after a certain amount of time and the
22 detective's office works hand in hand with the patrol
23 division that after a certain amount of time Sergeant
24 Horton made a determination to lift the perimeter, leave
25 one person in there because I've worked numerous cases

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1 where we have done this and somebody is caught shortly
2 after when they think that the police have pulled out and
3 left the perimeter and then they see this vehicle driving
4 out at a high rate of speed. They make a traffic stop on
5 it.

6 And mind you I was off the air at this point. I'm
7 back at the station; I'm not privy to any of this. And
8 they've come up with their own facts supporting why they
9 need to continue to detain him and get information to me
10 as they believe that this could be the third individual
11 involved.

12 Q. As the lead detective in this case would they have
13 described the circumstances that led them to have
14 reasonable suspicion to hold Mr. Belt to you?

15 A. As the lead detective I don't think that's
16 necessary. It's multifaceted. It's unfolding. I'm
17 tasked with interviewing people. I'm at the office
18 interviewing people and we're sharing facts with each
19 other.

20 Q. Okay. I don't want to put words in your mouth
21 though would it be fair to say that your answer then is
22 you're not sure what their reasonable suspicion was.

23 A. No. I mean they are police officers. They're
24 trained. They're trained. They made a stop for what
25 they reported was a violation. Whether it was involved

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1 with this robbery or not if it would have been any other
2 individual who they didn't feel was involved with it they
3 probably would have wrote the ticket and been on the
4 their way.

5 For whatever reason their senses were heightened and
6 suspicion arose to a point where they said hey let's get
7 with the detective that are interviewing people and see
8 if this guy potentially could match up.

9 Q. Again I don't want to put words in your mouth but I
10 want to see if I can summarize what you've stated. Your
11 understanding of their reasonable suspicion there are
12 grounds for ---

13 MR. ZIEGLER: --- objection, Your Honor, this was
14 asked and answered.

15 THE COURT: Let him finish the question.

16 Q. [Mr. DeTreville] Your understanding of the basis for
17 their reasonable suspicion for holding Mr. Belt was they
18 had a feeling about it.

19 A. No. My understanding that their basis was their
20 first-hand observations that they observed at the scene
21 when they chased a group of three people across Coleman
22 Boulevard into the Old Village and everybody scattered.

23 You know I don't know what Gillespie was feeling at
24 that point. I can't testify to that. But he had for
25 whatever reason he had a belief that he could potentially

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1 be involved which tipped them off to contact me to see if
2 the other two that were at the station were cooperating.

3 Q. So they held him for 45 minutes based on Officer
4 Gillespie's belief that this particular individual was
5 involved ---

6 MR. ZIEGLER: --- objection, Your Honor. That's
7 speculation about another officer's belief of what he is
8 observing.

9 THE COURT: Sustained. Move on. Thank you.

10 Q. [Mr. DeTreville] The information that Mr. Parks
11 provided you on that particular evening that was later
12 determined to be largely untruthful. Is that a correct
13 statement?

14 A. There was definitely I call it half truths. I mean
15 you call it largely untruthful. We never get the full
16 truth; we never do.

17 In my experience in doing this job people try to
18 minimize their involvement. They want to know what
19 information you have and through this investigation yes
20 it wasn't 100 percent completely true at all.

21 Q. Okay. You've stated in your previous testimony
22 that Parks told you that the third suspect was from
23 Columbia is that correct?

24 A. That was a mistake on my part. What I was saying is
25 that they came down from Columbia earlier that day and I

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1 tried to correct that; I do apologize.

2 Q. No problem. I must not have caught the second part
3 of that.

4 A. They had been in Columbia and they came down from
5 Columbia that day.

6 MR. DETREVILLE: If I might have just a moment, Your
7 Honor.

8 THE COURT: Take all the time you need.

9 [Whereupon, Mr. DeTreville reviews documents]

10 Q. [Mr. DeTreville] You testified on direct examination
11 that you briefly looked into Mr. Belt's vehicle is that
12 correct?

13 A. Correct.

14 Q. Okay. And you were looking for things in plain
15 view I think was also your testimony?

16 A. Correct.

17 Q. Okay. And what were you looking for?

18 A. Just to see if there was a gun in plain view. More
19 than anything a gun because I knew that there was a gun
20 still missing. We had one guy Parks he was in custody.
21 We knew that there was a gun involved.

22 Hayes was in custody on unrelated charges. We
23 hadn't made the determination to charge Hayes at that
24 point with the robberies. More than anything I was
25 looking for a gun.

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1 Q. Did you enter Mr. Belt's car as part of that search
2 for a gun?

3 A. I think I stuck my head in there yes, sir.

4 Q. Okay. And were you concerned that if there had
5 been a gun in plain view that Officer Gillespie or
6 Sergeant Horton would not have noticed that gun in plain
7 view?

8 A. I wanted to look for myself, my own observations as
9 I was going back to do the interviews with these
10 suspects.

11 Q. Okay. How long would you say that your search of
12 Mr. Belt's vehicle ---

13 A. --- it was very short. I think I maybe looked in
14 the driver's side and passenger side and then I think I
15 looked in the trunk area; very short lived.

16 Q. Did you collect anything as part of ---

17 A. --- no sir.

18 Q. Okay. Do you recall observing a black hat or black
19 shirt or anything of that nature?

20 A. No, I don't.

21 Q. Okay. And at the time that you were looking for a
22 gun in plain view was that at the same time that Sergeant
23 Horton was searching the car and Corporal Myers was
24 searching the car as well or was that at a different
25 time?

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1 A. I want to say it was probably right around the same
2 time, yes.

3 Q. Okay. So were the three of you searching the car
4 at the same time?

5 A. Again I don't want to say that I was searching. To
6 me when you're searching incident -- I'm sorry, inventory
7 or searching incident to arrest you're physically going
8 in and manipulating things and writing down what you see
9 on an evidence sheet. I'm sorry; not an evidence sheet a
10 tow sheet because that's what the wrecker driver gets a
11 copy of and that's what stays with the vehicle.

12 I wasn't there to fill out a tow sheet okay. I had
13 other things to do at the station as far as interviewing
14 suspects. I wanted to see firsthand for myself if there
15 was a gun or anything related to this robbery was in
16 plain view in that vehicle.

17 Q. Okay. So search to you doesn't involve sticking
18 your head into a vehicle and looking around ---

19 A. --- that's in plain view you know. I wasn't
20 manipulating things.

21 MR. DETREVILLE: No other questions, Your Honor.

22 THE COURT: Mr. Ziegler?

23 MR. ZIEGLER: May I approach the witness, Your
24 Honor?

25 THE COURT: You may.

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REDIRECT EXAMINATION

BY MR. ZIEGLER:

Q. Corporal Eckert I'm going to show you a document and ask you if this refreshes your memory about what time your interview with Mr. Parks began.

[Whereupon, the witness is shown document]

A. At 1:45 in the morning.

MR. DETREVILLE: Your Honor, may I see a copy of that document?

[Whereupon, Mr. DeTreville reviews document]

Q. [Mr. Ziegler] And now I will show you a screen shot Corporal Eckert of the video from Officer Gillespie's in car camera.

[Whereupon, the video plays]

Q. Do you see yourself on the screen there?

A. Yes, that's me walking in.

Q. Okay. That's when you arrived at the scene more or less?

A. Correct.

Q. And about what time is the time stamp on that?

A. 2:10.

Q. And so at 1:45 -- between 1:45 and 2:10 do you know exactly precisely when you had your conversations with Sergeant Horton?

A. No. It was not noted down anywhere. There were as

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1 I've described a series of conversations.

2 MR. ZIEGLER: No further questions, Your Honor.

3 MR. DETREVILLE: Briefly, Your Honor?

4 THE COURT: Take your time.

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1 Mr. Parks at any time prior to 2:40 a.m. ---

2 A. --- no, sir ---

3 Q. --- is that correct?

4 A. Correct.

5 Q. Okay.

6 MR. DETREVILLE: No other questions, Your Honor.

7 THE COURT: You may step down.

8 THE WITNESS: Thank you, Your Honor.

9 [Whereupon, the witness is excused and exits the

10 witness stand]

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1 THE COURT: Do you have any additional witnesses
2 today?

3 MR. ZIEGLER: Nothing further for the suppression
4 hearing, Your Honor.

5 THE COURT: Okay. Will you have any witnesses?

6 MR. DETREVILLE: Me, Your Honor? I don't believe I
7 will have any witnesses at this time.

8 THE COURT: We're just ---

9 MR. ZIEGLER: --- Corporal Myers for the
10 suppression hearing but he will be here in the morning.

11 THE COURT: All right. So can we do anything else
12 today?

13 MR. ZIEGLER: If we may approach Your Honor we
14 might be able to address some of the rest of the pretrial
15 issues if I can bring them up at this point.

16 THE COURT: All right.

17 MR. ZIEGLER: We do have some questions about -- I
18 don't know if there is going to be a Jackson v Denno or
19 Neil v Biggers motion from the defense but that may be an
20 issue. We will also need to discuss the use of previous
21 trial transcripts and also discuss evidence marking from
22 the evidence from the previous trial which is here in the
23 courtroom and how we're going to handle those markings.

24 THE COURT: Mr. DeTreville, what about the
25 statements? Are we going to need a Denno hearing

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1 particularly?

2 MR. DETREVILLE: My intention Your Honor was to
3 include the suppression of the statements in this sort of
4 omnibus motion to suppress. I've included that in my
5 written motion. I can do that in any fashion that Your
6 Honor prefers but I think that I've elicited the
7 testimony necessary ---

8 THE COURT: --- do you have any additional
9 testimony?

10 MR. ZIEGLER: There was an interview at the
11 station, Your Honor, and I do have the detective here who
12 conducted that interview.

13 THE COURT: All right. Do we need to hear from
14 that detective?

15 [Whereupon, Mr. DeTreville and Mr. Ziegler confer]

16 MR. DETREVILLE: I'm not going to be moving to
17 suppress those particular statements at this time, Your
18 Honor.

19 THE COURT: So what statements are you moving to
20 suppress?

21 MR. DETREVILLE: The statements that were elicited
22 from the defendant at the traffic stop prior to him being
23 Mirandized.

24 THE COURT: And...

25 MR. DETREVILLE: Specifically of primary importance

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1 there was a question asked of Mr. Belt regarding some
2 latex gloves that were allegedly seen in the car.

3 THE COURT: Which officer did testify to that?

4 MR. DETREVILLE: That was Officer Gillespie, Your
5 Honor.

6 THE COURT: Do you need any additional testimony
7 from him?

8 MR. DETREVILLE: From Officer Gillespie?

9 THE COURT: Mr. Ziegler?

10 MR. DETREVILLE: Oh, I'm sorry, Your Honor.

11 MR. ZIEGLER: Your Honor, we would stipulate that
12 we don't need to bring in anything about the question
13 about the latex gloves.

14 MR. DETREVILLE: I guess that resolves the motion
15 for ---

16 THE COURT: --- that resolved that issue ---

17 MR. DETREVILLE: --- that resolves that particular
18 statement ---

19 THE COURT: --- so is that the only statement?

20 MR. DETREVILLE: There were some statements made as
21 was testified recently about where Mr. Belt was coming
22 from and where he was going and things of that nature.
23 We'd ask that those statements be suppressed as well.

24 THE COURT: All right. Mr. Ziegler?

25 MR. ZIEGLER: Your Honor, we would submit that

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1 those statements may come in under the general reasonable
2 suspicion standard of being able to briefly detain and
3 question someone who the police have reasonable suspicion
4 is involved in something more serious.

5 THE COURT: Any further argument on those
6 statements just specifically that they had been in
7 Columbia and the neighborhoods those questions? Is that
8 what you're talking about?

9 MR. DETREVILLE: The neighborhood that he was
10 looking for, where he was going, where he was coming
11 from; things of that nature. I think those are really
12 only questions that he responded to that I've been made
13 aware of.

14 THE COURT: And tell me the basis that they should
15 be suppressed is he was not given Miranda?

16 MR. DETREVILLE: That he was in custody at the
17 time, Your Honor that he was being interrogated that that
18 questioning of him was custodial interrogation and that
19 he hadn't been given his Miranda rights at the time.

20 THE COURT: Well Mr. DeTreville doesn't our case
21 law allow for those types of questions pre-Miranda
22 without Miranda? Wouldn't you agree?

23 MR. DETREVILLE: I would concede that if Your Honor
24 is telling me so.

25 THE COURT: All right. So based upon the

State v Darren Belt
Suppression Hearing
September 15, 2015

1 testimony that I have heard and again I'm going to go
2 ahead and make these rulings with the understanding that
3 I may hear something tomorrow morning from Officer Myers
4 that would change the ruling all right.

5 But I'm going to go ahead so that you can start
6 preparing your openings and your witnesses I'm going to
7 allow the questions regarding the neighborhood where he
8 had been, where he was going to. I do not find that they
9 under the case law require Miranda. They were not in
10 response to any custodial interrogation. They were
11 detaining simply making a determination of what was going
12 on. Is there -- do we need a Biggers hearing?

13 MR. ZIEGLER: Would defense waive the...

14 MR. DETREVILLE: I don't believe -- I don't think
15 that is going to be required in this case, Your Honor.

16 THE COURT: All right. What else do we need to
17 address Mr. Ziegler did you think?

18 MR. ZIEGLER: Just some preliminary things about
19 use of the previous trial transcript to impeach witnesses
20 and how that should be approached as far as what the jury
21 hears from that. And also use of our evidence from a
22 previous trial. We need to figure out the markings on
23 that evidence if it would indicate to the jurors that
24 there was a previous trial.

25 THE COURT: I don't know how it would indicate

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1 there was a previous trial. It doesn't say trial; it
2 would be a different sticker correct?

3 MR. ZIEGLER: Correct.

4 THE COURT: Correct?

5 THE COURT REPORTER: A new sticker.

6 THE COURT: A new sticker. It doesn't say trial
7 held on it's just a date correct?

8 THE COURT REPORTER: Correct. The sticker has a
9 date on it.

10 THE COURT: But it doesn't say trial sticker or
11 trial of a co-defendant or anything of that nature so
12 we'll just stick on our own so that it's clear for both
13 the previous trial as needed and this trial as needed.
14 So there will be two stickers.

15 As to the transcript usage just follow the rules
16 that it would just be at a previous hearing under oath
17 you gave this testimony.

18 MR. DETREVILLE: I think the question was is we
19 don't have for example sealed transcripts and things of
20 that nature. We simply have copies of the transcript
21 that was emailed essentially to us by the court reporter.
22 That throws -- we were seeking some guidance from Your
23 Honor as to how you felt about that.

24 THE COURT: Well, it's not an official transcript.
25 So then it becomes -- I mean are y'all going to stipulate

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1 that that is the testimony? That becomes a question and
2 then whose copies are you using?

3 MR. ZIEGLER: Well the transcript is from the court
4 reporter from that previous trial.

5 THE COURT: No, it's not. It's a copy of a
6 transcript. It's not the official transcript correct?

7 MR. ZIEGLER: Yes.

8 MR. DETREVILLE: It was the only one that was
9 provided to us Judge.

10 MR. ZIEGLER: It's an electronic copy of the court
11 reporter's transcript.

12 THE COURT: Well who has the sealed copy?

13 MR. ZIEGLER: I do not have it.

14 THE COURT: How did you get the copy of the
15 transcript?

16 MR. ZIEGLER: We received it electronically.

17 THE COURT: From?

18 MR. ZIEGLER: From the court reporter. I can
19 double check with my office to see if maybe we did
20 receive it ---

21 THE COURT: --- you understand the purpose of
22 having a sealed transcript.

23 MR. ZIEGLER: Yes, Your Honor.

24 THE COURT: A teaching moment. What's the purpose
25 of the sealed transcript?

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1 MR. ZIEGLER: So that it can't be modified.

2 THE COURT: Correct. So I don't know where the
3 official transcript is. If the two of you agree that
4 what you are using is the transcript then that is a
5 stipulation that y'all will need to make and it will need
6 to be a document that you use right?

7 MR. ZIEGLER: Yes, Your Honor.

8 MR. DETREVILLE: A single document is what you're
9 saying, Your Honor.

10 THE COURT: Because it can't -- it will never be
11 the official document unless it's unsealed by the court
12 in open court. But if you're attempting to use it for
13 the purpose that I think you're attempting to use it and
14 you stipulate that that is what the transcript is then
15 we'll have a different analysis. But I'm still concerned
16 as to where the official transcript is.

17 MR. ZIEGLER: Your Honor, it may be in my office.

18 THE COURT: Sealed?

19 MR. ZIEGLER: It may be. I'm not sure. I'll have
20 to look into that.

21 THE COURT: Well, I think you understand my ruling.

22 MR. ZIEGLER: I do.

23 THE COURT: Thank you. Anything else?

24 MR. DETREVILLE: I think Your Honor we were seeking
25 guidance from the court regarding the criminal history of

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1 the Mr. Parks for purposes of impeachment and which of
2 those items on his rap sheet would be -- you would permit
3 us to use for that purpose.

4 THE COURT: And what is on his rap sheet that you
5 intend to use.

6 MR. DETREVILLE: Your Honor, he's got some 2004
7 convictions which I suppose would fall outside the realm
8 of what we could use. A 2005 misdemeanor; again would
9 fall outside of what we could use. He's got a 2005
10 second degree burglary conviction. He's got a 2007
11 receiving stolen goods, which is a misdemeanor also.

12 A 2011 possession of marijuana, and then in 2012 he
13 has four convictions for second degree burglary, two
14 convictions for grand larceny, and one for petty larceny,
15 which is again a misdemeanor. We would seek to use the
16 felony convictions from 2005 to 2012. That would be five
17 counts of second degree burglary and two counts of grand
18 larceny.

19 MR. ZIEGLER: No objection to using those, Your
20 Honor.

21 THE COURT: All right. That was simple. Thank
22 you.

23 MR. DETREVILLE: Your Honor for purposes of
24 advising my client as to whether it would be advisable
25 for him to testify in this matter I would seek the same

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1 clarification regarding his record, what could be used
2 against him if he were to take the stand.

3 THE COURT: Mr. Ziegler what is his prior record?
4 What's his prior?

5 MR. ZIEGLER: Beg the court's indulgence.

6 [Whereupon, Mr. Ziegler reviews documents]

7 MR. ZIEGLER: Your Honor, the defendant's prior
8 record appears to be 2005 drinking in public and entry on
9 land after notice ---

10 THE COURT: --- let's do it this way. Why don't
11 you tell me what you intend to use or you would offer to
12 use if he testifies for impeachment.

13 MR. ZIEGLER: Your Honor, there is a 2007
14 possession of cocaine base, 2009 a federal conviction of
15 a felony possession of a firearm. Those are the only
16 two.

17 THE COURT: All right. Mr. DeTreville, do you
18 agree that those are admissible for use for impeachment?

19 MR. DETREVILLE: I think they are both felony
20 convictions Your Honor and we would concede that they
21 could be used for impeachment purposes and I'll advise my
22 client the same.

23 THE COURT: Thank you, I agree. Thank you, Mr.
24 Ziegler. Any other pretrial motions or matters that we
25 can address?

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1 MR. DETREVILLE: Your Honor, I've not submitted to
2 you my requested jury instructions yet. May I file those
3 and will those get to you properly or would you prefer
4 that I submit those to you tomorrow afternoon?

5 THE COURT: Both. They will not get to me in the
6 manner that you think that they will get to me but they
7 will be made part of the court's record if and when that
8 becomes applicable. So if you would like to do that when
9 you provide a hard copy to me I will then mark them as a
10 court's exhibit for that same purpose as well.

11 MR. DETREVILLE: So I'll file the original and
12 provide you with a copy?

13 THE COURT: Correct.

14 MR. DETREVILLE: Thank you.

15 THE COURT: And if you -- we're working on the
16 charges now so if you'll go ahead and email them then
17 it's easy to cut and paste.

18 MR. DETREVILLE: I can do that, Your Honor.

19 THE COURT: Same to you Mr. Ziegler. Why don't we
20 take -- y'all take just a few moments, spend some time
21 with your client discussing what has happened today and
22 see if there is anything. I'd like to go ahead since we
23 are so tight on time for the remainder of the week if
24 there is anything else we can address. Just take about
25 ten minutes, talk to your client and see if there is

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1 anything else we can address, get any exhibits premarked.
2 Even if you think you're not going to use them go ahead
3 and mark them so that everything is ready to go promptly
4 in the morning. So we'll just be at ease to allow you to
5 do that. Thank you.

6 [Whereupon, State's exhibit numbers 2 through 32 are
7 marked by the court reporter]

8 [Whereupon, defendant's exhibit numbers 1 and 2 are
9 marked by the court reporter]

10 [Whereupon, court adjourns at 11:14 a.m.]

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STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF CHARLESTON	)	DOCKET NO. 2013-GS-10-4529
	)	2013-GS-10-4530
	)	
	)	
STATE OF SOUTH CAROLINA	)	
	)	
vs.	)	
	)	
DARREN KEITH BELT	)	
	)	
Defendant	)	
	)	
	)	
	)	
	)	TRANSCRIPT OF RECORD

September 16, 2015
Charleston, South Carolina

VOLUME 3 (of 4)

B E F O R E:

THE HONORABLE KRISTI L. HARRINGTON, JUDGE

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PROCEEDINGS

THE COURT: Mr. DeTreville, are you ready?

MR. DETREVILLE: I am indeed, Your Honor.

THE COURT: Is the State ready?

MR. ZIEGLER: Yes, Your Honor.

THE COURT: All right. Call your next witness.

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Suppression Hearing-Gary Myers-Direct Examination by Mr. Ziegler
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1 MR. ZIEGLER: The State calls Corporal Gary Myers.

2 THE COURT: Mr. Ziegler, Mr. DeTreville you have
3 premarked State's 1 through 32 and defendant's 1 and 2 is
4 that correct?

5 MR. ZIEGLER: That's correct.

6 THE COURT: Are they coming in without objection?
7 Sir, please come forward and take the stand.

8 [Whereupon, Mr. Myers comes forward]

9 THE COURT: Are they coming in without objection?
10 It's a yes or no. Yes, no?

11 MR. DETREVILLE: Subject to our motions, Your Honor
12 that we'll apply to ---

13 THE COURT: --- okay, thank you.

14 [Whereupon, the witness is duly sworn by the Clerk
15 of Court]

16 CLERK OF COURT: Please state your full name and
17 spell your last name for the record.

18 THE WITNESS: Gary Allen Myers, M-Y-E-R-S.

19 - - - - -

20 GARY MYERS,

21 Having been first duly sworn,

22 Was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. ZIEGLER:

25 Q. Good morning Officer Myers.

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- 1 A. Good morning.
- 2 Q. What is your rank with the police department?
- 3 A. I'm a corporal.
- 4 Q. What police department do you work for?
- 5 A. Mount Pleasant Police Department.
- 6 Q. How long have you been in law enforcement total?
- 7 A. Since October 2013.
- 8 Q. In all ---
- 9 A. --- correction 2003, so eleven and half years.
- 10 Q. And so how long with Mount Pleasant Police
- 11 Department?
- 12 A. All that time.
- 13 Q. Okay. In May 2013 what was your role with Mount
- 14 Pleasant Police Department?
- 15 A. I was a corporal working on a patrol team.
- 16 Q. Okay. And as a corporal on a patrol team what
- 17 responsibilities does that entail?
- 18 A. A sergeant was working that night so I was a patrol
- 19 officer basically just out patrolling the town of Mount
- 20 Pleasant and I believe that night, I'm not positive, but
- 21 I believe it was an all zones unit so I could go anywhere
- 22 in the town.
- 23 Q. So I want to direct you to May 7th, 2013. Do you
- 24 remember responding to an armed robbery incident that
- 25 night?

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1 A. I do, yes.

2 Q. And where was it that you first responded to assess
3 that incident?

4 A. It was called out in the area of Moultrie Middle
5 School which is off Coleman Boulevard. I responded to
6 the area of Simmons off of Coleman and I began patrolling
7 what we call the Old Village.

8 Q. Okay. And what were you patrolling for? What were
9 you doing?

10 A. It was described as an armed robbery that just
11 occurred to a person and there were three black males so
12 I was patrolling for anybody fitting that description.

13 Q. Okay. And were any of those potential subjects
14 involved in the robbery were any of them located?

15 A. Yes. Shortly after I got into the area Officer Ivey
16 advised that he was out with a male on I believe King
17 Street and Greenwich area of the Old Village and I
18 responded as a backup unit to him.

19 Q. Okay. And what did you find when you arrived
20 there?

21 A. He was out who was identified as Mr. Hayes. He was
22 on the ground saying that someone had a gun and he was
23 running from him.

24 Q. What happened with Mr. Hayes? Was he taken into
25 custody?

State v Darren Belt
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September 16, 2015

1 A. Yes, shortly thereafter he was placed under arrest.

2 Q. And what did you do after Mr. Hayes was arrested?

3 A. At that time another officer was on scene with Mr.

4 Hayes. Officer Ivey and I began patrolling the area for

5 other suspects along the area of Greenwich and Hamp Fludd

6 off of King.

7 Q. And what did you find?

8 A. Officer Ivey observed legs sticking out from under a

9 vehicle at which time it was a male that we had called

10 out. He complied and subsequently he was also placed

11 under arrest shortly thereafter.

12 Q. Did he have any items of interest on his person?

13 A. Yes, he had two wallets on him one of which was I

14 believe him and one was not his.

15 Q. Who was the other wallet belonging to?

16 A. I'm not sure exactly how to say it I believe it was

17 McElhenney was one of the I.D.'s that was in the wallet,

18 the other wallet.

19 Q. Who did you understand McElhenney to be?

20 A. One of the victims involved with the armed robbery.

21 Q. And so you said this second person was taken into

22 custody?

23 A. Yes.

24 Q. So as far as how many suspects of the robbery that

25 you had at that point how many were there?

State v Darren Belt
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September 16, 2015

1 A. We had two that were detained at that time.

2 Q. Okay. And after they were detained what did you do
3 then?

4 A. At that time I began patrolling that area just on
5 foot looking for the third suspect.

6 Q. And after searching what happened next while you
7 were searching?

8 A. Officer Gillespie called out with a traffic stop
9 vehicle leaving at a high rate of speed from the area at
10 which time Sergeant Horton arrived over with him and
11 asked that I come over to the traffic stop.

12 Q. Okay. When you got to the traffic stop what was
13 your participation? What did you do there?

14 A. They had placed another person under arrest. I
15 believe Officer Eckert was out there, Gillespie was out
16 there and Sergeant Horton. At that time I began an
17 inventory of the vehicle because it was being towed.

18 Q. Okay. What does that entail when you inventory a
19 vehicle?

20 A. You go through the vehicle. Because it's being
21 towed you check for anything of value. You note that on
22 the what we call tow sheet for purposes that nothing
23 becomes missing so you note those items on a tow sheet so
24 that when a person gets his car back those items should
25 still be in the vehicle.

State v Darren Belt
Suppression Hearing-Gary Myers-Direct Examination by Mr. Ziegler
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1 Q. And in the vehicle do you have any memory of finding
2 any clothing or seeing any clothing in the vehicle?

3 A. Clothing wise there was a book bag in the vehicle,
4 clothing I do not; not offhand no.

5 Q. What about the book bag that you just mentioned?

6 A. There was a book bag in the backseat that had some
7 letters inside of it that I found in the vehicle.

8 Q. Okay. And where was the backpack the book bag
9 located in the vehicle?

10 A. On the backseat I believe right behind the driver's
11 seat.

12 Q. Okay. And when you found it what did you do with
13 it?

14 A. We checked it for anything of value. Basically what
15 was in the backpack was some letters, a pair of white
16 shoes, an electric razor, a phone cord, and a flip phone.

17 Q. And what were the letters? Could you explain those
18 and where were they?

19 A. They were inside of a large zipper pouch inside the
20 backpack.

21 Q. Who were -- what was the nature of those letters?

22 A. I don't know exactly what the letters were. They
23 were some type of just regular mail letters. They had
24 the name it was either Ricky L. Hayes, Ricky Lamont Hays,
25 Ricky Hayes; I'm not sure if that was the name that was

State v Darren Belt

Suppression Hearing-Gary Myers-Direct Examination by Mr. Ziegler

September 16, 2015

1 on the letters.

2 Q. Okay. And at that point who did you understand

3 Ricky Hayes to be?

4 A. The first person that we had detained when we were
5 checking the area.

6 MR. ZIEGLER: No further questions for this
7 witness, Your Honor.

8 THE COURT: Mr. DeTreville?

9 MR. DETREVILLE: Thank you, Your Honor. May it
10 please the court?

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State v Darren Belt
Suppression Hearing-Gary Myers-Cross-Examination by Mr. DeTreville
September 16, 2015

CROSS-EXAMINATION

1
2 BY MR. DETREVILLE:

3 Q. Good morning Corporal Myers.

4 A. Good morning.

5 Q. So when you arrived on the scene of the traffic stop
6 Mr. Belt, the defendant, had already been arrested is
7 that correct?

8 A. I don't believe when I first arrived he was
9 arrested. I don't believe ---

10 Q. --- shortly thereafter ---

11 A. --- yes ---

12 Q. --- he was placed under arrest?

13 A. Yes, sir.

14 Q. Are you familiar with the Mount Pleasant Police
15 Department's general order regarding vehicle towing and
16 impounding? Is that something you're familiar as part of
17 your police training?

18 A. For the most part, yes.

19 Q. Okay. And are you familiar with the requirement in
20 that general order that an incident report be prepared as
21 part of towing and impounding any vehicle?

22 A. Yes.

23 Q. Okay. Did you prepare an incident report as part
24 of towing and impounding this vehicle?

25 A. There was an incident report completed for this

State v Darren Belt
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1 incident, yes.

2 Q. When you say there was an incident report completed
3 for this incident to what are you referring this
4 incident?

5 A. This was part of an incident involving an armed
6 robbery so there was an incident report completed for
7 this, yes.

8 Q. Okay. But your -- is it your understanding that a
9 separate incident report relating to the towing and
10 impounding the vehicle is not required then?

11 A. Not a separate one, no.

12 Q. Okay. Are you familiar with the requirement under
13 the terms of that general order that the incident report
14 is prepared as part of towing a vehicle include at a
15 minimum information regarding attempts to contact the
16 owner of the vehicle?

17 A. I'm not sure what you're asking. Is it required to
18 notify the owner of the vehicle?

19 Q. Are you familiar with the requirement of the general
20 order that the incident report prepared as part of towing
21 a vehicle contain at a minimum attempts to contact the
22 owner if not on the scene at the time of the tow and the
23 results of those attempts?

24 A. Okay. Attempts would be made at some point to
25 contact an owner of a vehicle, yes.

State v Darren Belt
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1 Q. Okay. Did you attempt to contact the owner of the
2 vehicle?

3 A. I did not, no.

4 Q. Okay. Do you know who attempted to contact the
5 owner of the vehicle?

6 A. I do not, no.

7 Q. Okay. Is any information regarding attempts to
8 contact the owner of the vehicle included in any incident
9 report that you're aware of?

10 A. Not in my supplement, no.

11 Q. Okay. And are the results of -- if that's not
12 included then the results of any efforts to contact the
13 owner of the vehicle wouldn't be included then either is
14 that correct?

15 A. Not in mine, no.

16 Q. Okay. Did you prepare the towed vehicle protective
17 custody form?

18 A. I believe either I or Gillespie, yes; one of us did.

19 Q. Okay. And to the best of your knowledge does that
20 form include any information about attempting to contact
21 the owner of the vehicle?

22 A. No, that wouldn't be on that form.

23 Q. Okay. But you are aware that that's a requirement
24 under the general order issued by the Mount Pleasant
25 Police Department?

State v Darren Belt
Suppression Hearing-Gary Myers-Cross-Examination by Mr. DeTreville
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1 A. At some point the owner would be notified, yes.

2 Q. Okay. But to the best of your knowledge no
3 documentation of those efforts was ever made?

4 A. Not from me.

5 Q. Okay. Do you know who the owner of the vehicle was
6 do you recall?

7 A. No, I do not.

8 Q. Okay. Do you know whether the owner of the vehicle
9 was the defendant?

10 A. I do not know.

11 Q. Okay.

12 MR. DETREVILLE: May I approach the witness, Your
13 Honor?

14 THE COURT: You may.

15 Q. [Mr. DeTreville] Corporal Myers I'm showing you the
16 towing protective custody form that was completed that
17 particular evening. Who does it reflect the owner of
18 that vehicle was?

19 [Whereupon, the witness reviews document]

20 A. The registered owner would be William Belt.

21 Q. Okay. And that is not the defendant correct?

22 A. Correct.

23 Q. Okay. Has a separate address from the defendant?

24 A. That's correct.

25 Q. Okay. Did you contact Mr. William Belt?

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1 A. I did not make contact with the owner of the
2 vehicle.

3 Q. Okay, very good. Are you also familiar with the
4 requirements from the general order that a full inventory
5 of the contents of the vehicle be made?

6 A. Uh Huh.

7 Q. Okay.

8 THE COURT: Was that yes?

9 THE WITNESS: Yes; I'm sorry.

10 Q. [Mr. DeTreville] And did you in fact make a full
11 inventory of all the contents of the vehicle?

12 A. As you showed me Officer Gillespie filled that out
13 so that would be on Officer Gillespie to answer that
14 question.

15 Q. Did you complete as part of your inventory search an
16 evidence and property receipt?

17 A. No. Officer Gillespie was on scene at the time. He
18 took all items and put into evidence.

19 Q. Okay. So you conducted the inventory search but
20 you're not certain whether you conducted a full inventory
21 of the vehicle or not?

22 A. I and Officer Gillespie did, yes.

23 Q. Okay.

24 A. He completed that sheet and took the evidence back
25 to the station.

State v Darren Belt
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1 Q. Okay. I'm a bit confused by your response. Let me
2 see if I can ask the question a different way. Did you
3 or did you not complete a full inventory of the vehicle?

4 A. I did -- yes, myself and Gillespie both completed an
5 inventory of the vehicle. We did it together.

6 Q. Okay. Officer Gillespie participated in the
7 inventory as well?

8 A. Yes.

9 Q. Okay. And somebody would have noted somewhere if
10 you conducted a full inventory of the vehicle and took
11 certain items as would be reflected on one of these tow
12 sheets or evidence property receipts the items that were
13 taken from the vehicle is that correct?

14 A. Should, yes.

15 Q. To the best of your recollection is it noted
16 anywhere in any of these documents that you inventoried,
17 confiscated, retrieved any sort of black clothing, black
18 hat; anything of that nature?

19 A. Not in my supplemental, no.

20 Q. Okay. But you're also familiar with the evidence
21 property receipt and the tow sheet is that correct?

22 A. I mean I would have to look at it but yes it was
23 completed.

24 Q. Okay.

25 MR. DETREVILLE: May I approach the witness, Your

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1 Honor?

2 THE COURT: You may.

3 Q. [Mr. DeTreville] Corporal Myers I'm showing you
4 again what is referred I think generally as the tow sheet
5 involved in this and also the evidence property receipt.

6 [Whereupon, the witness is shown documents]

7 Q. If you wouldn't mind taking a look at those
8 documents momentarily and letting me know whether it's
9 notated on either of those forms that black clothing or
10 black hat or anything of that nature was part of the full
11 inventory of the vehicle?

12 [Whereupon, the witness reviews document]

13 A. I do not see that specific item, no. Or I do not
14 know if there were any other evidence sheets.

15 Q. Okay. Based on the absence of those particular
16 items on these documents would you feel comfortable
17 saying that no clothing or black hat was found in that
18 vehicle?

19 A. Well, that's not necessarily true. Just because it
20 -- we don't note every item in a vehicle per se. We
21 wouldn't note like a registration card; you see what I'm
22 saying. If it's something of value we note it on that
23 form so it doesn't turn up missing so. I would say -- I
24 don't -- I did not fill out that form so I do not know.

25 Q. Okay. Let me come at this from a different

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1 direction if you don't mind Corporal Myers. Did you
2 observe any black clothing or a black hat in that
3 vehicle?

4 A. Not that I can recall.

5 Q. Okay. You stated that the items that are placed on
6 these inventories are items of value is that correct?

7 A. Of some value, yes.

8 Q. Okay. Would personal mail be an item of some
9 value?

10 A. Well that was taken into evidence.

11 Q. Okay. All of these items were taken into evidence?

12 A. They were removed from the vehicle so they would be
13 on there.

14 Q. Okay. And when you searched the backpack that you
15 located in the backseat of the car what was the state of
16 that backpack when you first observed it? Was it zipped
17 up?

18 A. I believe so, yes.

19 Q. Okay. And so in order to search an inventory of
20 the contents of that backpack you had to open the
21 backpack essentially?

22 A. Yes.

23 MR. DETREVILLE: No other questions for this
24 witness, Your Honor.

25 THE COURT: Mr. Ziegler?

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REDIRECT EXAMINATION

BY MR. ZIEGLER:

Q. Corporal Myers, do you know for a fact whether there were black clothes or a black hat in the backseat of that vehicle?

A. I do not, no.

Q. Could you say for certain that there were?

A. That they?

Q. Could you say for certain whether they were or were not?

A. No, either way, no.

Q. Okay.

MR. ZIEGLER: No further questions, Your Honor.

MR. DETREVILLE: Nothing, Your Honor.

THE COURT: You may step down.

[Whereupon, the witness is excused and exits the witness stand]

THE COURT: Do you have any additional witnesses?

MR. ZIEGLER: No, Your Honor.

THE COURT: Do you have any witnesses?

MR. DETREVILLE: None, Your Honor.

THE COURT: Okay. I'm happy to hear argument.

MR. ZIEGLER: Beg the court's indulgence, Your Honor.

[Whereupon, Mr. Ziegler and Mr. Maynor confer]

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1 MR. DETREVILLE: Your Honor, it's my motion I
2 suppose I'll begin the arguments. Your Honor, we've
3 addressed in our written motion as a first matter the
4 issue of the black clothes and the black hat and
5 evidentiary questions surrounding that. As we've alleged
6 as part of the Sixth Amendment Right to confront
7 witnesses, confrontation clause of the Sixth Amendment,
8 the right to cross-examine witnesses that well it's
9 impossible to suppress the black clothes and the black
10 hat themselves as they do not -- they're obviously not
11 going to be brought into evidence.

12 What we're asking the court to do is suppress
13 reference to those. By not having the black hat and the
14 black shirt or whatever they may have been we've actually
15 heard different testimony about what they may or may not
16 have been. We've heard it was possibly a hooded
17 sweatshirt. We've heard that it was a black hat that
18 maybe had some lettering on it. There were some
19 concessions that perhaps these articles of clothing were
20 navy blue and we didn't know exactly what color they
21 were. Without being able to examine those items, without
22 having those provided to us the defendant is essentially
23 bereft of his opportunity to effectively cross-examine
24 any witnesses regarding those items as the confrontation
25 clause necessarily requires. And we believe that it's

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1 axiomatic also and we've included this in our written
2 motion that if the State is going to introduce certain
3 evidence, discuss certain evidence in a case that they
4 have to produce that evidence. And the whole reason for
5 collecting evidence, the whole reason for cataloging
6 evidence, the whole reason for having evidence is to
7 present it to a jury in a case.

8 If they are unable to produce that evidence and give
9 it to a jury of the case then they shouldn't be allowed
10 to discuss that evidence. They've not assigned
11 sufficient importance to it to collect it and for that
12 reason should be denied the opportunity to present the
13 possibility of the existence of that evidence to a jury.
14 Your Honor, we would ask that the court disallow the
15 prosecution to make any reference to any black clothing,
16 black hats, latex gloves; anything of that nature to the
17 jury during the trial of this case.

18 We are also asking that everything that was taken
19 from Mr. Belt's vehicle subsequent to his initial stop be
20 suppressed as well. The -- we've heard testimony from
21 Officer Gillespie in this case that he -- I'm sorry,
22 allow me to back up Your Honor. There is ample case law
23 that says that subsequent to a traffic stop that the
24 police have a reasonable amount of time to complete that
25 traffic stop, that extending the traffic stop beyond that

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1 reasonable period of time amounts to a second seizure for
2 which the police have to have a reasonable suspicion to
3 continue holding the defendant, which is precisely what
4 happened in this case.

5 There is also case law that says the police cannot
6 be dilatory in performing the functions of that traffic
7 stop in order to extend the time of the stop so that
8 further investigation can be conducted of the vehicle.
9 And, Your Honor, we would suggest that that's precisely
10 what happened in this case.

11 We heard testimony from Officer Gillespie, from
12 Sergeant Horton, from Detective Eckert and they all were
13 in accord that there was a traffic stop in which no
14 traffic citation was issued at any time during a 45
15 minute stop. Under U.S. v Sullivan the traffic officer
16 can hold the driver long enough to collect driver's
17 license and registration, to do a computer background
18 check and to issue a citation.

19 Officer Gillespie testified that the citation wasn't
20 even delivered to the defendant until he was already
21 logged into the Charleston County Detention Center. How
22 many hours later that was I don't think we know
23 precisely, Your Honor, but we know that it never occurred
24 within the 45 minute stop that was previously viewed by
25 the court. Watching the video, Your Honor, we believe

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1 that it is self-apparent that the police were in fact
2 purposely being dilatory in performing this traffic stop
3 so as to hold Mr. Belt while a parallel investigation was
4 taking place at another location.

5 Every officer who took the stand testified to that
6 effect that they knew that Detective Eckert was at the
7 station interviewing witnesses trying to develop a
8 description of the third suspect and meanwhile the clock
9 is running, Your Honor and as a result we believe that is
10 clearly dilatory practices on the police department's
11 part and this sort of activity, this sort of behavior is
12 clearly what is envisioned by our courts as being not in
13 accord with the Fourth Amendment.

14 Your Honor, I believe the State will argue that the
15 police had reasonable suspicion on which to hold Mr. Belt
16 for that period of time. One of the arguments that we
17 would make is that if there was and it was stated by
18 officers that the basis for the reasonable suspicion was
19 the presence of these black clothes and this black hat.

20 Your Honor, if there is no black clothes and there
21 is no black hat there is no reasonable suspicion. We're
22 asking the court to suppress reference to that and as a
23 result we're asking the court to not allow the presence
24 or non presence of a black hat and a black shirt to serve
25 as reasonable suspicion to hold Mr. Belt. Other than the

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1 allegation that those items were present in the car,
2 which is our mind has been rather clearly debunked, there
3 is not reasonable -- the only reasonable suspicion stated
4 by officers at the stop for holding Mr. Belt was that he
5 was a black male. They had no description at that
6 particular time of the suspects other than there were
7 three black males dressed in all black.

8 And from viewing the video, Your Honor, I believe
9 you can see that Mr. Belt was not in fact wearing black
10 and did not fit that description other than being a black
11 male who happened to be speeding a quarter mile half mile
12 away from where this incident occurred. Based on the
13 fact that would be insufficient to amount to reasonable
14 suspicion to hold Mr. Belt for 45 minutes we're asking
15 that anything that was retrieved from the vehicle subject
16 to a search be suppressed as violating the Fourth
17 Amendment.

18 I think that that's and forgive me, Your Honor; I
19 think that that is further -- I think that that argument
20 is further bolstered by the officer's own testimony that
21 he did not view this as a regular traffic stop. From the
22 time that he pulled Mr. Belt over he viewed this as a
23 different kind of traffic stop. That sort of testimony
24 appears to support the idea that even prior to cars
25 coming to a stop police had already decided that the

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1 driver of this vehicle was a suspect that they were going
2 to hold him and that they were going to search this car,
3 which in fact happened.

4 Officer Gillespie further testified that he believed
5 that a normal traffic stop would take, for a speeding
6 citation, would take somewhere in the vicinity of five
7 minutes. And that it would not be part of his normal
8 procedures as part of pulling somebody over for speeding
9 to a) have that person hold their hands outside the car
10 the entire time and b) to have his hand on his sidearm
11 from the time he steps out of his cruiser. This is all
12 prior to the officer even observing the driver of the
13 vehicle. And we believe Your Honor indicative of the
14 fact that the police had already made a decision about
15 this about how they were going to proceed without
16 developing any reasonable suspicion whatsoever.

17 We also heard Sergeant Horton testify Your Honor
18 quite plainly and quite clearly and I quote Your Honor
19 the purpose of holding the defendant was to investigate
20 an armed robbery. And prior to that particular testimony
21 he also testified the only description that he had of the
22 suspects were three black males wearing all black.
23 Sergeant Horton specifically disclaimed having seen a
24 black shirt or a black hat anything of that nature in the
25 vehicle as did Detective Eckert as did Corporal Myers.

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1 Without that black shirt and without that black hat there
2 simply is no reasonable suspicion to have held my client
3 for that period of time.

4 The police officers, again the investigating officer
5 at another scene and the officer on the scene were
6 communicating by cell phone, which I believe the witness
7 stated was permissible but not necessarily according to
8 police department policy. I believe that the method of
9 communication could lead to some further suspicion
10 regarding the police's shall we say motivations in this
11 action. Anything that went out over the radio is going
12 to be recorded and could have been brought into evidence
13 in this courtroom. Anything that is discussed over a
14 cell phone is not available. It disappears the moment
15 that it's said.

16 The lack of the recording and what appears to be the
17 purposeful maneuvering around that recording process to
18 the defense seems to suggest that the police knew that
19 they were if not violating the Fourth Amendment as we
20 would argue at least pushing the outer boundaries of it.
21 I don't believe that they were pushing the outer
22 boundaries of it, Your Honor. I believe that their
23 actions violated the Fourth Amendment. Sergeant Horton
24 further testified that when he searched the car that he
25 was specifically looking for guns and evidence of an

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1 armed robbery. He said that was part of an inventory
2 search. Well, Your Honor, there is specific case law
3 that says that an inventory search is not for purposes of
4 general searching for evidence of a crime.

5 And Sergeant Horton specifically admitted that he
6 was conducting a general search looking for evidence of
7 an armed robbery. I think that that colors the notion
8 that the police were conducting a good faith inventory
9 search of a car that was being impounded. I think that
10 that colors that more in the light of that being a
11 general search particularly when the officer who was in
12 charge of the scene, the ranking officer specifically
13 described his search as being a general search for
14 evidence of a crime.

15 With regards to the inventory search Your Honor
16 there is case law and we've cited some of that in our
17 motion Bertine v Colorado, Florida v Wells, South Dakota
18 v Opperman all the cases regarding inventory searches. I
19 believe all require that those inventory searches be
20 conducted pursuant to administrative policy issued by the
21 police department, within the jurisdiction. Your Honor,
22 the policies of the town of Mount Pleasant are very clear
23 and we believe not followed in conducting this inventory
24 search. Policy specifically requires that an incident
25 report be prepared for every vehicle that is towed, and

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1 among other things that efforts be made to reach the
2 owner of the vehicle and that the results of those
3 efforts be documented in that incident report. None of
4 that was done and none of that was recorded in any report
5 in any towing sheet or anything of that nature. Your
6 Honor, my client ---

7 THE COURT: --- you think that was done in bad
8 faith, Mr. DeTreville?

9 MR. DETREVILLE: I believe you could argue that
10 Your Honor because my client did not in fact own ---

11 THE COURT: --- you can argue anything. What
12 evidence shows or what testimony was presented that it
13 was done in bad faith?

14 MR. DETREVILLE: Your Honor, we would suggest that
15 because my client didn't own the vehicle that his father
16 owned the vehicle that an effort to contact the owner of
17 the vehicle would have resulted in somebody coming to
18 retrieve the vehicle such that an inventory search would
19 have been obviated.

20 While I have no specific evidence that that was the
21 purpose of not contacting the owner of the vehicle
22 specific Mount Pleasant policy requires making efforts to
23 contact the owner of the vehicle. And we believe that
24 had that taken place that an inventory search would not
25 have been necessary because the owner of the vehicle

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1 could have retrieved that vehicle prior to it being
2 impounded. As such the fact that the officers did not
3 follow clear Mount Pleasant policy regarding inventory
4 searches we believe through the line of case law
5 previously mentioned Your Honor requires that the
6 inventory search be invalidated and that the items
7 obtained through that inventory search be suppressed.
8 No further argument, Your Honor. Thank you.

9 THE COURT: Mr. Ziegler?

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Suppression Hearing Arguments-Remarks by Mr. Ziegler
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1 MR. ZIEGLER: Thank you, Your Honor. Regarding the
2 black hat and black shirt that was located in the back --
3 not located by seen by Officer Gillespie in the backseat
4 of the vehicle the defense is proposing a proposition
5 that if no physical evidence is located then a person, an
6 officer can never make a statement about his personal
7 knowledge of what he saw so not all evidence is always
8 collected. The officer --there is no rule preventing the
9 officer from testifying about his personal observations
10 that he saw during the traffic stop of the vehicle when
11 he looked in the backseat.

12 Regarding the extension of the traffic stop the
13 officers who have testified have admitted that this
14 wasn't a normal traffic stop and Officer Gillespie
15 testified that almost immediately upon approaching this
16 vehicle that this was not a routine traffic stop to him.

17 His suspicions were aroused when on approach he
18 looked into the backseat of the vehicle and noticed a
19 black hat and a black shirt, which was consistent with
20 what he saw himself at the scene of the armed robbery or
21 indicated that he saw somebody, one of the robbers
22 wearing a black hat and most of them were wearing dark
23 clothing. So Officer Gillespie's suspicions were aroused
24 by that pretty immediately when he approached and saw the
25 driver he noticed that the driver had a particular

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1 hairstyle where it was bunched up in some way. He heard
2 from a victim in his investigation after the armed
3 robbery that one of the robbers may have had braids. He
4 also knew that there were three black males that were the
5 robbers. He observed that himself at the scene and he
6 knew that two of them had been apprehended and he
7 approached the vehicle and observed this black male in
8 the driver's seat so that's another factor where the
9 description is matching up.

10 Officer Gillespie asked the driver about where he
11 was going and what he was doing in the area and he
12 mentioned that the driver told him about -- he said he
13 was going to a neighborhood that Officer Gillespie had
14 never -- didn't recognize; hadn't heard of it in Mount
15 Pleasant. So those are the factors that are arousing
16 reasonable suspicion in Officer Gillespie.

17 Sergeant Horton then showed up at the traffic stop
18 shortly after Officer Gillespie arrived there. Within a
19 reasonable period of time Sergeant Horton was on the
20 phone with Corporal Eckert who was back at the station
21 interviewing another defendant in this case. That
22 defendant was telling Corporal Eckert certain details
23 that he knew about the third person that was involved in
24 this robbery. So he gave Corporal Eckert those details
25 and one of them were that the third robber had an eye

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1 that looked unusual, looked injured messed up in some
2 way. So that information was relayed to Sergeant Horton
3 and Sergeant Horton upon seeing the defendant noticed
4 that his eye appeared to be injured in some way. Officer
5 Gillespie noticed the same thing when he approached the
6 defendant's vehicle.

7 Sergeant Horton also was not completely satisfied
8 with the driver's explanation of what he was doing in
9 Mount Pleasant so that also aroused Sergeant Horton's
10 suspicions. Finally Corporal Eckert arrived at the scene
11 and noticed numerous factors at the traffic stop and the
12 driver of the vehicle that were consistent with what he
13 had been told by Mr. Parks, another defendant another
14 suspect back at the station and he based on all those
15 factors made an arrest.

16 Regarding the subsequent search of the vehicle after
17 the arrest the State argues that there are at least two
18 lawful grounds for this search incident to arrest. Under
19 Arizona v Gant the police may search a vehicle incident
20 to arrest without a warrant if they believe that certain
21 items, certain evidence from a serious crime or for the
22 crime that the driver was arrested for could be found
23 there in that vehicle. And in this particular case
24 Sergeant Horton knew from his observations that the gun
25 used in the armed robbery had not been located. And as

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1 this defendant who was driving the vehicle was arrested
2 for armed robbery Sergeant Horton believed that evidence
3 of that armed robbery particularly the gun might be found
4 in the vehicle. So this search is valid with the search
5 incident to arrest exception to the warrant requirement.

6 Also there is the inventory exception that this
7 search is valid under that incident. Police may conduct
8 an inventory search of a vehicle after the recent
9 occupant is arrested if it is done pursuant to a
10 departmental policy. And defense counsel has noted that
11 it doesn't seem that the policy was followed perfectly
12 throughout by each officer.

13 But the officer did testify that the policy gives
14 discretion for them to have a vehicle towed after the
15 occupant is arrested and the vehicle was towed pursuant
16 to that policy. The fact that every single departmental
17 policy may not have been perfectly followed from my
18 review not mentioned in the case regarding an inventory
19 search Colorado v Bertine, 479 U.S. 367.

20 THE COURT: Mr. Ziegler, what was seized from the
21 car that you're going to attempt to introduce?

22 MR. ZIEGLER: The backpack, Your Honor and the
23 letters found within in the backpack.

24 THE COURT: All right. Anything further?

25 MR. ZIEGLER: Nothing further, Your Honor.

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1 MR. DETREVILLE: If I could ask for clarification
2 on that does the State intend to elicit testimony
3 regarding the black hat and the black shirt? If not that
4 may obviate some of these legal questions that we are
5 addressing currently.

6 MR. ZIEGLER: The answer to that is yes, the State
7 will attempt to illicit testimony regarding those items
8 seen in the backseat.

9 THE COURT: But clearly Mr. Ziegler since nobody
10 can identify them to be a particular it will merely be
11 what they observed because they are not in evidence --
12 they were not taken into evidence, not processed or
13 anything of that nature correct?

14 MR. ZIEGLER: That's correct.

15 THE COURT: It will merely be the officer's
16 testimony as to what they saw in plain view is that
17 correct?

18 MR. ZIEGLER: That's correct, Your Honor.

19 THE COURT: Did that answer your...

20 MR. DETREVILLE: That did answer my question, Your
21 Honor. Certainly that is not satisfactory to us. We
22 would ask that reference to items that are not physically
23 in evidence not be allowed in the presence of the jury,
24 Your Honor.

25

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1 MR. DETREVILLE: If I may very briefly, Your Honor?

2 THE COURT: Take your time Mr. DeTreville.

3 MR. DETREVILLE: Every officer who took the stand
4 and testified characterized the search of the vehicle as
5 an inventory search. The words search incident to arrest
6 were never uttered and we don't believe the officers were
7 in fact conducting a search incident to arrest. They
8 were conducting an inventory search which they stated
9 clearly on multiple occasions.

10 While officers may have as the State has argued may
11 have discretion to tow a vehicle they are also required I
12 believe by U.S. Supreme Court law to follow the
13 administrative policy as promulgated by their police
14 department, which they clearly did not do as -- and I
15 won't go over that ground again, Your Honor. I believe
16 we've already address that.

17 I think the failure to do so we believe requires
18 this court to suppress any items retrieved during an
19 inventory search because of the failure to follow that
20 written policy. Nothing further, Your Honor.

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State v Darren Belt
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September 16, 2015

1 THE COURT: So Mr. DeTreville do you believe that
2 the stop, the initial traffic stop for speeding was a
3 valid stop?

4 MR. DETREVILLE: Yes, Your Honor. The traffic stop
5 we have no reason to believe that -- to disbelieve
6 Officer Gillespie's testimony that the car was traveling
7 37 in a 25. That would be -- we would stipulate that
8 that was a lawful traffic stop.

9 THE COURT: Okay. Then at that point the analysis
10 for the court becomes whether or not the extension of the
11 traffic stop ---

12 MR. DETREVILLE: --- is reasonable, whether there
13 was reasonable suspicion to conduct a quote unquote
14 second seizure of the vehicle.

15 THE COURT: And as you know the burden is upon the
16 State to articulate those facts and you feel the State
17 has not articulated the facts for reasonable suspicion
18 based upon the officer's testimony is that correct.

19 MR. DETREVILLE: I do indeed, Your Honor. That's
20 our position.

21 THE COURT: The court disagrees the burden is on
22 the State to articulate the facts sufficient to support
23 reasonable suspicion. Detective Eckert, Officers Myers,
24 Horton, and Gillespie testified that once -- the defense
25 has stipulated that the traffic stop was lawful. So the

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1 question becomes whether or not the detention is then --
2 can be extended. Based upon the ongoing investigation,
3 the fact that they were looking for, they had two
4 individuals in custody out of the three potential
5 suspects. One of the suspects matching the description
6 of the individual that was driving the car I do find that
7 there was facts sufficient to support reasonable
8 suspicion to extend the traffic stop. Because of that I
9 find that everything that was taken into custody and
10 seized was lawfully seized.

11 Your motion to suppress any testimony concerning the
12 clothing is also denied as the fact that the officers
13 testified that it was in plain view. They will not of
14 course be able to testify and you may cross-examine them
15 Mr. DeTreville as to what they saw or did not see and the
16 colors and all of that but they may testify as to what
17 they saw in the vehicle.

18 I don't think there was any testimony that was
19 elicited that would be able to say that that was the
20 shirt or hat that was used but that they may describe
21 what was found and you will be allowed to cross-examine.
22 Note your exception to my ruling as to your omnibus
23 motion to suppress. Any questions? Anything further?

24 MR. DETREVILLE: With regard to your last statement,
25 Your Honor do I need to renew my objections to these

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1 items as we proceed through trial this afternoon ---

2 THE COURT: --- I would think that the Court of
3 Appeals does require that. If it becomes necessary at
4 that point just make your appropriate objection pursuant
5 to the previous rulings and I think that preserves the
6 item for appellate purposes.

7 MR. DETREVILLE: That's how Your Honor would prefer
8 that I phrase it in the presence of the jury?

9 THE COURT: Yes.

10 MR. DETREVILLE: Thank you, Your Honor.

11 THE COURT: Any other pretrial motions? We have
12 the jury is present. Mr. DeTreville anything before we
13 bring in the jury?

14 MR. DETREVILLE: Nothing further, Your Honor.

15 THE COURT: We'll take our comfort break of course
16 but anything before we bring in the jury?

17 MR. DETREVILLE: Nothing, Your Honor.

18 THE COURT: Anything from the State before we bring
19 in the jury?

20 MR. ZIEGLER: No, Your Honor.

21 THE COURT: Have you requested the witnesses to be
22 sequestered Mr. DeTreville?

23 MR. DETREVILLE: I have. I did at the pretrial
24 conference and I think the State stipulated that was
25 acceptable.

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September 16, 2015

1 THE COURT: With the exception of Detective Eckert
2 and the victims will be allowed ---

3 MR. DETREVILLE: --- and the victims that's
4 correct, Your Honor.

5 THE COURT: Okay. So the motion to sequester is
6 granted with those exceptions. Anything further?

7 MR. DETREVILLE: Nothing from the defense, Your
8 Honor.

9 THE COURT: Anything further?

10 MR. ZIEGLER: No, Your Honor.

11 THE COURT: We'll take ten minutes. I think the
12 jury is going to -- we're going to go ahead and order
13 lunch. I'm planning the lunch to come in about 1:00 so
14 please plan your witnesses accordingly. We'll take a
15 very short lunch break.

16 MR. DETREVILLE: Are -- is the plan to do opening
17 statements prior to lunch, Your Honor, just for
18 clarification purposes?

19 THE COURT: We're getting ready to start now.

20 MR. DETREVILLE: Okay. I misunderstood.

21 THE COURT: They're ordering lunch. They're
22 placing their orders. We're not going to have lunch
23 right now.

24 MR. DETREVILLE: I understand. I misunderstood.

25 THE COURT: Thank you. All right, ten minutes.

State v Darren Belt
Suppression Hearing Ruling by the Court
September 16, 2015

1 [Whereupon, court is in recess from 10:02 a.m. till
2 10:10 a.m.]
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State v Darren Belt
Proceedings
September 16, 2015

1 THE COURT: Thank you. Be seated.

2 MR. DETREVILLE: Pardon me, Your Honor. There was
3 an issue yesterday that we didn't address.

4 THE COURT: Okay. Just come forward.

5 [Whereupon, an off the record bench conference is
6 held]

7 THE COURT: We'll mark it as Court's 1 and just put
8 it on the table. So we're going to mark the two binders
9 so both of you have access to it.

10 [Whereupon, court's exhibit number 1 is marked by
11 the court reporter]

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

14 MR. ZIEGLER: Nothing from the State, Your Honor.

15 THE COURT: Let's bring in the jury.

16 [Whereupon, the jury enters at 10:14 a.m.]

17 THE COURT: Good morning ladies and gentlemen if
18 you would please stand we're going to administer the oath
19 for you to try this case. Mr. Clerk?

20 CLERK OF COURT: Ladies and gentlemen of the jury
21 if you'll please raise your right hands.

22 THE COURT: Mr. Belt, please stand.

23 CLERK OF COURT: After I give you this oath if you
24 accept it please respond by saying I do. Do you swear or
25 affirm that you shall well and truly try and a true

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1 deliverance make between the State of South Carolina and
2 the defendant at the bar whom you shall have in charge
3 and a true verdict render according to the evidence and
4 the laws so help you God?

5 [Whereupon, all jurors say I do]

6 CLERK OF COURT: If you have accepted this oath
7 please have a seat.

8 [Whereupon, the jury complies]

9 CLERK OF COURT: Please let the record reflect that
10 all 14 jurors took their seats in response to my
11 question.

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State v Darren Belt
Court's Opening Instructions to the Jury
September 16, 2015

1 THE COURT: Thank you. Ladies and gentlemen the
2 first question that I will ask you after every break that
3 you are allowed to go outside and to go home will be did
4 you follow the court's instructions that I gave to you
5 Monday afternoon. If you did not follow my instructions
6 please stand. Thank you. Please let the record reflect
7 that all 14 jurors complied with the court's instructions
8 over our break.

9 Mr. Foreperson, ladies and gentlemen of the jury I
10 am now going to give you the court's instructions and I
11 will instruct you on the law applicable to this case
12 throughout the trial but I will take this opportunity to
13 explain to you the procedures that we will be following
14 so that you will be better able to understand what is
15 happening before you.

16 As I indicated to you before you will have two
17 bailiffs here to assist you and they may be moving in and
18 out of the courtroom so they change sometimes but if you
19 need anything please alert them Mr. Foreperson and they
20 will if you need an additional break or anything of that
21 nature please let them know.

22 Once again I am Judge Kristi Harrington. I am the
23 presiding Judge over this case and I am your resident
24 Judge for the ninth circuit. This is my court reporter
25 Ms. Perron and as I indicated to you on Monday she is

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1 taking down everything that I say as well as what the
2 attorneys and the witnesses say. So at some point you
3 may hear me to ask a witness to speak up or to rephrase
4 his question or answer yes or no and that is because we
5 are a court of record and it is important that we have a
6 complete and accurate record.

7 This is my law clerk Ms. Clifton and she will be
8 assisting me preparing charges and cases so please don't
9 think she's up here on Facebook or doing anything of that
10 nature. She is working and I am over here making sure
11 that she is working diligently. We have Mr. Callahan who
12 administered the oath to you. He is employed by Julie
13 Armstrong your Clerk of Court here for Charleston County
14 and his job is to make sure that you are taken care of
15 and he will be swearing the witnesses and administering
16 the oath. And we have several deputies throughout the
17 courtroom just to make sure that order is preserved.

18 And so ladies and gentlemen this is I have some
19 observation students from the Charleston Law School so
20 you may see different people sitting up here. They are
21 getting their observation experiences before they take
22 their bar exams. So that's who the people are involved.
23 Ladies and gentlemen the case that we are about to try is
24 the case of the State versus Darren Belt. Before we
25 begin this trial I'd like to take this opportunity

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September 16, 2015

1 because most of you have not been in court as you are
2 doing here today. And a lot of time people come in and
3 they tell me that they get their legal knowledge and
4 experience from watching television or reading books or
5 watching movies. Please remember that those things are
6 for entertainment. This trial is not for your
7 entertainment. It is a fundamental part of our
8 democracy. It is a search for the truth in an effort to
9 make sure that justice is done between the parties before
10 the court.

11 Searching for the truth and making sure that justice
12 is done is often slow, deliberate and repetitive; the
13 opposite of what you may have seen on television or in
14 movies or read in books. This courtroom is a place of
15 honor. It is dedicated to the protection and
16 preservation of citizen's rights through what many have
17 called the greatest justice system ever created.

18 The attorneys that appear before you here today are
19 advocates for the parties they represent but first and
20 foremost they are officers of this court. They are sworn
21 to uphold the integrity and the fairness of our judicial
22 system and to help you in your search for the truth. You
23 should expect them to be professional, competent, and
24 ethical in the representation of their client's interest.
25 Please remember that you just took an oath and you are

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1 also expected to be professional, reasonable, and
2 ethical. Thank you again for accepting this important
3 responsibility of jury service and for your contribution
4 today for our justice system.

5 What I now say is not a charge on the law. As I
6 indicated to you I will instruct you on the law that is
7 applicable to this case as it arises throughout the trial
8 and at the end of the case before you retire to consider
9 your verdict. This is merely an explanation of the
10 procedure that will be followed so that you will
11 understand what is happening.

12 The defendant as I indicated to you on Monday is
13 charged by an indictment filed in this court with the
14 crime of armed robbery two counts. I will explain the
15 elements of that charge to you at a later time. The
16 indictment is simply the charge by which this case is
17 brought into court. It is not in any sense evidence of
18 the allegations that it contains.

19 The defendant has pled not guilty to each
20 indictment. The State has the burden of proving each of
21 the elements of each indictment beyond a reasonable
22 doubt. It becomes your duty ladies and gentlemen to
23 determine whether the State has met that burden. Your
24 purpose as jurors is to find and determine the facts.
25 You are the sole judges of the facts in this case. If at

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1 any time I make any comment regarding the facts you must
2 disregard it. You are to determine the facts from the
3 testimony you hear as well as the other evidence that is
4 introduced in court. It is up to you to determine the
5 inferences which you feel may be properly drawn from the
6 evidence.

7 It is important that you perform your duty of
8 determining the facts diligently and conscientiously
9 because ordinarily there is no way to correct an
10 erroneous determination of the facts by a jury. On the
11 other hand, and with equal emphasis, the same law that
12 makes you the judges of the facts makes me the judge of
13 the law.

14 The law as given by this court is the only law that
15 you may consider. You must accept it and follow it even
16 though you may disagree with it. I cannot tell you what
17 I think the facts are and you cannot disagree with me
18 about what the law is or what the law should be.

19 Your job is to take the facts as you find it from
20 the testimony of the witnesses from the witness stand as
21 well as any exhibits that may be introduced into this
22 case. After doing that you will render your verdict; a
23 true and just verdict under the solemn oath that you just
24 took as jurors. Mr. Foreperson it is your responsibility
25 to complete the verdict form but I will give you further

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1 instructions when I charge you on the law at the close of
2 the evidence and you have heard closing arguments on
3 behalf of counsel.

4 Ladies and gentlemen I have provided note pads to
5 you which means that you may take notes throughout the
6 progress of this trial. Please understand some jurors
7 notes -- some of us are much better note takers than
8 others and one juror's notes are no more correct or
9 accurate than another juror's notes.

10 If after you hear the testimony when you retire to
11 consider your verdict and you need to hear a portion of a
12 testimony played again we will simply bring you back into
13 the courtroom and do an audio of that. So don't feel
14 like you have to write down everything word for word that
15 a witness says.

16 Additionally the evidence that is introduced into
17 evidence those exhibits will go back with you during your
18 deliberations. So if you don't feel you have an
19 opportunity to see everything concerning a particular
20 exhibit you will have those back with you.

21 Ladies and gentlemen please remember all my
22 admonitions that I gave you on Monday. You may not read,
23 watch; listen to any news accounts regarding this case
24 should there be any. You must not do any independent
25 investigation regarding this case. Ladies and gentlemen

State v Darren Belt
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September 16, 2015

1 you may not discuss this case with anyone. That includes
2 your fellow jurors, your friends, your family members or
3 anyone else. Ladies and gentlemen until I tell you to
4 please do not begin deciding any issue in this case. You
5 must decide this case based solely on the evidence
6 presented here in the courtroom. Ladies and gentlemen
7 the evidence in this case will be presented to you by the
8 testimony of sworn witnesses from the witness stand as
9 well as any exhibits that may be introduced into
10 evidence.

11 You may hear one of the attorneys or both of the
12 attorneys ask to approach the bench or object to some
13 testimony. If I have the attorneys approach the bench,
14 please do not try to overhear us or read our lips or
15 anything of that nature. If I do have you excused while
16 I am speaking with the attorneys please do not think we
17 are trying to hide anything from you. The reason for
18 this is sometimes it is necessary for me to make a
19 comment on the facts in order to issue a ruling on the
20 law.

21 And as I indicated to you the law does not allow me
22 to have an opinion about the facts in this case. So I
23 may excuse you for a short while so that I may issue a
24 ruling on this case. Please remember in determining what
25 the true facts are in this case you must decide whether

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1 or not the testimony of the witnesses is believable. It
2 is my responsibility to determine whether or not certain
3 testimony is admissible. Once the testimony is admitted
4 whether or not you believe it is solely for you to
5 determine.

6 In deciding whether to believe a witness you have
7 the right to consider the interest of the witness, the
8 bias of the witness, the prejudice of the witness, the
9 opportunity for that witness to have seen and heard the
10 things about which the witness may testify, as well as
11 the way the witness acts on the witness stand. That
12 means it's your duty and your obligation to pay
13 attention.

14 Please do not let your thoughts wander so that at
15 the end of the testimony after you have heard closing
16 arguments on behalf of counsel and I have instructed you
17 on the law applicable to this case you will then be in a
18 position to determine what the true facts are, apply the
19 law to those facts and render a true and just verdict.

20 Ladies and gentlemen now the Solicitor will make an
21 opening statement. After that the defense attorney may
22 make an opening statement although he is not required to
23 do so at this time. Please remember what the attorneys
24 tell you in their opening statements as well as in their
25 closing arguments is not evidence in this case. It is

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1 merely their contention as to what the evidence will show
2 you or in their closing arguments what the evidence has
3 shown you. Please give your strict attention. Mr.
4 Ziegler?

5 MR. ZIEGLER: Thank you, Your Honor.
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State v Darren Belt
Opening Statements-Remarks by Mr. Ziegler
September 16, 2015

1 OPENING STATEMENT

2 BY MR. ZIEGLER:

3 Good morning ladies and gentlemen. This case is
4 about making money. But it's not about punching a time
5 clock, doing a day's work, clocking out and collecting a
6 paycheck. No. This case is about making money by taking
7 money. Making money by taking money. It's about
8 stopping two people walking home on the sidewalk at night
9 putting a gun to them inflicting fear and stealing their
10 property. Well one of the men who fully participated in
11 that robbery has already been introduced to you. He is
12 the defendant, Darren Keith Belt.

13 The men who were walking home on that sidewalk and
14 stood on the muzzle end of that gun are Shane Burnett and
15 Glen McElhenney. Mr. Burnett and Mr. McElhenney were at
16 Art's bar the night of this robbery. That's in Mount
17 Pleasant on Coleman Boulevard just past Shem Creek as you
18 go away from the Ravenel Bridge. So they were relaxing
19 to some live music and had a few beers. It was a Monday
20 evening May 6th, 2013.

21 Around midnight as May 6th turned into May 7th Mr.
22 Burnett and Mr. McElhenney decided to call it a night and
23 head home. They lived near each other and they lived not
24 far from the bar. In fact they lived in walking distance
25 to the bar. They had walked there so they started

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September 16, 2015

1 walking home. There is little foot traffic on Coleman
2 Boulevard around midnight on a Monday night and the two
3 didn't see anyone else around. They were on the sidewalk
4 passing by the Mount Pleasant farmer's market just about
5 to reach Moultrie Middle School and then it happened; an
6 ambush.

7 Three men suddenly appeared and blocked the
8 sidewalk, stood in the path home for Mr. Burnett and Mr.
9 McElhenney. The victims quickly observed that one of
10 these men was pointing a gun what appeared to be a .38
11 revolver. Meanwhile the defendant and another robber
12 frantically shuffled about containing the victims on the
13 sidewalk. The man with the gun said something like give
14 me what you got give me everything and jammed the gun
15 into Mr. McElhenney's stomach.

16 So Mr. McElhenney emptied his pockets and threw his
17 wallet and phone on the ground. The defendant and the
18 other robber immediately went to the ground and grabbed
19 up that property. The gun was then swung to Mr.
20 Burnett's stomach and then to his head. So Mr. Burnett
21 emptied his pockets and threw his phone and other items
22 on the ground. Again the defendant and the other two
23 robbers went to the ground and grabbed those items. Mr.
24 Burnett happened to throw his wallet behind himself.
25 Just then when he threw his wallet someone yelled out

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Opening Statements-Remarks by Mr. Ziegler
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1 hey. But this voice wasn't that of the victims and it
2 wasn't that of the robbers. It was Officer Gillespie
3 from the Mount Pleasant Police Department running towards
4 them with his weapon drawn. The victims went to the
5 ground and all three robbers took off running.

6 Officer Gillespie sprinted past the victims in
7 pursuit of the robbers through the farmer's market. And
8 as the robbers fled into the Old Village of Mount
9 Pleasant Officer Gillespie realized that he would not
10 catch up to these robbers. He was alone, he was unsure
11 if they were armed and he stopped his pursuit. So he
12 returned to the victims and ensured their safety until
13 other officers arrived.

14 You will hear testimony from the gunman in this case
15 Randi Parks. Now early on in this case Randi Parks lied
16 to the police on multiple occasions before telling the
17 truth and he attempted to escape from the police officer
18 returning him to jail on one of those occasions. But in
19 this courtroom Randi Parks will tell you that he himself
20 pointed that gun at the victims.

21 He will also tell you that he had help. He will
22 tell you he had help from two other people; Ricky Lamont
23 Hayes and the defendant. Randi Parks will tell you that
24 he knew the defendant for years before the robbery that
25 they saw each other often. Randi will tell you that he

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1 met up with the defendant in Columbia and was with the
2 defendant for most of the day that this robbery happened
3 and that they drove together from Columbia to Mount
4 Pleasant to make some money by doing a robbery; by taking
5 it.

6 Let's return to the minutes and hours after this
7 robbery occurred as the investigation unfolded in the
8 middle of the night. After the robbery Mount Pleasant
9 police found a few people and a few things. Ricky Lamont
10 Hayes was found minutes after this robbery occurred just
11 several blocks away from the site of the robbery.
12 Shortly thereafter Randi Parks was found hiding under a
13 dump truck less than one block away from where Ricky
14 Hayes was located. And in Randi Park's pocket the police
15 found Mr. McElhenney's wallet.

16 So about an hour and 22 minutes after the robbery
17 police had not yet found the third individual they
18 thought to be involved in the robbery. They were
19 searching. Officer Gillespie was actively looking for
20 that third individual when he observed a green jeep
21 speeding out of the Old Village just blocks away from the
22 robbery location.

23 So he made a traffic stop for speeding less than
24 half mile away from the robbery location and found behind
25 the wheel the defendant. While this traffic stop was

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1 occurring a detective was back at the police station with
2 Randi and Randi was providing specific details about who
3 the third person involved in the robbery was. So the
4 detective relayed that information to the officers at the
5 traffic stop. It was certain descriptive information and
6 it was lining up. That information was matching up with
7 what officers observed the defendant at this traffic
8 stop. And upon searching the vehicle that the defendant
9 was driving officers located a backpack in the backseat.
10 And inside that backpack were four letters addressed to
11 Ricky L. Hayes.

12 The defendant is charged with two counts of armed
13 robbery; one for each victim. Armed robbery is defined
14 as a robbery while armed with a deadly weapon including a
15 pistol. A robbery is defined as the unlawful taking of
16 personal property from the person of another or in his
17 presence by violence or by putting such person in fear.

18 You will also be introduced to the law called hand
19 of one. It says that if a crime is committed by two or
20 more people who are acting together in committing a crime
21 then the act of one is the act of all those people. I
22 conclude by reminding you that this case is about making
23 money by taking money. And it's about the fear that two
24 men felt, the fear that was thrust upon them with the
25 sweep of a revolver on their walk home from a night of

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1 live music at a local bar. After you've heard all the
2 evidence I'm going to ask you to hold this defendant
3 accountable for his actions by returning a verdict of
4 guilty for the armed robbery for Shane Burnett and Glenn
5 McElhenney. Thank you.

6 THE COURT: Mr. DeTreville?

7 MR. DETREVILLE: Thank you, Your Honor. May it
8 please the court?

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State v Darren Belt
Opening Statements-Remarks by Mr. DeTreville
September 16, 2015

1 OPENING STATEMENT

2 BY MR. DETREVILLE:

3 Good morning ladies and gentlemen of the jury. My
4 name is Michael DeTreville and I am counsel for the
5 defendant in this case, Mr. Darren Belt who will be
6 seated next to my at this table directly in front of you
7 for the duration of the trial.

8 Please allow me first both on my own behalf and on
9 behalf of Mr. Belt to thank you for your service here.
10 Nobody wakes up in the morning and says gee I'd really
11 like to do jury duty this week. I understand that and I
12 think my client understands that too. We know that this
13 is a disruption to you. We know that this may cause
14 difficulties for you in your everyday lives but please
15 know that we are most appreciate of your service and
16 neither myself or Mr. Belt will try to take up any more
17 of your time than is absolutely necessary in this case.

18 This service that you are performing ladies and
19 gentlemen is a most important and solemn service. My
20 client Mr. Belt he comes to you seated at this table he
21 is an innocent man. He has been charged by the State
22 with a serious offense and he comes to you ladies and
23 gentlemen of the jury asking to have that innocence that
24 he now possesses preserved. He comes to you because our
25 Constitution, the most sacred document in our republic

State v Darren Belt
Opening Statements-Remarks by Mr. DeTreville
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1 requires that he as you no doubt already know be
2 considered innocent until he is proven guilty. What does
3 it mean to find somebody guilty of a crime as the State
4 now asks that you do? It means that the prosecution must
5 prove beyond a reasonable doubt each element of the
6 crimes for which Mr. Darren Belt now stands accused.
7 Please keep fresh in your mind I ask you ladies and
8 gentlemen of the jury those four little words as we
9 proceed through this trial beyond a reasonable doubt.

10 The State would have you believe that the evidence
11 that they submit to you is the only version of what
12 happened on the evening in question. We would submit to
13 you that it is not. Their evidence is not the written in
14 stone version of what transpired. You've all indicated
15 previously that you are capable of reserving judgment in
16 this case until all of the evidence is in and that you
17 are willing to reserve judgment until all of the evidence
18 is in and that you are open to hearing both sides of the
19 story.

20 Keep those four little words beyond a reasonable
21 doubt fresh in your minds not only while the prosecution
22 presents its case but also while we cross-examine their
23 witnesses. With each statement piece of evidence that is
24 presented to you I ask that you hold it up to the light
25 and I ask you to ask yourself is everything in this case

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1 exactly what it seems to be because ladies and gentlemen
2 rest assured the evidence presented to you in this trial
3 will tend to show you that not everything is as it seems
4 in this case. There will be evidence presented to you
5 that will cast serious doubts in your mind I am convinced
6 such that you will have a hard time believing any of the
7 evidence presented to you by the State in this case.

8 I ask you to pay close attention to the testimony of
9 every witness presented here and every piece of tangible
10 evidence presented to you for consideration and for every
11 bit of information that you receive. Ask yourself these
12 two very serious questions. Can I believe what this
13 witness is telling me? And if I can't believe what this
14 witness is telling me can I deprive Mr. Belt his liberty
15 as a result?

16 The State has already told you that Mr. Randi Parks
17 is going to be testifying in trial in this case. Now we
18 lawyers are sometimes known for using fancy legal terms.
19 We speak in Latin sometimes and we say things that other
20 people don't understand. But a lot of times we use very
21 plain English to describe things in the everyday course
22 of our practice. I'm going to use some plain English
23 with you regarding Mr. Randi Parks. Mr. Randi Parks is a
24 bad witness. He will get on the stand. The State has
25 already told you what they expect him to testify to and

State v Darren Belt
Opening Statements-Remarks by Mr. DeTreville
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1 now I'll tell you what I expect him to testify to you.
2 He's going to admit to you that he's a liar. Not only is
3 he going to admit to you that he is a liar he's going to
4 admit to you that he is a liar over and over and over
5 again. I would ask, I can't make you do it, but I would
6 ask that you keep tabs of how many times Mr. Randi Parks
7 admits that he's a liar while he is on the stand in those
8 notebooks that you have in front of you right now.

9 Mr. Randi Parks is a bad witness and he is somebody
10 who will do or say anything to save his own skin to help
11 himself not go to prison for pointing a gun and robbing
12 two people on Coleman Boulevard in Mount Pleasant.
13 Included in the things that he will do to save his own
14 neck is he will give up the most convenient person
15 possible for him to give up as being involved in this
16 robbery as well. And I submit to you that Mr. Darren
17 Belt is a convenient target for Mr. Randi Parks in order
18 to help save his own skin.

19 I firmly believe that your verdict in this matter
20 will be the result of your answers to those two questions
21 that I just posed to you. Can I believe what this
22 witness is telling me and if I cannot believe what this
23 witness is telling me can I deprive Mr. Belt of his
24 liberty? I also firmly believe that your answer to both
25 of those questions will be no after you've heard the

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1 testimony. Ladies and gentlemen we're confident that you
2 will be able to view everything presented to you in this
3 case with a critical eye. But if you keep a keen ear out
4 for creditability issues in this case if you pay
5 attention to that little meter that everybody has in
6 their head I won't use the colloquial term for that meter
7 but if you pay attention to that little meter that you
8 have in your brains that tells you when somebody is lying
9 or when somebody is telling you the truth that at the end
10 of the trial you will return from your deliberations with
11 a verdict of not guilty on all charges.

12 And once again ladies and gentlemen of the jury both
13 I and my client thank you for your service and appreciate
14 what you're doing here today. Thank you.

15 THE COURT: Call your first witness.
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State v Darren Belt
Glenn McElhenney-Direct Examination by Mr. Ziegler
September 16, 2015

1 MR. ZIEGLER: The State calls Mr. Glenn McElhenney.

2 [Whereupon, Mr. McElhenney comes forward]

3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]

5 CLERK OF COURT: Please state your full name and
6 then spell your last name for the record.

7 THE WITNESS: Robert Glenn McElhenney, M-C-E-L-H-E-
8 N-N-E-Y.

9 - - - - -

10 GLENN MCELHENNEY,

11 Having been first duly sworn,

12 Was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. ZIEGLER:

15 Q. Good morning Mr. McElhenney.

16 A. Good morning.

17 Q. How old are you, sir?

18 A. Fifty.

19 Q. And what part of town do you live in?

20 A. Mount Pleasant.

21 Q. And have you always lived in Charleston.

22 A. Yep.

23 THE COURT: Mr. McElhenney, I'm going to need you
24 to speak loudly.

25 THE WITNESS: Yes, I grew up on the Isle of Palms.

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Glenn McElhenney-Direct Examination by Mr. Ziegler
September 16, 2015

- 1 THE COURT: Thank you.
- 2 Q. [Mr. Ziegler] Do you have children?
- 3 A. Three.
- 4 Q. And what was your education?
- 5 A. High school, tenth grade.
- 6 Q. And when did you begin working?
- 7 A. I was sixteen.
- 8 Q. What's your employment history?
- 9 A. I was a carpenter; construction.
- 10 Q. Did you have your own business?
- 11 A. Yep.
- 12 Q. What was that called?
- 13 A. Marlin Woodworks, Incorporated.
- 14 Q. How long did you do that?
- 15 A. Twenty five years, the 90's. I can't remember; a
- 16 while.
- 17 Q. Okay. I want to direct you where did you live on
- 18 May 2013?
- 19 A. 31 Shem Drive. It's probably about two miles from
- 20 Moultrie Middle School.
- 21 Q. I want to direct you to the night of May 6th, 2013
- 22 and the early hours of May 7th, 2013. Were you the
- 23 victim of an armed robbery that night?
- 24 A. Yep.
- 25 Q. What were you doing earlier in the night?

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Glenn McElhenney-Direct Examination by Mr. Ziegler
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1 A. Me and my Buddy Shane we were drinking a couple of
2 beers. He lives down the street. We decided to go out
3 so we walked up to one of the closer bars to the house
4 and then we remembered a band, Baby Fat was playing so we
5 wanted to go up there and watch them so we walked another
6 mile or so to Art's and watched the first set and then
7 decided to leave.

8 Q. What were you drinking at Art's?

9 A. Some beers.

10 Q. About how many did you have do you remember?

11 A. Probably had three before and then maybe three or
12 four at Art's.

13 Q. So when did you decide to leave Art's?

14 A. It was probably right before 12 midnight.

15 Q. And what did you do? How did you get home?

16 A. We walked.

17 Q. What side of the street were you walking on?

18 A. On the farmer's market side, Moultrie Middle School
19 side.

20 Q. Okay. What were you and your buddy doing?

21 A. We were goofing off. We were arm and arm kind of
22 goofing around a little bit laughing singing a song to be
23 honest.

24 Q. Do you remember what song?

25 A. No, I don't.

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1 Q. Was anyone else around? What was the street like at
2 that time of the night?

3 A. It was cars going by. You know it was kind of its
4 lit up a little bit. Not too lit, but it wasn't too much
5 going on; pretty calm really.

6 Q. So where on Coleman Boulevard were you when the
7 robbery began?

8 A. There are four little stairs that come out from the
9 farmer's market onto Coleman Boulevard and we had walked
10 past them and were getting towards the last one. It's a
11 big oak tree right there and that's where he came out in
12 front with the gun.

13 Q. So can you please describe for the jury your account
14 of the robbery that occurred?

15 A. Yes, it happened pretty quick. He jumped out from a
16 tree and came at us. All I saw was the gun and then he
17 mumbled something which I knew and I threw my hands up
18 and the other two came from behind. It was almost like
19 they had it planned out and they were kind of corralling
20 us.

21 And I reached in my pockets and threw my phone and
22 my wallet to the ground and I put my hands up. About
23 that time he swung the gun towards Shane and Shane kind
24 of knocked it out the way. And I thought oh no, here we
25 go and he swung it back and popped it in his head.

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1 That's when Shane reached in his pocket and grabbed his
2 phone and his wallet. And I think he had a pretty good
3 bit of money so he kind of threw it out in the middle of
4 Coleman. And some of the bills went out and that's when
5 they all jumped to the ground trying to get it.

6 Q. What did you think was happening?

7 A. I thought he was going to shoot me. I thought he
8 was going to go ahead and shoot me. Then when he pulled
9 it from me I was kind of -- I was still worried about the
10 gun.

11 Then when he put it up in Shane's head it was almost
12 immediately when I started hearing Gillespie coming
13 across the road. And I don't know if he said freeze or
14 whatever. I didn't know what was going on so I hit the
15 ground hard and they took off running.

16 Q. I want to back up for just a minute. Was the gun
17 ever put to our stomach?

18 A. Yes, he jammed the gun in my stomach.

19 Q. Did you have any issues with your stomach?

20 A. Yes. At that time I was fighting hernias. I had
21 diverticulitis and I was fighting these hernias every
22 year.

23 I had one about the size of a watermelon and then
24 one the size of a cantaloupe on one side. And he just
25 happened to jam that gun right up inside the one, the big

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1 one you know. Then I was like he's just going to go
2 ahead and put me down. I'm going to go ahead and get
3 this surgery I guess quick.

4 Q. Was it painful for ---

5 A. --- not at first. I was jacked up and they were
6 jacked up. And you could tell they knew what was going
7 on. I mean they totally caught us off guard; totally.

8 Q. When you mentioned Gillespie how did this robbery
9 end?

10 A. Well Gillespie took off running after them. I think
11 he was on the radio. He was hopped up too.

12 Q. Had you seen him?

13 A. No, I didn't see him. Like I said I was too busy
14 focused on the gun but I heard him coming across. You
15 know I don't know what I was thinking when he had the gun
16 to Shane's head.

17 That's when I heard him coming across. And I don't
18 know if Shane hit the ground but I hit the ground because
19 I thought it was going to be a shootout at the O.K.
20 Corral or something like that going on.

21 Q. Did you see what happened? What did the robbers do?

22 A. They bolted quick. They took off across the
23 Moultrie Middle playground through the farmer's market
24 towards the Old Village.

25 Q. Let me go back Mr. McElhenney to a few of the

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1 details. How many robbers did you see?

2 A. Three.

3 Q. What was their general description?

4 A. They were black. A couple of them had hoodies on.

5 I don't know what the other one had. It wasn't real dark
6 right there but with everything going on it was hard for
7 me you know like I said I was more worried about the gun.

8 Q. Okay. How were these three robbers behaving?

9 A. They were jacked up. They were just kind of
10 corralling us all around until the money hit the ground
11 then the two went to the ground to get it. I mean it was
12 like almost that instant when Gillespie started coming
13 across.

14 Q. And can you describe the gun that you saw? You said
15 you were focused on the gun.

16 A. Yes. Growing up my dad used to have a .38 revolver
17 and I remember it being a revolver. I don't know if it
18 was nickel plated or not.

19 Q. And again what property did you throw down?

20 A. My wallet and the old flip phone. My wallet had a
21 blue marlin on it that my daughter had given me.

22 Q. And who among these three robbers who all went to
23 pick up your property once you threw it down?

24 A. The one with the gun kind of just stayed on Shane.

25 Q. Okay.

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1 A. And then the other two went down immediately.

2 Q. How did you feel during this robbery? You testified
3 that ---

4 A. --- I thought they were going to shoot me. I mean
5 there was no doubt that I thought I was going to get
6 shot.

7 Q. So did Officer Gillespie return to you?

8 A. Yes, he came back after. He took off I mean after a
9 minute he came running back. I think what they did they
10 did they just split. It kind of gets dark once you get
11 past off the sidewalk. So they probably all split up and
12 then he came back and made sure we were all right.

13 He took us across Coleman Boulevard over by Wild
14 Wings and started talking to us and then that's when the
15 other cops came up. One of my hernias -- sometimes it
16 will pop out like a fist and you've got to push it back
17 in. So that's when I decided to take a ride to the
18 hospital to get them to push it back in.

19 Q. Okay. And did you look -- did you give a
20 statement, a written statement that night?

21 A. No. It was ---

22 Q. --- because you went to the hospital?

23 A. Yes, I went to the hospital. I think Shane gave a
24 statement that night.

25 Q. Did you give a statement later?

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1 A. Yes. I think it was like a week later to Officer
2 Eckert maybe four days.

3 Q. Do you remember in your statement indicating that
4 one of the individuals had dreads?

5 A. Yes, I remember that and I did say that but I'm not
6 completely sure.

7 Q. Okay.

8 A. At a later date I saw a picture that had came across
9 and I think Shane had gotten on the Internet and told
10 Post and Courier not to post our names on that. I don't
11 know how they got the information so quick.

12 Q. Okay.

13 A. But it was the same night. It was like 4 or 5 in
14 the morning I think when Shane came and got me from the
15 hospital and told me about it.

16 Q. Was your phone returned to you?

17 A. Uh Huh.

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

19 A. 607-8027 (843).

20 MR. ZIEGLER: May I approach the witness, Your
21 Honor?

22 THE COURT: You may.

23 Q. [Mr. Ziegler] Mr. McElhenney I am showing you what
24 has been marked for identification purposes as State's
25 exhibit 18.

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- 1 [Whereupon, the witness is shown exhibit]
2 Q. Do you recognize this item?
3 A. Yep. It's my wallet with the blue marlin on it. My
4 daughter gave it to me.
5 Q. Is that the wallet from the night of the robbery?
6 A. That's the wallet for sure.
7 MR. ZIEGLER: The State will not move to admit this
8 exhibit State's 18 into evidence at this time; merely to
9 identify it to Mr. McElhenney.
10 Q. [Mr. Ziegler] Mr. McElhenney I'll now present you
11 with State's exhibit number 2 for identification purposes
12 and State's exhibit number 3 for identification purposes.
13 [Whereupon, witness is shown photographs]
14 Q. Please let me know if you recognize these items.
15 A. Yes, that's the sidewalk right there [indicates] a
16 little ways down from the farmer's market in front of
17 Moultrie and then this picture right here is right where
18 the steps come down where they jumped out right there
19 [indicates].
20 Q. Do those show where the robbery occurred?
21 A. Uh Huh.
22 Q. Do they appear to you to be an accurate ---
23 A. --- oh yes, definitely ---
24 Q. --- portrayal of that location?
25 A. Yes. I ride by there every day.

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1 MR. ZIEGLER: Your Honor, the State moves to admit
2 State's exhibit numbers 2 and 3 into evidence.

3 THE COURT: Any objection?

4 MR. DETREVILLE: Without objection, Your Honor.

5 THE COURT: State's 2 and 3 into evidence without
6 objection. You may publish.

7 MR. ZIEGLER: Thank you, Your Honor.

8 [Whereupon, State's exhibit numbers 2 and 3 are
9 entered into evidence by the court]

10 Q. [Mr. Ziegler] I'm now publishing State's exhibit
11 number 2. Mr. McElhenney can you -- it's a bit dark.
12 Can you point out what's in this photo and where the
13 robbery occurred?

14 A. That's Moultrie Middle School right here
15 [indicates]. Down is where the farmer's market is. See
16 where the road goes in for the school to get into the
17 front. Right past that is the steps that come down where
18 the oak tree is.

19 Q. I'm now publishing State's exhibit number 3. Can
20 you please explain what's in this photo?

21 A. The farmer's market is right here [indicates].
22 These [indicates] are the little steps that come down
23 from the market onto the sidewalk. Moultrie Middle
24 School is back that way [indicates]. That's the road
25 [indicates] I was showing you that goes into the school.

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1 And the robbery happened right there [indicates] where
2 that big oak tree is from them steps to the next drive.

3 Q. So if you're looking at this photo the robbery
4 occurred to which side of the steps in the middle?

5 A. To the north side of the steps.

6 Q. Left or right? Would that be the left side?

7 A. Left.

8 MR. ZIEGLER: I have no further questions for this
9 witness, Your Honor.

10 THE COURT: Mr. DeTreville?

11 MR. DETREVILLE: Thank you, Your Honor. May it
12 please the court?

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State v Darren Belt
Glenn McElhenney-Cross-Examination by Mr. DeTreville
September 16, 2015

1 CROSS-EXAMINATION
2 BY MR. DETREVILLE:
3 Q. Good morning Mr. McElhenney.
4 A. Good morning.
5 Q. Mr. McElhenney I believe you testified it was
6 somewhat contradictory so if you could clarify for me a
7 little bit. I think you said of the area that some of
8 was well lit and some of it not so well lit. Where this
9 incident took place was that particular area well lit?
10 A. Not really, no.
11 Q. Okay. So some of the surrounding areas were ---
12 A. --- yes ---
13 Q. --- better lit then precisely where you were. Thank
14 you for clarifying that for me. I believe your testimony
15 was the first person that you saw was the gun man is that
16 correct?
17 A. Uh Huh.
18 THE COURT: Was that yes? Is that a yes?
19 THE WITNESS: Yes, ma'am.
20 Q. [Mr. DeTreville] From which direction did that
21 individual initially approach you?
22 A. From the Moultrie side.
23 Q. Okay. So that last picture ---
24 A. --- came right in front of us ---
25 Q. --- that was up when we were talking about when the

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1 State was talking about left or right it would have been
2 to the left?

3 A. Left, yes.

4 Q. And in which direction was the gunman facing?

5 A. He was ---

6 Q. --- what direction were you facing and which
7 direction was he facing ---

8 A. --- I was facing towards the left and he was coming
9 from the left basically.

10 Q. Okay. Would the gunman have been facing sort of --
11 would he have had a view of Coleman Boulevard at that
12 time based on where everybody was standing?

13 A. No. He would have had a view of the sidewalk behind
14 us.

15 Q. Okay. And I believe you also testified that two
16 individuals approached you from behind subsequent to the
17 gunman approaching?

18 A. Yes.

19 Q. Okay. And so they would have been facing -- I
20 don't want to put words in your mouth which direction
21 would they have been facing ---

22 A. --- they would have been facing towards Moultrie.

23 Q. So facing ---

24 A. --- from behind us ---

25 Q. --- north on Coleman Boulevard towards Sullivan's

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- 1 Island is that correct?
- 2 A. Correct.
- 3 Q. Would they have had a clear view of Coleman
- 4 Boulevard at all or?
- 5 A. Yes. I mean really we all had -- we were right
- 6 there on the side of it.
- 7 Q. Peripheral vision?
- 8 A. Yes.
- 9 Q. Okay.
- 10 A. That side is lit up pretty good over there. There
- 11 is a gas station over there and there's street lights.
- 12 Q. Yes, sir. And to reiterate your testimony I believe
- 13 you stated that the gunman immediately jammed the gun
- 14 into your stomach.
- 15 A. Yes.
- 16 Q. And by shall we say unfortunate coincidence happened
- 17 to jam that into a rather large hernia that you were
- 18 suffering from at the time?
- 19 A. Yes, it wouldn't have been too hard not to find that
- 20 one.
- 21 Q. Understood; watermelon size.
- 22 A. Exactly.
- 23 Q. But you're clear that he actually jammed it into
- 24 your stomach? Did that cause you immediate pain or?
- 25 A. I wasn't worried about that pain. I was more

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1 worried ---
2 Q. --- that adrenaline at the time ---
3 A. --- I was more worried about that gun.
4 Q. Did that cause -- you testified that you were taken
5 across the street to the area in front of Wild Wings
6 café?
7 A. Yes.
8 Q. Subsequent to the robbery? Was that when you began
9 experiencing discomfort from ---
10 A. --- I told Shane that I could feel it hard you know.
11 That's usually when you should lay on your back and try
12 to push it in. And Shane was like man you should just go
13 on and bolt to the hospital so I did.
14 Q. Okay ---
15 A. --- because I was getting ready to have surgery and
16 everything shortly so I mean...
17 Q. But in your mind the fact that some injury was
18 caused to a preexisting hernia that makes you positive
19 that that gun was jammed in your stomach?
20 A. Oh, I felt it jammed in my stomach.
21 Q. Okay.
22 A. But it could have been when I hit the ground when
23 Gillespie came running across I could have done it by
24 that too because I threw myself on the ground. I didn't
25 know if the guy was going to turn and start shooting or

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1 what. I just wanted to make sure I was out of the way
2 and that I didn't get shot.

3 Q. Yes, sir. And is it a fair synopsis of the
4 testimony that you provided here today that the
5 description you were able to provide of the suspects was
6 they were three black males is that correct?

7 A. Yes.

8 Q. That either two or three of them were wearing
9 hoodies?

10 A. Yes, two of them had hoodies. I just -- it just
11 happened so fast and everybody was jacked up.

12 Q. Certainly. And that's the description that you
13 provided here today?

14 A. Yes. There was a lot of mumbling going on.
15 Everybody was fired up you know.

16 Q. Yes, sir. You stated in your testimony that you
17 previously gave a statement approximately a week after
18 this incident.

19 A. Yes.

20 Q. Were you in the hospital for that entire ---

21 A. --- no ---

22 Q. --- week long period?

23 A. No.

24 Q. Okay. So law enforcement approached you
25 approximately a week later regarding giving a statement

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1 after you had been released from the hospital?

2 A. Yes, I went to meet Eckert at the police station to
3 give my statement and I think to get my phone.

4 Q. Okay. And in that statement that's the statement
5 in which you gave the information that one of the
6 suspects had dreads is that correct?

7 A. Yeah.

8 Q. And do I understand your testimony correctly that
9 you feel as if that description may have been tainted by
10 news coverage that you observed in the interim?

11 A. Yeah because I saw a picture of them the next day.
12 It was crazy. I couldn't you know...

13 Q. Okay. So this incident took place in the early
14 morning hours of I think you said you left Art's bar at
15 midnight.

16 A. Yeah.

17 Q. So it would have pushed over into May 7th okay.

18 Early the next morning you had already seen mug shots of
19 the three suspects?

20 A. Yep.

21 Q. Okay. And so based on seeing that you no longer
22 feel comfortable in providing a description of one of the
23 suspects as having dreads ---

24 A. --- yeah, yeah. I couldn't be 100 percent sure that
25 both of them had hoodies on you know. It could have been

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1 a ball cap or something. I was more focused on the gun.

2 Q. Okay. Did you ever provide a statement to law
3 enforcement that mentioned anything about a ball cap?

4 A. No.

5 Q. So your testimony here today is the first time
6 you've mentioned the possibility of one of the suspects
7 wearing a ball cap?

8 A. Uh Huh.

9 Q. Okay. The gunman, the first person that you saw,
10 was he wearing a hoodie?

11 A. Yes.

12 Q. Did he have the hood up?

13 A. Yes.

14 Q. Okay. And were -- I believe your testimony was you
15 were so focused on the gun that you really weren't paying
16 much attention to details regarding the suspects so to
17 speak?

18 A. No.

19 Q. Is that a fair statement?

20 A. That's a fair statement.

21 Q. And seems like a fair course of action to me as
22 well. And when -- at this point you testified that the
23 gunman said something to the effect of -- what did he say
24 to you when he jammed the gun into your stomach do you
25 recall?

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1 A. Give me what you got? I couldn't honestly tell you.

2 It didn't take a rocket scientist to figure out what he

3 wanted.

4 Q. Sure, absolutely.

5 A. I knew what I was going to do and that was give him

6 whatever I had.

7 Q. And subsequent to that whatever the gunman's command

8 was to you I believe you testified you started taking

9 stuff out of your pockets and it was going to the ground.

10 A. Yep.

11 Q. Okay. At any point did any of the suspects,

12 alleged robbers, robbers; whichever term you prefer to

13 use for them did any of them go through your pockets?

14 A. I think they were patting them.

15 Q. Okay.

16 A. Patting.

17 Q. Did anybody retrieve anything out of your pockets?

18 A. No.

19 Q. So the items that were taken from you were retrieved

20 from the ground?

21 A. Yes.

22 Q. And you're clear on that?

23 A. Yes, I immediately put them to the ground.

24 Q. Okay. And nothing was taken out of your pockets?

25 A. No.

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1 Q. Nothing left in your pockets to take?

2 A. No.

3 Q. When you gave the statement to I believe you
4 mentioned Detective Eckert approximately a week after
5 this incident when you gave that statement did the police
6 press you for any descriptive details of the suspects at
7 that time?

8 A. Yes like clothing and stuff but not really. I
9 didn't really have too much to describe to them to be
10 honest with you.

11 Q. Okay. At any time before and when you said you
12 went to the hospital you were actually taken to the
13 hospital by E-M-S?

14 A. Uh Huh.

15 Q. How long after the incident that took place how much
16 time passed between then and the time you were
17 transported to a hospital by E-M-S?

18 A. Less than an hour I would think; 45 minutes.

19 Q. So you were in the Wild Wings parking lot for
20 approximately 45 minutes to an hour?

21 A. About 25 or 30 minutes; something like that.

22 Q. 25 or 30 minutes? Did the robbery itself take 15 or
23 20 minutes?

24 A. No.

25 Q. I'm sorry if the confusion is on my part. If you

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1 could clarify for me I thought you said from the time of
2 the robbery until the time you left in an E-M-S was 45
3 minutes to an hour?

4 A. No, from the time that we sat at Wild Wings I'd say
5 40 minutes. The robbery itself didn't last but five
6 minutes.

7 Q. So from the time that you arrived at Wild Wings
8 until the time you were transported by E-M-S was?

9 A. 45 minutes; 30 to 45 minutes.

10 Q. Thank you, sir. I was confused; my fault. At any
11 time during that 35, 40, 45 minutes and I know these are
12 all approximations and I'm comfortable with that at any
13 time during that period did you learn that any of the
14 robbery suspects had been taken into custody?

15 A. I don't think so.

16 Q. They didn't inform you -- keep you informed about
17 that sort of thing?

18 A. I don't think so.

19 Q. Okay. Did at any time while you were in the Wild
20 Wings parking lot did the police bring any suspects to
21 that area to give you an opportunity to identify them?

22 A. Nope.

23 Q. At any time subsequent to May the 7th of 2013 were
24 you ever -- did you ever go to the police station for
25 purposes of picking somebody out of a lineup?

State v Darren Belt
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1 A. No.

2 Q. And at any time subsequent to May the 7th of 2013
3 did anybody present you with what we attorneys refer to
4 is a six pack but a collection of six pictures from which
5 to potentially identify somebody who has committed a
6 crime?

7 A. No.

8 Q. Would you have been able to do so if that had taken
9 place ---

10 A. --- no.

11 Q. Did any of the robbers have a knife?

12 A. Not that I know of.

13 Q. Okay. Was a knife drawn on you?

14 A. Not that I know of.

15 Q. Was a knife held to your neck at any time?

16 A. Not that I know of. As a matter of fact I know it
17 wasn't held to my neck.

18 Q. Okay. You would remember that?

19 A. Oh yes.

20 Q. So you didn't observe a knife being drawn on Mr.
21 Burnett or a knife being held to Mr. Burnett's neck
22 either did you?

23 A. No.

24 Q. And you've very clear on that?

25 A. Yes.

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1 MR. DETREVILLE: If I might have a moment, Your
2 Honor?

3 THE COURT: Take your time.

4 [Whereupon, Mr. DeTreville reviews documents]

5 Q. [Mr. DeTreville] I'm hearing from you Mr. McElhenney
6 two things that you are very clear on or three things
7 that you are very clear on is about the nature of the
8 gun. You got a good look at the gun and you were able to
9 access what type of weapon it was.

10 A. Yes.

11 Q. And that was a revolver of some sort?

12 A. Yes.

13 Q. I'm hearing from you that you are very clear on the
14 fact that no items of property were taken out of your
15 pockets?

16 A. Correct.

17 Q. That your personal possessions that were taken from
18 you were retrieved from the ground?

19 A. Yes.

20 Q. And I'm hearing from you that you are very clear
21 about there not being a knife or a knife held to either
22 your own throat or Mr. Burnett's throat?

23 A. Correct.

24 Q. Would those all be accurate statements?

25 A. Yes.

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1 MR. DETREVILLE: No further questions of this
2 witness, Your Honor.

3 Q. [Mr. DeTreville] Thank you, Mr. McElhenney.

4 A. Thank you.

5 THE COURT: Mr. Ziegler redirect?
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State v Darren Belt
Glenn McElhenney-Redirect Examination by Mr. Ziegler
September 16, 2015

1 REDIRECT EXAMINATION

2 BY MR. ZIEGLER:

3 Q. Mr. McElhenney defense counsel referred to views of
4 Coleman Boulevard and who may have had a good view of
5 Coleman Boulevard and you testified that seemingly
6 everyone may have had a view of Coleman Boulevard.

7 As far as where the individuals where you and Mr.
8 Burnett and the robbers were positioned was that -- did
9 that stay the same, was it static the whole time of the
10 robbery?

11 A. It stayed the same. It was in that one little
12 vicinity by that tree.

13 Q. But were people standing still?

14 A. No. They were all -- everybody was moving around.
15 We might have even got out a little bit off the sidewalk
16 into the road a little bit.

17 Q. And were you able to get a good look at everyone's
18 hands to see whether there was any knife?

19 A. Like I said I was more worried about the gun. I was
20 focusing on the gun the whole time.

21 Q. Thank you.

22 MR. ZIEGLER: No further questions of this witness,
23 Your Honor.

24 THE COURT: Mr. DeTreville?

25 MR. DETREVILLE: No additional questions, Your

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1 Honor.

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

3 [Whereupon, the witness is excused and exits the
4 witness stand]

5 THE COURT: Call your next witness.
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1 MR. ZIEGLER: The State calls Mr. Alex Gillespie.
2 [Whereupon, Mr. Gillespie comes forward]
3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]

5 CLERK OF COURT: Please state your full name and
6 spell your last name for the record.

7 THE WITNESS: Alex Gillespie, G-I-L-L-E-S-P-I-E.

8 - - - - -
9 ALEX GILLESPIE,

10 Having been first duly sworn,
11 Was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. ZIEGLER:

14 Q. Good morning Mr. Gillespie.

15 A. Good morning Mr. Ziegler.

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

18 THE COURT: You may. You have continued
19 permission.

20 MR. ZIEGLER: Thank you.

21 Q. [Mr. Ziegler] I'm now presenting to you what has
22 been marked for identification purposes as State's
23 exhibit 1. Do you recognize this?

24 [Whereupon, the witness is shown exhibit]

25 A. Yes, I do.

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1 Q. What is that?

2 A. It's the DVD from my in car camera.

3 Q. Would that be from the night of May 7th, 2013?

4 A. Yes, sir.

5 MR. ZIEGLER: Your Honor, the State moves to admit
6 State's exhibit number 1 into evidence.

7 THE COURT: Any objection?

8 MR. DETREVILLE: No objection, Your Honor.

9 THE COURT: State's 1 into evidence without
10 objection.

11 MR. ZIEGLER: Thank you.

12 [Whereupon, State's exhibit number 1 is entered into
13 evidence by the court]

14 Q. [Mr. Ziegler] Mr. Gillespie in May of 2013 what law
15 enforcement agency were you a member of?

16 A. Mount Pleasant police, sir.

17 Q. And what was your employment history prior to Mount
18 Pleasant?

19 A. Prior to working for Mount Pleasant police I was a
20 corrections officer at Lieber Institution in Ridgeville.

21 Q. And how long in total did you work for Mount
22 Pleasant?

23 A. Approximately four years.

24 Q. And are you still employed at Mount Pleasant Police
25 Department?

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1 A. No, sir.

2 Q. And what are you doing now?

3 A. I'm currently going to school full time for nursing.

4 Q. I'd like to direct you to May 7th, 2013 just after
5 midnight. With Mount Pleasant Police Department what was
6 your role at that time?

7 A. My role at that time was patrol officer.

8 Q. And what were the duties of that job?

9 A. As a patrol officer you maintain a certain district.
10 On that night I was working district two, which is
11 basically the Ravenel Bridge to Coleman, Coleman to Chuck
12 Dawley, Chuck Dawley to 17 all the way back to the
13 Ravenel and everything that encompasses that triangle so
14 subdivisions such as Brookgreen, shopping centers like
15 Moultrie Plaza and things like that.

16 Q. And on that particular night what activities were
17 you participating in?

18 A. That particular night I was conducting business
19 checks. Basically you go around to the business in your
20 specified district and you pull on the handles of those
21 districts to make sure they are locked and you leave a
22 note for the business owner stating at what time you
23 checked their door and ensured that it was locked for
24 them.

25 Q. And on the night of May 7th 2013 or the morning I

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1 should say do you remember witnessing a robbery?

2 A. Yes I do.

3 Q. And were you on duty at the time?

4 A. Yes, I was.

5 Q. And what area were you in when you witnessed the
6 robbery?

7 A. I was in a small shopping strip right next to
8 Moultrie Plaza. There is Moultrie Plaza on Coleman,
9 there is a BP gas station and I was at the shopping
10 center which is directly across Coleman Boulevard from
11 Moultrie Middle School.

12 Q. And in what county did the robbery occur?

13 A. Charleston.

14 Q. Approximately what time did it occur when you
15 witnessed it?

16 A. It was approximately 12:15.

17 Q. And what is Coleman Boulevard like at that time of
18 night from your experience being out there on patrol?

19 A. The roadway itself is not that busy and it wasn't
20 that night. Two lanes -- excuse me, five lanes; two
21 lanes going north and two lanes south and then there is
22 an unprotected median in the middle of the roadway and
23 not too many people around.

24 Q. And how did you come to witness this robbery?

25 A. I was conducting business checks. I was at that

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1 small shopping center right across from Moultrie Middle
2 School. I heard the two victims walking and they were
3 kind of talking loudly and because of the time of the
4 morning I decided in my mind I would go talk to them
5 after I checked one last door.

6 I turned around and pulled on a door and left a
7 note. As I turned back around the two white males were
8 surrounded by three black males.

9 Q. What did you do at that point?

10 A. I obviously thought it was strange that in a matter
11 of seconds two people were then surrounded by three
12 additional people. I slowly started walking towards
13 them. As I got to about the middle of Coleman Boulevard
14 I noticed that one of the victims' hands went up in the
15 air.

16 At that point I realized they were being robbed. I
17 unholstered my weapon and I shouted hey. The three black
18 males looked at me and saw I was a police officer and
19 they immediately ran away from me.

20 Q. Did you pursue them?

21 A. Yes, I did. I pursued them on foot through there is
22 a little kind of shopping area or plaza next to Moultrie
23 Middle School where they have the farmer's market. We
24 ran straight through there towards Simmons Street. At
25 Simmons Street it got a lot darker. I lost one of the

1 three suspects and the other two went towards the area of
2 Rose Lane, which is off of Simmons Street. At that point
3 I decided to stop pursuing. I didn't want to over pursue
4 obviously for my safety.

5 I didn't know what type of weapon they had if any at
6 that point and I also wanted to go check on the victims.
7 So I dispatched the information and I ran back to the
8 victims to check on them.

9 Q. So Mr. Gillespie I want to go into a few more of the
10 details. What type of clothing did you observe the
11 robbers to be wearing?

12 A. I observed all three to be black males wearing dark
13 clothing one of which had a hooded sweatshirt and one of
14 which had a baseball hat with either white or silver
15 lettering on it.

16 Q. And again how many robbers did you see?

17 A. I saw three.

18 Q. And when you returned to the victims what happened?

19 A. The victims immediately stated they were robbed at
20 gunpoint. One of the victims Mr. Burnett stated that he
21 was sure that the weapon was a .38 caliber Smith and
22 Wesson because he used to have the same weapon himself.

23 Both he and Mr. McElhenney stated that the gun was
24 pointed directly at them and Mr. McElhenney said that he
25 was kind of suffering from a shortness of breath. At

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1 that point I called for an ambulance and we walked across
2 the street to the area of Moultrie Plaza Wild Wings
3 because it was a more well lit area and at that point we
4 didn't have any of the suspects so we walked over there
5 and waited for E-M-S.

6 Q. And how long did you stay there with the victims or
7 what did you do after you were with the victims?

8 A. When I was with the victims I was with them I would
9 say approximately 10 to 15 minutes. I gathered subject
10 descriptions as best as they could. One of the victims,
11 I think it was Mr. Burnett, stated he knew at least -- he
12 said they were all black males and he said at least one
13 of them had braids in their hair.

14 MR. DETREVILLE: Objection, Your Honor. Hearsay.

15 THE COURT: Is there an exception?

16 MR. ZIEGLER: Your Honor it is relevant to ---

17 THE COURT: --- okay you can approach. It's a yes
18 or no; please approach.

19 [Whereupon, an off the record bench conference is
20 held]

21 THE COURT: Sustained. Ladies and gentlemen I have
22 determined that was not an appropriate question and the
23 response was not for your consideration. If you wrote
24 that in your notes please strike it. Thank you.

25 Q. [Mr. Ziegler] So after you spoke with the victims

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1 what did you do then?

2 A. After I spoke with the victims Mr. McElhenney left
3 in the ambulance that had arrived. He was suffering
4 like I said shortness of breath and the second victim Mr.
5 Burnett left with a detective in a patrol vehicle back to
6 Mount Pleasant headquarters to talk to them.

7 And I joined the remaining officers in the area of
8 Old Village to search for the third suspect because at
9 that point I was advised over the radio that two of the
10 three suspects had been detained ---

11 MR. DETREVILLE: --- objection, Your Honor.

12 THE COURT: What's the basis?

13 MR. DETREVILLE: Hearsay.

14 THE COURT: Again is there an exception?

15 MR. ZIEGLER: No, Your Honor.

16 THE COURT: Same admonition, please continue. It's
17 sustained. Thank you.

18 Q. [Mr. Ziegler] Mr. Gillespie just to return to the
19 victims quickly what was their demeanor that you
20 observed?

21 A. They were very frightened obviously. They just had
22 a weapon pointed directly at them and I'd say hysterical,
23 you know very scared. One of the victims kept repeating
24 there was a gun pointed at me, there was a gun pointed at
25 me. They were very scared.

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1 Q. And what were you -- when you began searching after
2 you left the victims what were you searching for --

3 A. We were searching for the third suspect. Two of the
4 suspects had been apprehended at that point so we were
5 basically on foot in the area of King Street, Morrison
6 Street in that area looking for the third suspect..

7 Q. Approximately how long were you searching on foot?

8 A. I'd say approximately 45 minutes to an hour; around
9 that time period.

10 Q. And did you leave the area at some point?

11 A. At some point yes, we decided to leave the area. We
12 assumed that if we left the area maybe the third suspect
13 would think that we were leaving and giving up in hopes
14 to have him leave and possibly apprehend the third
15 suspect.

16 At that point I took my cruiser, my patrol vehicle,
17 down Simmons Street towards Royal Avenue. I got to the
18 stop sign and I witnessed a black male driving a green
19 jeep at a very fast pace out of Old Village towards
20 Coleman Boulevard.

21 Q. What was the traffic violation that you witnessed?

22 A. I immediately turned behind the vehicle. I paced
23 that vehicle driving at approximately 35 miles per hour
24 in a marked 25 miles per hour zone. I initiated a
25 traffic stop on that vehicle. The driver stopped in the

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1 Exxon gas station located on Coleman approximately across
2 from Page's Okra Grill on Coleman Boulevard.

3 Q. And up until that traffic stop where had -- what was
4 the area you had been patrolling?

5 A. It was the area of Bank Street, Greenwich Street;
6 that area in Old Village.

7 Q. Would it be fair to say it was generally the Old
8 Village area?

9 A. Correct. Yes, sir.

10 Q. Did the vehicle stop?

11 A. Yes, the vehicle stopped at the Exxon gas station on
12 Coleman Boulevard.

13 Q. And what did you do next?

14 A. At that point I waited for a second officer to
15 arrive before I approached the vehicle. I advised the
16 driver of the vehicle to please put his hands outside the
17 window and I waited until my second officer who was
18 Sergeant Horton arrived on scene. We approached the
19 vehicle.

20 As I was approaching the vehicle I looked in the
21 backseat obviously to make sure no one else was in there.
22 At that point I noticed there was a black shirt and a
23 black hat and a used pair of latex gloves on the backseat
24 of the vehicle. And then I made contact with the driver
25 who was Mr. Darren Belt.

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1 Q. What observations did you make about the defendant's
2 appearance when you saw him?

3 A. Mr. Belt did have braids in his hair which
4 corresponds to something ---

5 MR. DETREVILLE: --- objection, Your Honor.

6 THE COURT: What's the basis?

7 MR. DETREVILLE: It assumes facts not in evidence.

8 THE COURT: Overruled at this time.

9 Q. [Mr. Ziegler] You testified you noticed the driver
10 had braids in his hair.

11 A. He had braids in his hair, yes sir.

12 Q. Anything else about his appearance?

13 A. Yes, sir. He had something wrong, a handicap or
14 disfigurement with his left eye.

15 Q. How did it look if you had to describe it?

16 A. It just didn't look like a normal person's eye. It
17 looked different. It looked as if something had happened
18 to it in the past.

19 Q. And what did you -- how did the stop proceed at that
20 point? What did you do then?

21 A. At that point like I said originally it was a
22 traffic stop for speeding. But because of the facts that
23 we were looking for a black suspect, black male, the fact
24 that I noticed the black shirt, black hat and latex
25 gloves in the backseat of the vehicle we now were ---

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1 MR. DETREVILLE: --- Your Honor, I'd renew my
2 objection from previous arguments for the record.

3 THE COURT: It will be noted for the record. You
4 may continue Mr. Ziegler.

5 MR. ZIEGLER: Thank you, Your Honor.

6 A. Myself and Sergeant Horton were basically talking to
7 Mr. Belt asking him why he was in the area and what he
8 was doing in the area. He seemed very confused as to why
9 he was in the area.

10 He tried telling me he was there to visit a
11 girlfriend, he was trying to visit a friend. And the
12 neighborhood he was describing is a neighborhood I had
13 never heard of in the area of Mount Pleasant especially
14 not in the area of Old Village. He really had no reason
15 as to why he was there and he couldn't give us a
16 justified reason as to why he was there.

17 Q. [Mr. Ziegler] And was there anyone that you were
18 waiting for or did you obtain any information from the
19 driver as far as license or any routine things like that?

20 A. Yes. I ran his driver's license, South Carolina
21 driver's license and it came back to Mr. Darren Belt. It
22 also came back he was not wanted at that time.

23 Q. Was the vehicle registered to him do you know?

24 A. I believe it was, yes sir.

25 Q. If I showed you the tow form from the incident would

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1 you remember if it was registered to him or not?

2 A. Yes, sir.

3 MR. ZIEGLER: Beg the court's indulgence.

4 THE COURT: Take your time.

5 [Whereupon, Mr. Ziegler reviews documents]

6 Q. [Mr. Ziegler] Mr. Gillespie if you could just look
7 at this form and see if it reminds you of who was the
8 owner of that vehicle.

9 [Whereupon, the witness is shown document]

10 A. The owner of the vehicle was not the driver Mr.
11 Darren Belt. The owner was Mr. William Belt.

12 Q. And were you -- was the traffic stop extended beyond
13 the normal period for a speeding ticket?

14 A. I would say a normal speeding ticket is
15 approximately five to ten minutes long. With the
16 circumstances surrounding this traffic stop what had just
17 occurred down the street from where this traffic stop
18 took place it was extended due to the totality of the
19 circumstances. But it was a reasonable amount of time to
20 extend that stop.

21 MR. DETREVILLE: Objection, Your Honor. That's a
22 legal conclusion.

23 THE COURT: Overruled.

24 Q. [Mr. Ziegler] Were you waiting for anything at the
25 stop? Were you waiting for anyone else?

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1 A. Yes, sir. Sergeant Horton was on the phone with
2 Detective Eckert who was back at the Mount Pleasant
3 Police Department interviewing the two suspects talking
4 to them as well as the victim. So I was basically
5 waiting for instruction from Sergeant Horton as to what
6 to do next.

7 Q. Okay. Did Detective Eckert arrive at the scene?

8 A. Yes, he did.

9 Q. What was the decision at that point? What happened
10 with the driver?

11 A. After Corporal Eckert talked to him for a few
12 minutes he was placed under arrest. Mr. Belt was placed
13 under arrest for armed robbery.

14 Q. Mr. Gillespie I'm going to show you a few items.

15 Mr. Gillespie I'm going to show you what has been marked
16 for identification purposes as State's exhibit 5. Do you
17 recognize this?

18 [Whereupon, the witness is shown photograph]

19 A. Yes, I do.

20 Q. What is that?

21 A. It's a picture of the gas station and the shopping
22 plaza as to where I was conducting business checks the
23 night of the armed robbery.

24 Q. Okay. Is that an accurate portrayal of that area?

25 A. Yes, sir.

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1 MR. ZIEGLER: Your Honor, the State moves to admit
2 State's exhibit number 5.

3 THE COURT: Any objection?

4 MR. DETREVILLE: No objection, Your Honor.

5 THE COURT: State's 5 into evidence without
6 objection.

7 [Whereupon, State's exhibit number 5 is entered into
8 evidence by the court]

9 MR. ZIEGLER: May I publish?

10 THE COURT: You may.

11 MR. ZIEGLER: Now publishing State's exhibit number
12 five.

13 Q. [Mr. Ziegler] Again it's a bit dark Mr. Gillespie
14 but could you explain on this photo the business you were
15 talking about checking?

16 A. Can I stand up, sir?

17 Q. Yes.

18 THE COURT: You may not.

19 THE WITNESS: No? Sorry.

20 THE COURT: No, sir. Thank you.

21 A. Sorry. The business I was checking is the corner of
22 that -- you can see it as a red building. There is the
23 gas station and then it's that first building right there
24 [indicates] next to it. There is a doorway. That's the
25 door in which I turned around to check and turned back

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1 around and the two white males were surrounded by three
2 black males.

3 Q. And this view would be from which side of the
4 street?

5 A. The side of the street where the robbery occurred.

6 Q. Okay. Where was Moultrie Middle School in
7 relation?

8 A. Not directly across from the doorway in which I was
9 checking but I would say if you're looking at the picture
10 it's your back right shoulder; just kind of to the back
11 right.

12 MR. ZIEGLER: Now publishing State's exhibit 3.

13 Q. [Mr. Ziegler] Mr. Gillespie could you explain on
14 this photo where the robbery occurred and where you
15 pursued them?

16 A. Yes. Where the robbery occurred was approximately
17 where that road construction sign is. Like I said when I
18 unholstered my weapon and yelled hey the subjects went
19 through that little plaza where the staircase --
20 obviously the staircase they kind of cut through that
21 direction and I chased them on foot.

22 Q. I'm now showing you what has been marked for
23 identification purposes as State's exhibit 32. Do you
24 recognize this?

25 [Whereupon, the witness is shown photograph]

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1 A. Yes.

2 Q. What is that?

3 A. It's a map referencing where the incident occurred,
4 where the traffic stop occurred and where the two other
5 suspects were apprehended.

6 Q. And from your personal observations is that an
7 accurate reflection of where those things occurred where
8 it proposes they are?

9 A. Yes, sir.

10 MR. ZIEGLER: Your Honor, the State moves to admit
11 State's exhibit 32.

12 MR. DETREVILLE: Without objection, Your Honor.

13 THE COURT: State's 32 into evidence without
14 objection.

15 [Whereupon, State's exhibit number 32 is entered
16 into evidence by the court]

17 MR. ZIEGLER: May I publish please?

18 THE COURT: You may.

19 MR. ZIEGLER: Now publishing State's exhibit 32.

20 Q. [Mr. Ziegler] Mr. Gillespie where did the robbery
21 occur on this? Well, first of all what does this map
22 show? What area does it show?

23 A. The yellow line would be Coleman Boulevard. And
24 down away from the yellow line is what we refer to as Old
25 Village where the two other defendant suspects were

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1 apprehended. The spot marked I-L is the incident
2 location directly right around the part of Moultrie
3 Middle School off of Coleman Boulevard.

4 The spot marked T-S is the Exxon gas station located
5 off of Coleman where I initiated the traffic stop on Mr.
6 Darren Belt.

7 Q. And approximately how far is the T-S traffic stop
8 from the I-L incident location that you noted there?

9 A. I would say approximately a quarter mile, sir.

10 Q. And in what area generally were you searching for
11 the third individual from the robbery?

12 A. The same area in which the two other suspects were
13 apprehended. When I was driving out of the area I was on
14 Morrison Street and there [indicates] is Royall which
15 turns into Whilden Street that's where I paced Mr. Belt's
16 vehicle going approximately 35 in a 25.

17 Q. Mr. Gillespie I'll now show a couple of clips from a
18 video, your in car video as State's exhibit 1.

19 [Whereupon, the video plays]

20 Q. Mr. Gillespie was that in the beginning of the
21 recording as far as you can tell?

22 A. Yes, it was.

23 Q. So before that there was nothing recorded on the
24 video?

25 A. Just prior I guess from me initiating my blue lights

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1 and me pacing the video yes, sir.

2 Q. And is that the vehicle that you have been referring
3 to that Mr. Belt was driving?

4 A. Yes sir, it is.

5 Q. And at this point what was happening?

6 A. At this point I'm in my door jamb. I basically
7 instructed the driver, Mr. Belt, to put his hands outside
8 the window and I waited for Sergeant Horton to arrive on
9 scene before I approached the vehicle.

10 Q. Was there any audio working on your video at that
11 time?

12 A. Other than in car, no, sir. My on-person recording
13 device was not working. I did instruct my supervisor of
14 that and it was just something we could not fix on third
15 shift, which is 9 p.m. until about 7 a.m.

16 Q. Are you still waiting for another officer here at
17 this point?

18 A. Yes, sir.

19 Q. Is that you on the camera?

20 A. Yes, it is.

21 Q. When did you first look into the vehicle if you
22 could point that out?

23 A. It just occurred when I lifted up my flashlight and
24 that's when I'm looking into the backseat of the vehicle.

25 At this point I'm making contact with Mr. Belt.

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1 Q. And we will move ahead in the video Mr. Gillespie.
2 Who is that other person on screen?

3 A. That's Corporal Eckert, Detective Eckert and that's
4 who Sergeant Horton was speaking to on the phone.

5 Q. And in the portion of the video that we did not see
6 there you said there was a period of waiting for the
7 detective you testified to that.

8 A. Yes, sir.

9 Q. Is that generally what was happening during that
10 period we did not see?

11 A. Yes. In that period it's basically myself talking
12 to Mr. Belt, Sergeant Horton talking to Mr. Belt and
13 Sergeant Horton discussing the case with Corporal Eckert.

14 Q. And who is that person that appeared?

15 A. The defendant Mr. Darren Belt, the driver of the
16 vehicle.

17 Q. What's occurring at this point?

18 A. At this point Detective Eckert is searching Mr.
19 Belt.

20 Q. And you've testified that the robbery occurred about
21 12:15 a.m. and the time stamp on this video began at
22 about 1:37 would that be accurate?

23 A. Yes, sir.

24 Q. So that is a period of over an hour, an hour and 20
25 minutes or so between the time that video began and the

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1 time of the robbery?

2 A. Yes, sir.

3 Q. What's happening here at this point?

4 A. At this point Mr. Belt is being arrested for armed
5 robbery sir and placed in handcuffs.

6 Q. And after Mr. Belt was placed in handcuffs there
7 what did you do at the scene of the traffic stop after
8 that?

9 A. After he was placed in handcuffs I placed him in
10 Corporal Eckert's vehicle. Corporal Eckert left the
11 scene with Mr. Belt in the backseat to Mount Pleasant
12 headquarters and I stood by with the vehicle and waited
13 for it to get towed while Corporal Myers and myself I
14 assisted in inventorying the vehicle and searching the
15 vehicle.

16 Q. And did you take any of the things located in the
17 vehicle? Did you put any of those into evidence?

18 A. Yes.

19 Q. Is that your way of assisting in the case?

20 A. Correct.

21 MR. ZIEGLER: Beg the court's indulgence.

22 THE COURT: Take your time.

23 [Whereupon, Mr. Ziegler and Mr. Maynor confer]

24 MR. ZIEGLER: No further questions of this witness,

25 Your Honor.

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1 THE COURT: Ladies and gentlemen of the jury I
2 think this is an appropriate time for us to take our mid
3 morning break. Please remember all my admonitions. Do
4 not begin discussing this case. Do not begin your
5 deliberations. Take your notepads with you or leave them
6 right in your chair. We'll take about 10 minutes.
7 Please rise for the jury.

8 [Whereupon, the jury exits at 11:53 a.m.]

9 THE COURT: Thank you. Please be seated. Mr.
10 Gillespie we're going to take a short break. Do not
11 discuss your testimony with anyone.

12 THE WITNESS: Yes, Your Honor.

13 THE COURT: We'll take about ten minutes. You may
14 step down. Anything before we take our comfort break?

15 MR. ZIEGLER: No, Your Honor.

16 THE COURT: Mr. DeTreville?

17 MR. DETREVILLE: Just as a matter of housekeeping,
18 Your Honor and I've found that different judges have
19 different preferences in this regard. I know the Court
20 of Appeals wants me to renew objections to things that
21 have already been ruled upon. Do you want -- is a single
22 renewal of that objection sufficient for your purposes?

23 THE COURT: I don't know that you are -- are you
24 going to do it every time we break?

25 MR. DETREVILLE: Well, I mean when things that I've

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1 objected to that ---

2 THE COURT: --- I think you've made an appropriate
3 contemporaneous objection. And I think that it will be
4 more appropriate at the close of the State's case then to
5 renew all your objections. But make a contemporaneous --
6 but there is nothing really to object to now other than
7 your continuing objection ---

8 MR. DETREVILLE: --- certainly. I just meant it as
9 a matter of future housekeeping since we were at a break
10 and I didn't want to interrupt anything.

11 THE COURT: I think make it when the evidence ---

12 MR. DETREVILLE: --- the items come in?

13 THE COURT: Correct.

14 MR. DETREVILLE: Thank you, Your Honor.

15 THE COURT: We'll take a ten minute break.

16 [Whereupon, court is in recess from 11:55 a.m. until
17 12:12 p.m.]

18 THE COURT: Thank you. Let's remain standing for
19 the jury. The jury is coming on in.

20 [Whereupon, the jury enters at 12:14 p.m.]

21 THE COURT: Thank you. Be seated. Mr.
22 DeTreville?

23 MR. DETREVILLE: Thank you, Your Honor. May it
24 please the court?

25

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1 CROSS-EXAMINATION

2 BY MR. DETREVILLE:

3 Q. Good afternoon Mr. Gillespie.

4 A. Good afternoon, sir.

5 Q. Are you still employed with the Mount Pleasant
6 Police Department?

7 A. No, sir.

8 Q. Are you still employed in the field of law
9 enforcement?

10 A. No, sir.

11 Q. You testified previously that you came across this
12 armed robbery following an observation that you had made
13 of two shall we say boisterous white males walking down
14 Coleman Boulevard. Would that be an accurate statement?

15 A. Yes, sir.

16 Q. And you had made a mental note to yourself that
17 maybe you should go check on them to make sure they don't
18 get into any trouble or something along those lines?

19 A. Yes, sir.

20 Q. And stop me if I put words in your mouth. It is
21 never my intention to do that. And immediately
22 thereafter you turned away and turned back around and
23 that's when you saw the two white males surrounded by
24 three black males I believe you said in your statement is
25 that correct?

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1 A. Yes, sir.

2 Q. Okay. How far away from this incident were you at
3 the time that you initially observed that scene?

4 A. I think a lane of travel on a road is approximately
5 let's say ten feet so five lanes is 50 feet, add a
6 sidewalk another five feet so approximately 55 feet sir.

7 Q. Okay. And about 20 yards; I'm kind of a football
8 guy is that about the same distance is that correct?

9 A. A little less but yes sir; I'd say 20 yards.

10 Q. Okay. And you immediately began crossing Coleman
11 Boulevard is that correct?

12 A. Correct. I immediately walked in their direction.

13 Q. Okay. And where about were you when one of the
14 victims raised his hands and the scene I guess became
15 something more than a stop and chat for you shall we say?

16 A. I would say the unprotected median to the middle
17 lane of the five, sir.

18 Q. Okay. And that's halfway?

19 A. Yes, sir.

20 Q. From where you were before so maybe 25 or 30 feet
21 from the scene?

22 A. Yes, sir.

23 Q. And is that when you drew your service revolver at
24 that point in the middle of Coleman Boulevard?

25 A. Yes, I unholstered my weapon.

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1 Q. Okay. And what was it that you yelled to the
2 people standing on the sidewalk?

3 A. I just yelled hey.

4 Q. Okay. And what was the reaction by the individuals
5 when you yelled hey?

6 A. They all looked at me sir and the three black
7 suspects ran away from me.

8 Q. And I believe you testified they ran away in sort of
9 the direction of what folks call the farmer's market
10 plaza is that correct?

11 A. Yes, sir.

12 Q. All three of them, okay. And you began to chase
13 them?

14 A. Correct, yes sir.

15 Q. How well lit was the area where the robbery was
16 taking place?

17 A. There were stop -- not stop lights; excuse me,
18 street lights illuminated, sir so I'd say it was fairly
19 well lit.

20 Q. Fairly well lit okay. When you began to five chase
21 I think is when you described the lighting as becoming
22 substantially poorer shall we say?

23 A. Yes, sir.

24 Q. Okay. Was it downright dark while you were chasing
25 them at some point?

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1 A. It was a lot darker, yes sir through the plaza.

2 There was no lights on so it was fairly dark yes, sir.

3 Q. And I believe your testimony was that you gave chase
4 for a matter of a few minutes and that's when because you
5 believed one of the suspects, at least one of the
6 suspects to be armed and it was dark that that's when
7 your safety and concern for the victims caused you to end
8 the chase. Would that be an accurate synopsis?

9 A. I wouldn't say a few minutes, sir. I'd say
10 approximately 30 seconds to a minute. From where I was
11 to Simmons if I'm running it's not going to take me a few
12 minutes to get there.

13 Q. So the chase lasted a minute?

14 A. I'd say ---

15 Q. --- you went after the suspects for approximately a
16 minute?

17 A. Thirty seconds to a minute, yes sir.

18 Q. Thirty seconds to a minute, very good. When you
19 came back to the scene were the victims still on Coleman
20 Boulevard there in front of Moultrie Middle School?

21 A. Yes, sir ---

22 Q. --- they were still in that location?

23 A. They were still on the sidewalk yes, sir.

24 Q. Okay. And at what point from the time that you
25 came onto the scene until I suppose until the time that

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1 you came back to the victims did you radio this event in?

2 When did that take place?

3 A. As soon as the subjects started running away from me

4 I was running and dispatching the information.

5 Q. Okay. And part of your law enforcement training is

6 to provide the greatest amount of detail possible when

7 you're dispatching a situation in. Is that a correct

8 statement?

9 A. Yes, sir.

10 Q. Okay. And the purpose of providing the most amount

11 of information possible is to assist in finding the

12 suspects that you're chasing. Fair statement?

13 A. Yes, sir.

14 Q. Okay. When you dispatched this situation in you

15 gave a description of three black males ---

16 MR. ZIEGLER: --- objection, Your Honor. Hearsay.

17 THE COURT: Overruled.

18 Q. [Mr. DeTreville] When you dispatched this in you

19 gave a description of three black males in dark clothing

20 is that correct?

21 A. I don't remember but it sounds correct, yes sir.

22 Q. Okay. You testified previously that when you first

23 observed -- when you first came on scene and observed

24 what was transpiring you testified that you gave a great

25 deal more detail about the descriptions of the subjects

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1 that what you dispatched in is that correct?

2 A. Yes, sir. When I'm running with my weapon out of my
3 holster after three black males had just robbed two white
4 males and it's kind of an elevated situation, sir. And
5 when you get a moment to step back from that situation
6 you do remember a lot more details.

7 Q. Okay. So you remember the details regarding
8 somebody wearing a hat with white lettering on it,
9 somebody wearing a hoodie and things of that nature.
10 Those details came to you later.

11 A. Yes, sir.

12 Q. How much later?

13 A. I don't remember, sir.

14 Q. Okay. That night?

15 A. Yes, sir.

16 Q. Did you mention in your dispatch -- withdraw. Would
17 it be fair to say that under the circumstances when you
18 dispatched in the description of the suspects that was
19 the best description that you had at that particular
20 time?

21 A. While I was chasing after them? Yes sir that was
22 the best description at that time.

23 Q. This area where this robbery took place at that
24 particular time would that have been part of your -- I
25 know about police from watching television, would that

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1 have been part of your regular beat shall we say? Was
2 that your regular area that you patrolled?

3 A. Yes, sir.

4 Q. Okay. You didn't move around from district to
5 district or whatever it was. That was your assignment;
6 that area?

7 A. You primarily stayed in a district I would say up to
8 nine months to a year.

9 Q. So you were familiar with that area?

10 A. Yes, sir.

11 Q. Were you familiar with the locations of any
12 surveillance cameras in that immediate vicinity on that
13 particular evening?

14 A. I was not, no sir.

15 Q. Okay. Were you aware if the surveillance cameras
16 on Moultrie Middle School directly in front of where the
17 robbery took place?

18 A. No, sir.

19 Q. Were you aware of surveillance cameras at the gas
20 station directly across the street from where the robbery
21 took place?

22 A. No, sir.

23 Q. Okay. Would it surprise you to know that there
24 were nine surveillance cameras at the gas station across
25 the street?

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1 A. It would not surprise me no, sir.

2 Q. Okay. And would it surprise you to learn that two
3 of those surveillance cameras were pointing directly at
4 the scene of the crime?

5 A. That wouldn't surprise me no, sir.

6 Q. Did you contact Moultrie Middle School or did you
7 contact the gas station? Did you collect or review any
8 of those surveillance videos?

9 A. As patrol officer it's my job to be dispatched to
10 the initial call. After that and especially a situation
11 as severe as an armed robbery it gets passed onto higher
12 levels which would be the detective's office and they'd
13 take it from there. So it was not my responsibility sir
14 unless advised to check those surveillance cameras, sir.

15 Q. Okay. Whose responsibility on that particular
16 evening would that have been?

17 A. That's something sir that we wouldn't have access to
18 those cameras in the middle of the night so I would
19 imagine -- the detectives want to get to it as soon as
20 possible but I would imagine that was something they
21 couldn't do until the next morning, sir.

22 Q. Okay. Subsequent to your traffic stop of the
23 defendant which we saw small portions of moments ago
24 you're seen approaching the vehicle with your hand
25 touching your service revolver is that a truthful

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1 statement?

2 A. Yes, sir.

3 Q. At the time that you have your hand on your service
4 revolver you haven't even reached the back bumper of Mr.
5 Belt's vehicle at that particular point. Is that a
6 correct statement also?

7 A. Yes, sir.

8 Q. Okay. So you hadn't had any opportunity to observe
9 anything within the vehicle at that particular time?

10 A. No, sir.

11 Q. So what was it about this particular traffic stop
12 that made you believe that you needed to have your hand
13 on your service revolver before making contact with the
14 driver of the vehicle?

15 A. Because of the totality of the circumstances, sir.
16 The initial stop obviously was for speeding. I knew it
17 was a black male driver. We were currently looking for a
18 black male. He was leaving the area in which we had been
19 searching for approximately one hour at a high rate of
20 speed; approximately 35 in a marked 25.

21 So with those circumstances and the fact that we had
22 not found the revolver used in the robbery we knew there
23 was a weapon out there so I just wanted to be as safe as
24 possible, sir.

25 Q. So if I can summarize your testimony do I understand

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1 that the reason why you were touching your service
2 revolver as you approached the vehicle was that you had
3 observed a black male in the vicinity of a robbery that
4 had taken place an hour and half previously?

5 A. We were looking for a black male suspect that was
6 involved with an armed robbery with a weapon that had not
7 been found at that point. So yes, I was using more
8 caution because of the fact he was a black male leaving
9 the area we were searching.

10 Q. Okay. And you've described him as leaving the area
11 at a high rate of speed. How fast was he going again?

12 A. Approximately 35.

13 Q. Thirty five in a 25?

14 A. Correct.

15 Q. How many points did he get for the speeding
16 citation?

17 A. I don't recall, sir.

18 Q. Okay. Do you ever drive 35 in a 25?

19 A. No, sir.

20 Q. Okay. Did you assist in searching Mr. Belt's
21 vehicle?

22 A. Primarily it was Corporal Myers. I assisted with
23 placing the items taken from Mr. Belt's vehicle into
24 Mount Pleasant evidence, sir.

25 Q. Okay. And the black shirt and the black hat that

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1 you stated you observed in the backseat of Mr. Belt's
2 vehicle were those part of the -- were those included in
3 the items that you logged into evidence with Corporal
4 Myers?

5 A. I don't believe so, sir.

6 Q. No? Can you today show me the black shirt that you
7 observed in the backseat of Mr. Belt's car?

8 A. No, sir.

9 Q. Can you today show me the black hat that you
10 observed in the backseat of Mr. Belt's car?

11 A. No, sir.

12 Q. Can you today for certain say that that shirt was
13 black and not navy blue?

14 A. Yes, I can for sure say that, yes sir.

15 Q. Okay. And can you tell me what the lettering on
16 this black hat was that you observed?

17 A. No sir, I cannot.

18 Q. Do you recall testifying under oath at a matter
19 related to this particular matter Mr. Gillespie?

20 A. I don't understand the question, sir.

21 Q. Do you recall testifying under oath at a previous
22 trial related to this case?

23 A. Yes, sir.

24 Q. Okay. And do you recall testifying under oath at
25 that previous trial that you observed a black hooded

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1 sweatshirt and a black hat in the backseat of Mr. Belt's
2 car?

3 A. No, sir.

4 Q. If I were to show you a transcript from that trial
5 would that refresh your recollection?

6 A. Yes, sir.

7 MR. DETREVILLE: May I approach the witness, Your
8 Honor?

9 THE COURT: You may.

10 Q. [Mr. DeTreville] Mr. Gillespie I'm showing you what
11 has been marked as Court's exhibit 1, which is a
12 transcript from a previous trial.

13 [Whereupon, the witness is shown document]

14 Q. Would you read for me starting with line 20 of page
15 194 your response to a question that was posed to you?

16 A. Yes, sir. [Reading] When I was approaching the
17 vehicle I did see a black baseball cap with white
18 lettering and a black hooded sweatshirt along with latex
19 gloves in the backseat of the car and I made contact with
20 the driver who was Darren Belt.

21 Q. Were the -- so your testimony previously today was
22 that you observed a black shirt and a black hat in the
23 backseat of the car is that correct?

24 A. Yes, sir.

25 Q. And your under oath testimony previously was that

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1 you observed a black hooded sweatshirt and a black hat in
2 the backseat of Mr. Belt's car is that correct?

3 A. Yes, sir.

4 Q. Okay. And none of those items are present in this
5 courtroom today?

6 A. Not that I know of, sir.

7 Q. Nobody in this courtroom can look at those items and
8 make a determination for themselves whether it was a
9 hooded sweatshirt or a black shirt?

10 A. I guess not, sir.

11 Q. Okay. Now you assisted in logging items that were
12 taken from the car. Why were these particular items not
13 collected and put into evidence?

14 A. I don't know, sir.

15 Q. Did you feel after you had stopped Mr. Belt did you
16 feel like these were critical pieces of evidence?

17 A. Yes, sir.

18 Q. Okay. But you don't know why critical pieces of
19 evidence were not actually taken into evidence and are
20 unavailable for us to observe today?

21 A. At that point in my career sir I had no stripes on
22 my shoulder so I took the orders of others. If I was not
23 instructed to take those I was not going to take those,
24 sir.

25 Q. Okay. So it's somebody else's fault?

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1 A. I'm not saying it was someone else's fault. They
2 just weren't collected, sir.

3 Q. Okay. Now you stated -- you testified previously
4 that you asked Mr. Belt some questions about why he was
5 there, where he was going and things of that nature is
6 that correct?

7 A. Yes, sir.

8 Q. Okay. And what was his response to those
9 questions?

10 A. I don't remember exactly but he was describing
11 meeting a friend in a certain neighborhood in the Mount
12 Pleasant area sir.

13 Q. Okay. If I told you that he told you that he was
14 looking for Hickory Shadows would that sound correct to
15 you?

16 A. No, sir.

17 Q. Now as part of your law enforcement training Mr.
18 Gillespie you are also trained on the correct procedures
19 for executing incident reports. Would that be a correct
20 statement?

21 A. Yes, sir.

22 Q. And part of that training is that similar to what we
23 discussed with dispatching part of that training is that
24 you are supposed to include as many relevant details as
25 possible within that incident report is that correct?

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1 A. Yes, sir.

2 Q. Okay. And did you in fact execute an incident
3 report relating to the events that we're discussing
4 today?

5 A. Yes, sir.

6 Q. Okay. And do you recall your description of the
7 items found in the backseat of Mr. Belt's vehicle in your
8 report?

9 A. I believe I said there was a black shirt and a black
10 hat sir and a used pair of latex gloves.

11 Q. Okay. And at any point in that report did you
12 mention anything about lettering on a hat?

13 A. I don't recall sir.

14 Q. And you certainly don't mention a hooded sweatshirt
15 in your report at any time do you?

16 A. I don't recall, sir.

17 Q. Okay.

18 MR. DETREVILLE: May I have a moment, Your Honor.

19 [Whereupon, Mr. DeTreville reviews documents]

20 Q. [Mr. DeTreville] In your testimony earlier today Mr.
21 Gillespie you described Mr. Belt in your first
22 interaction with him your initial description of him was
23 that he had braids is that correct?

24 A. Yes, sir.

25 Q. And again I'll ask you if you recall giving

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1 testimony under oath at a previous trial related to this
2 matter?

3 A. Yes, sir.

4 Q. Okay. And do you recall stating in that previous
5 sworn testimony that Mr. Belt had cornrows in his hair?

6 A. I said they were a type of cornrows and braids. I'm
7 not sure exactly what the term for them is, sir.

8 Q. May I refer you to page 195 of the transcript that
9 is in front of you?

10 [Whereupon, the witness reviews document]

11 Q. And if I could get you to read this question at the
12 bottom of 194 and then your response starting on line 2.

13 A. Yes, sir. [Reading] Question: And do you remember
14 anything about Mr. Belt's description. My answer: Yes,
15 his hair was in kind of two cornrows -- and I paused --
16 and it came down to two -- and I paused -- not braids but
17 cornrows on the back of his head. Additionally there was
18 something wrong with his right eye.

19 Q. Okay. So in that testimony you stated that Mr.
20 Belt had cornrows but specifically disclaimed the idea
21 that he had braids in his hair?

22 A. No, sir. I'm not reading that. I said cornrows.
23 Not braids, but cornrows. I was definitely confused.
24 And I remember that day and I was not sure exactly what
25 they referred to on the streets I guess you could say,

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1 sir.

2 Q. Okay. So you're confused as to what your testimony
3 was that particular day or you were confused that day?

4 A. Confused that day and still confused as to how to
5 describe what is in his hair, sir.

6 Q. You are unfamiliar with the differences between
7 cornrows, braids, dreads; things of that nature ---

8 A. --- yes, sir ---

9 Q. --- is that a fair statement? Okay. But despite
10 your -- I hate to use the word ignorance; that's a tough
11 word but despite your ignorance regarding these different
12 hairstyles you're comfortable with your testimony today
13 that Mr. Belt had braids when you first saw him?

14 A. As far as what I saw that night yes, sir.

15 Q. Okay. But in your previous testimony you felt like
16 it was cornrows?

17 A. I said braid or cornrows, yes sir.

18 Q. Would you mind reading your response again?

19 A. Sir, this doesn't have pauses -- this doesn't have
20 me -- I know what it states. It says not braids but
21 cornrows.

22 Q. And should I infer from that ---

23 A. --- it kind of interprets as I was confused ---

24 Q. --- when you testified ---

25 A. --- as to what it is ---

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1 THE COURT: --- please don't speak over each other.

2 A. So I don't know what you're looking for.

3 Q. [Mr. DeTreville] Should I interpret your testimony
4 as saying cornrows not braids as something other than you
5 saying that he did not have braids in his hair?

6 A. You can interpret it any way you want, sir.

7 Q. Fair enough. You testified previously that the
8 audio, your audio was not working that night is that
9 correct?

10 A. Yes, sir.

11 Q. And having audio on your person is part of the rules
12 for the Mount Pleasant Police Department is that a
13 correct statement?

14 A. Yes, sir.

15 Q. Okay. But you did not have audio that particular
16 evening?

17 A. I did not.

18 Q. Okay. You stated earlier that you didn't recall
19 Mr. Belt's response to your question about where he was
20 going correct?

21 A. Not specifically no, sir.

22 Q. Okay. But if your audio had been working it would
23 have picked up all of your questions and answers, true
24 statement?

25 A. Yes, sir.

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1 Q. Okay. And I just want to verify with you Mr.
2 Gillespie how much time had passed between the time of
3 the armed robbery and the time that you initiated the
4 traffic stop on Mr. Belt?

5 A. I believe the initial incident was approximately
6 12:15. I believe the traffic stop was approximately
7 1:37, sir.

8 Q. Okay. So almost an hour and a half, fair?

9 A. Yes.

10 Q. Do you know where Mr. Belt was coming from when you
11 pulled him over?

12 A. I don't know, sir.

13 Q. Okay. But in an hour and a half let's say he could
14 have been coming from just about anywhere fair statement?

15 A. Yes, sir.

16 Q. He could have begun driving in Orangeburg that
17 particular evening and ended up in the Old Village in an
18 hour and a half, fair statement?

19 A. Yes, sir.

20 Q. Okay. And is it also not true that Mr. Belt
21 informed you that he was indeed lost and that he had
22 stopped twice at different gas stations to ask for
23 directions and that you could check with those clerks to
24 verify that?

25 A. I don't recall that, no sir.

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1 Q. You don't recall that? Okay. Thank you.

2 MR. DETREVILLE: No further questions of this
3 witness, Your Honor.

4 THE COURT: Mr. Ziegler?

5 MR. ZIEGLER: Thank you, Your Honor.

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Alex Gillespie-Redirect Examination by Mr. Ziegler
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1 REDIRECT EXAMINATION

2 BY MR. ZIEGLER:

3 MR. ZIEGLER: I've now published State's exhibit
4 number 32.

5 Q. [Mr. Ziegler] Mr. Gillespie do you remember this
6 exhibit?

7 A. Yes, sir.

8 Q. Am I correct that you testified to this being the
9 location where the robbery occurred?

10 A. Yes, sir.

11 Q. And is this Moultrie Middle School here [indicates]?

12 A. Correct.

13 Q. And would it be correct that you testified that you
14 pursued the robbers through the farmer's market area
15 which is next to Moultrie Middle School. Did you pursue
16 ---

17 MR. DETREVILLE: --- Your Honor I object. I think
18 these are leading questions.

19 THE COURT: Rephrase your question please.

20 MR. ZIEGLER: Thank you, Your Honor.

21 Q. [Mr. Ziegler] Mr. Gillespie which way did you pursue
22 the robbers of this matter?

23 A. Where the incident location is, sir. You see where
24 the building is, the school. I went on a diagonal right
25 through Simmons Street which is that first street past

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1 the school running this way [indicates].

2 Q. Okay.

3 A. And then as I said I lost two of them going toward
4 Rose Lane which is you can't see it on here but its right
5 off of Simmons Street, sir.

6 Q. So Simmons Street is that first street to the left
7 of Moultrie Middle School if you're looking at ---

8 A. --- correct. It's where you can see the name Parks
9 where the "S" is that's Simmons Street.

10 Q. And if you were -- when you were pursuing these
11 individuals were you going from the top right of the map
12 to the bottom left?

13 A. Yes sir that sounds correct.

14 Q. In that direction [indicates]?

15 A. At that angle, yes sir.

16 Q. Okay. And where was it when you first saw the
17 vehicle driven by the defendant approximately? Which
18 street was he travelling on?

19 A. I was leaving Morrison Street, which is right there
20 [indicates] and he was driving on Royall which turns into
21 Whilden Street.

22 MR. DETREVILLE: Your Honor, could I request that
23 the witness be a bit more specific about where -- he's
24 kind of pointing in general. I don't know to assist him
25 ---

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1 THE COURT: --- I don't know how he is going to be
2 more specific than that.

3 MR. DETREVILLE: Thank you, Your Honor.

4 THE COURT: We don't have a pointer so that's where
5 we are at this point. Thank you.

6 Q. [Mr. Ziegler] Is it -- Mr. Gillespie you've
7 testified this is the Old Village of Mount Pleasant.

8 A. Yes, sir.

9 Q. In your experience is it common for people to drive
10 through the Old Village to get to somewhere else?

11 A. No, sir. It's out of the way.

12 Q. Is there a main artery through the Old Village that
13 takes you to somewhere else?

14 A. No, sir. Unless you have a reason to go into Old
15 Village you wouldn't cut through Old Village. You would
16 stay on Coleman Boulevard either go back on the highway
17 to Chuck Dawley or you'd continue on to the Ravenel
18 Bridge.

19 Q. And when you first saw the defendant's vehicle was
20 he coming into the Old Village or going out of the Old
21 Village?

22 A. Leaving the Old Village, sir.

23 Q. That was the direction he was going?

24 A. Yes, sir.

25 Q. What type of hair would you say he has as far as

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1 length is it short hair or long hair?

2 A. Short, sir.

3 Q. Okay. Do you typically have to do a manipulation
4 of your hair in different ways?

5 A. No, sir.

6 Q. And do you know ---

7 MR. DETREVILLE: --- objection, Your Honor.
8 Relevance.

9 THE COURT: I think I know where he's going but
10 let's move on Mr. Ziegler. Thank you.

11 MR. ZIEGLER: Beg the court's indulgence.

12 THE COURT: Take your time.

13 [Whereupon, Mr. Ziegler reviews documents]

14 MR. ZIEGLER: No further questions of this witness,
15 Your Honor.

16 THE COURT: Mr. DeTreville?

17 MR. DETREVILLE: Nothing additional, Your Honor.

18 THE COURT: All right. You may step down. Thank
19 you.

20 THE WITNESS: Thank you, Your Honor.

21 [Whereupon, the witness is excused and exits the
22 witness stand]

23 THE COURT: Mr. Ziegler, who is your next witness?

24 MR. ZIEGLER: The State calls Officer Ivey.

25 THE COURT: And the lunch will be here momentarily

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1 so how long is Officer Ivey?

2 MR. ZIEGLER: Approximately ten minutes.

3 THE COURT: That will be perfect. Call Officer
4 Ivey. Thank you.

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State v Darren Belt
David Ivey-Direct Examination by Mr. Ziegler
September 16, 2015

1 MR. ZIEGLER: The State calls Officer David Ivey.
2 [Whereupon, Mr. Ivey comes forward]
3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]

5 CLERK OF COURT: State your full name and spell
6 your last name for the record.

7 THE WITNESS: David Ivey, I-V-E-Y.

8 THE COURT: Mr. Ziegler?

9 MR. ZIEGLER: Thank you, Your Honor.

10 - - - - -

11 DAVID IVEY,

12 Having been first duly sworn,

13 Was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. ZIEGLER:

16 Q. Good morning Detective Ivey.

17 A. Good morning.

18 Q. What law enforcement agency are you a member of?

19 A. The Mount Pleasant Police Department.

20 Q. How long have you been with Mount Pleasant?

21 A. For four years.

22 Q. Any law enforcement experience prior to that?

23 A. Yes. I was at the Aiken County Sheriff's Office for
24 four years before that.

25 Q. And what is your current assignment with Mount

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1 Pleasant?

2 A. I'm a detective.

3 Q. And what were your prior assignments?

4 A. Before that I was a road patrol officer.

5 Q. On May 7th, 2013 what was your position?

6 A. I was a road patrol officer on that day.

7 Q. And I want to direct you to May 7th just after
8 midnight so early in the morning. Do you remember
9 responding to a robbery incident that night?

10 A. Yes, I did. I heard Officer Gillespie on the radio
11 saying there had been an incident, so I went down to
12 assist him in looking for the suspects.

13 Q. In what area did the robbery occur?

14 A. On Coleman Boulevard in front of Moultrie Middle
15 School and was told by Gillespie that the suspects ran
16 into an area a neighborhood called the Old Village so
17 that's where I was looking around in.

18 Q. Okay. Did you drive into the area?

19 A. I did. I was in my vehicle driving.

20 Q. And how did you conduct your search?

21 A. Basically I started on Simmons Street and was just
22 driving through the neighborhood roads in my vehicle with
23 lights and everything -- spotlights looking around.

24 Q. And did you know how many individuals you were
25 looking for?

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1 A. I was told three.

2 Q. And what was their race and gender?

3 A. I was told three black males in dark clothing.

4 MR. ZIEGLER: Now publishing State's exhibit number
5 32.

6 Q. [Mr. Ziegler] Detective Ivey can you please point
7 out where -- what does this map generally show?

8 A. It shows the neighborhood called the Old Village.
9 And it shows the general area where we were looking for
10 suspects.

11 Q. And where is Moultrie Middle School?

12 A. You want me to get up and point?

13 Q. If you can just describe where it is on the actual
14 picture?

15 A. It's actually not in view on this particular -- the
16 way the screen is -- oh, I'm sorry; there it is. It's
17 just actually the roadway where the actual armed robbery
18 occurred is actually not quite in view on that screen.
19 But the building is -- Moultrie Middle School itself is
20 there [indicates] in the top right hand corner.

21 THE COURT: I think you just need to move the
22 exhibit.

23 [Whereupon, Mr. Ziegler complies]

24 A. Yes, there we go. Where it's marked I-L as the
25 incident location where the actual armed robbery

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1 occurred.

2 Q. And in your vehicle where were you generally
3 patrolling?

4 A. Well just to the left on this map is Simmons Street.
5 It turns out that's where I started and I patrolled down
6 Simmons Street. I'm not sure if it was Bank Street or
7 Ferry Street but one of the cross streets I took.

8 Then the next block over from Simmons Street is
9 Royall Avenue and I was patrolling up Royall Avenue in
10 that area and I patrolled onto King Street as well.

11 Q. Is this King Street [indicates]?

12 A. Correct. That's what I'm referring to.

13 Q. And when you pulled onto King Street approximately
14 how long had it been since the robbery incident had
15 occurred?

16 A. Not long; a matter of minutes. I don't remember
17 exactly how many minutes but probably less than 10.
18 Probably around five to six I think.

19 Q. Okay. Would it refresh your memory that it was --
20 if I would tell you you testified previously that it was
21 approximately four minutes?

22 A. Okay. That sounds right.

23 Q. But regardless you're saying it was minutes
24 afterwards?

25 A. Yes.

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1 Q. In distance by blocks of about how far? When you
2 turned onto King Street there about how far were you from
3 the incident location?

4 A. You know it's at an angle so maybe within two or
5 three blocks maybe from the actual incident location.

6 Q. And when you drove onto King Street what did you
7 observe?

8 A. When I was about part way up King Street approaching
9 the intersection on King Street there is Greenwich Street
10 and then I think it actually turns into a street called
11 Hampton [sic] Fludd right there at the intersection.

12 There was a man who ran out into the roadway. He
13 was on Hampton [sic] Fludd running towards King Street
14 and as I approached the intersection he basically ran out
15 just a few maybe 20 or 30 feet in front of my car and was
16 flagging me down. He was a black male with dark
17 clothing.

18 Q. And did you make contact with him?

19 A. I did. I got out and spoke with him. He identified
20 himself as Ricky Hayes and I spoke with him and
21 subsequently ended up taking him into custody.

22 Q. And did you expect that he may have been involved in
23 the robbery incident?

24 A. I did. I did based upon the fact that his general
25 trajectory of the way he was moving was away from the

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1 incident location and the fact that he was within the
2 proximity of the area that we were looking for suspects
3 and the fact that he met the general description of what
4 we were looking for as well.

5 Q. And you testified he was taken into custody?

6 A. Correct.

7 Q. And after he was secured what did you do then?

8 A. At that point once he was taken into custody I
9 walked that area around Hampton [sic] Fludd and King
10 Street on foot with a flashlight looking around. And
11 there was some construction going on on Hampton [sic]
12 Fludd and there was a dump truck parked on the side.

13 And while I was walking the area and was next to the
14 dump truck and saw some feet underneath the dump truck
15 and looked a little bit better and saw that it was an
16 individual who was laying on the drive axle of the dump
17 truck kind of near the back and myself and Corporal Myers
18 called him out. We identified him as Randi Parks.

19 Q. Did he have any items of interest on his person?

20 A. He did. He had two wallets on him and one of the
21 wallets had a driver's license inside that was for Mr.
22 McElhenney who was one of the victims in this case.

23 Q. I'm now showing you what has been marked for
24 identification purposes as State's exhibit 18. Do you
25 recognize this?

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1 [Whereupon, the witness is shown exhibit]

2 A. I do. That's the wallet that we recovered from
3 Randi Parks that had the identification in it for Mr.
4 McElhenney.

5 MR. ZIEGLER: Your Honor, the State moves to admit
6 State's exhibit number 18.

7 MR. DETREVILLE: Without objection, Your Honor.

8 THE COURT: What was that number; I'm sorry.

9 MR. ZIEGLER: 18.

10 THE COURT: State's 18 into evidence without
11 objection.

12 [Whereupon, State's exhibit number 18 is entered
13 into evidence by the court]

14 Q. [Mr. Ziegler] Was Mr. Parks taken into custody?

15 A. He was.

16 Q. Did you believe him to be involved in the robbery?

17 A. I did. Some of the similar factors for Mr. Hayes is
18 he matched the general description of who we were looking
19 for. He was in the general area of where the crime had
20 occurred and also the obvious fact that he had the
21 victim's wallet on him.

22 Q. And what did you do after Mr. Parks was taken into
23 custody?

24 A. I transported Mr. Parks back to the Mount Pleasant
25 Police Department and later on after he was back at the

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1 police department I responded to a traffic stop that had
2 occurred on the corner of Whilden and Coleman and I stood
3 by there.

4 Q. Did you do anything at that traffic stop other than
5 stand there?

6 A. No, I was just there just in case I was needed.

7 Q. And did you continue to search the area at all
8 before you took Mr. Parks to the station?

9 A. Yes, we did. He was secured into my vehicle and
10 myself and two other officers walked the area of Hampton
11 [sic] Fludd several more times looking for any other
12 suspects involved in this or a weapon or anything like
13 that.

14 Q. And to go back to the map, State's exhibit 32
15 briefly. Does this show where you located Mr. Hayes and
16 Mr. Parks and took them into custody?

17 A. Correct. It's marked with circles on the map
18 respectfully for Mr. Hayes and Mr. Parks.

19 Q. And the traffic stop that you responded to is that
20 on the map as far as you can tell?

21 A. Yes, that's marked with the letters T-S up towards
22 the left hand corner with the circle as well. That's the
23 corner of Whilden and Coleman.

24 Q. Detective Ivey I'm now showing you what has been
25 marked for identification purposes as State's exhibit 10

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1 and State's exhibit 12. Do you recognize these items?

2 [Whereupon, the witness is shown photographs]

3 A. Yes, I do. These are photographs that I took. This
4 is a picture of the dump truck that I was referring to
5 earlier in my testimony that Randi Parks was hiding
6 underneath.

7 It's parked on the corner of Hampton [sic] Fludd;
8 parked on the side of Hampton [sic] Fludd. And this is a
9 more detailed photograph of underneath the truck, the
10 drive axle where he was laying up on top of the drive
11 axle hiding.

12 Q. Is that an accurate portrayal of where you found
13 him?

14 A. Yes, it is.

15 MR. ZIEGLER: The State moves to admit State's
16 exhibits 10 and 12.

17 THE COURT: Any objection?

18 MR. DETREVILLE: None, Your Honor.

19 THE COURT: State's 10 and 12 into evidence without
20 objection. You may publish.

21 MR. ZIEGLER: Thank you, Your Honor.

22 [Whereupon, State's exhibit numbers 10 and 12 are
23 entered into evidence by the court]

24 Q. [Mr. Ziegler] Detective Ivey can you explain what's
25 in this photograph?

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1 A. Yes, that's the dump truck for a company, I can't
2 remember the name of the company now, but it's parked on
3 the side of Hampton [sic] Fludd which is where we were
4 searching around for suspects. And it's the dump truck
5 that Randi Parks was underneath.

6 Q. Okay. Was this picture taken -- when was this
7 picture taken?

8 A. It was taken after we had taken Mr. Randi Parks into
9 custody before I transported him back to the station.

10 Q. And the now published State's exhibit 12 what is
11 this?

12 A. That's more detail underneath the truck. The bar
13 running underneath is the drive axle and he was laying on
14 top of that drive axle hiding.

15 MR. ZIEGLER: Beg the court's indulgence.

16 THE COURT: Take your time.

17 MR. ZIEGLER: No further questions of this witness,
18 Your Honor.

19 THE COURT: Mr. DeTreville, your witness.

20 MR. DETREVILLE: Thank you, Your Honor. May it
21 please the court?

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State v Darren Belt
David Ivey-Cross-Examination by Mr. DeTreville
September 16, 2015

1 CROSS-EXAMINATION

2 BY MR DETREVILLE:

3 Q. Good afternoon Detective Ivey.

4 A. Yes, sir.

5 Q. I believe you testified that you responded to the
6 scene of this armed robbery within minutes is that
7 correct?

8 A. Correct.

9 Q. Where were you patrolling prior to responding ---

10 A. --- I was on Ben Sawyer Boulevard. I was doing a
11 check of a business on Ben Sawyer Boulevard. I don't
12 remember the name of the business.

13 Q. Okay. And you received information regarding a
14 description of the suspects that were being sought is
15 that correct?

16 A. Correct.

17 Q. And you previously testified that that description
18 was three black males with all black clothing correct?

19 A. Correct.

20 Q. Did that description include anything about hooded
21 sweatshirts?

22 A. It very well may have but I do not remember at this
23 time whether it did or not.

24 Q. Okay. Did it include anything about hats?

25 A. That also I don't remember.

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1 Q. Okay. Any physical descriptors regarding hair or
2 anything of that nature, size, stature?

3 A. No.

4 Q. Okay. Three black males in all black clothing.

5 A. Yes.

6 Q. Okay. And I believe you testified that really not
7 but a matter of minutes after arriving in the location
8 you first made contact with a Ricky Hayes ---

9 A. --- correct ---

10 Q. --- is that correct? Okay. And Ricky -- would it
11 be more accurate to say that Ricky Hayes actually made
12 contact with you?

13 A. Probably so. He flagged me down.

14 Q. Okay. He flagged you down and is it correct that
15 he actually alleged -- he was alleging that he was the
16 victim of an armed robbery correct?

17 A. That's correct.

18 Q. Okay. And what was Ricky Hayes wearing when you
19 arrested him?

20 A. To tell you exactly I can't remember but it was dark
21 clothing to the best of my memory.

22 Q. You couldn't specify whether it was black, navy
23 blue, or ---

24 A. --- really I can't. There's a video of it and if I
25 saw the video I could probably of course be refreshed at

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1 that point but at this point in time no, sir.

2 Q. Was he wearing a hooded sweatshirt or anything of
3 that nature? Do you recall those sorts of specifics?

4 A. I don't recall. I'm sorry.

5 Q. Okay, fair enough. There was a map up on the screen
6 and I believe you ticked off a few of the roads that you
7 covered while you were doing your initial search and some
8 of those roads were Simmons, Royall, Bank, King,
9 Greenwood?

10 A. Greenwich.

11 Q. Greenwich and Hamp Fludd ---

12 A. --- correct ---

13 Q. --- which is where you ultimately located a Mr.
14 Randi Parks is that correct?

15 A. Correct.

16 Q. Okay. How much territory did cover in that period
17 of your initial search? I mean how much area are we
18 talking about? Square miles or whatever?

19 A. Probably all together if you include the incident
20 location where I patrolled probably less than half a
21 mile. That's kind of off the top of my head.

22 Q. I'm okay with an estimate.

23 A. I would say about a half a mile, square mile.

24 Q. And you said that -- and correct me if I'm wrong you
25 said that you were in that vicinity conducting that

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1 search within five to six minutes of the initial call
2 coming out or maybe less than that?

3 A. Correct.

4 Q. Four minutes?

5 A. Yes.

6 Q. Or something to that effect. While you were
7 patrolling the area and you said you were not on foot you
8 were in a squad car correct?

9 A. Correct.

10 Q. While patrolling this area essentially immediately
11 around where two of the suspects were found and arrested
12 did you at any time observe a green jeep?

13 A. No I did not.

14 Q. In the vicinity?

15 A. I did not.

16 Q. Okay. A green jeep being driven by a black male?

17 A. No.

18 Q. Did you ever see a third suspect other than the two
19 that you eventually arrested? Did you see a third
20 suspect in the vicinity at all?

21 A. No, I did not.

22 Q. Okay. What time was it when you arrested Hayes and
23 or Parks approximately?

24 A. That's a good question. I would have to look over
25 maybe a CAD report. We called it out on the radio but to

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1 tell you exactly it was probably -- Mr. Hayes probably
2 within 15 to 20 minutes of the actual incident and then
3 Mr. Parks probably another 15 minutes after that.

4 Q. Okay. So if the incident took place at
5 approximately 12:15 you had both Hayes and Parks in
6 custody by 12:45? Would that be a fair statement?

7 A. Yes, I believe so. I believe that's correct yes,
8 sir.

9 Q. Okay. And just to reiterate your testimony the
10 only items relating directly to the armed robbery that
11 you found on either Hayes or Parks were actually found on
12 Mr. Parks?

13 A. That's correct.

14 Q. That's correct?

15 A. Yes.

16 Q. And you found Mr. McElhenney's wallet with his I.D.
17 in it on Randi Parks' person.

18 A. That's correct.

19 Q. Where about on his person was that do you recall?

20 A. In his pocket.

21 Q. In his pocket, okay. At the time of the arrest of
22 Hayes and Parks did you locate a gun?

23 A. I did not, no.

24 Q. Okay. Did you ask Hayes or Parks about a gun?

25 A. I asked Parks extensively about a gun.

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September 16, 2015

1 Q. You asked Parks extensively about a gun. Would it
2 be a fair statement -- would it be a fair choice of words
3 to say that you implored Mr. Parks to tell you where the
4 gun was?

5 A. True.

6 Q. Okay. And part of your questioning of Mr. Parks
7 about where the gun was was to the effect of hey man,
8 there are kids in the area and they could find this and
9 somebody could get hurt and that sort of thing so please
10 tell me where the gun is?

11 A. Yes, sir. That's what I said.

12 Q. And did Mr. Parks tell you where the gun was?

13 A. No.

14 Q. Okay. Did you discover where the gun was found?

15 A. My understanding is it was found on Hamp Fludd near
16 where I arrested him. As to how close I don't know.

17 Q. Okay. But close in vicinity of where Mr. Parks was
18 actually arrested?

19 A. In the vicinity, sure.

20 Q. Okay. Now Mr. Hayes didn't have a gun?

21 A. No.

22 Q. And Mr. Hayes didn't have wallets on him or anything
23 of that nature?

24 A. No.

25 Q. Did Mr. Hayes cooperate with your directives when

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1 you were initially arresting him?

2 A. Uh Huh, he did.

3 Q. He was cooperative?

4 A. Yes.

5 Q. Did you find Mr. Parks to be cooperative with you?

6 A. He did, yes.

7 Q. Okay. But he was hiding very much so.

8 A. Yes, sir.

9 Q. Did you -- and you've stated you arrested both of
10 these individuals somewhere in the 15 to 30 minutes after
11 the incident took place range?

12 A. Yes.

13 Q. Did you at any point take either of them to where
14 the victims were to do sort of a drive-by identification
15 at any point?

16 A. No, I did not.

17 Q. But a few blocks away from the scene of the robbery
18 you located two of the suspects contraband directly
19 related to the armed robbery and arrested them both and
20 confiscated that contraband?

21 A. Yes.

22 Q. At any point did you see Darren Belt there?

23 A. No.

24 Q. Okay. Final question Detective Ivey would it be a
25 fair statement to say that of all of the suspects in this

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September 16, 2015

1 particular case that Mr. Randi Parks was the one who was
2 caught red handed?

3 A. Yes.

4 Q. Thank you. No other questions.

5 THE COURT: Mr. Ziegler?
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State v Darren Belt
David Ivey-Redirect Examination by Mr. Ziegler
September 16, 2015

1 REDIRECT EXAMINATION

2 BY MR. ZIEGLER:

3 Q. Detective Ivey when you located Mr. Hayes and Mr.

4 Parks were there any other individuals around that you

5 could find at that point who you suspected to be involved

6 in the armed robbery?

7 A. When I looked? No.

8 Q. When you searched around in the area did you find

9 any other individuals with them?

10 A. No.

11 Q. And so in your understanding after you had taken

12 both of them into custody was there another individual

13 who the department was still looking for?

14 A. Yes.

15 MR. ZIEGLER: No further questions of this witness,

16 Your Honor.

17 MR. DETREVILLE: Nothing additionally, Your Honor.

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

19 [Whereupon, the witness is excused and exits the

20 witness stand]

21 THE COURT: Do you have a short witness?

22 MR. ZIEGLER: No, Your Honor.

23 THE COURT: Who is your next witness on your list?

24 MR. ZIEGLER: The next witness will be Mr. Shane

25 Burnett.

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1 THE COURT: Call Mr. Burnett.

2 MR. ZIEGLER: A shorter witness would be Mr. Myers;
3 Corporal Myers.

4 THE COURT: All right. Call Corporal Myers.

5 MR. ZIEGLER: The State calls Corporal Gary Myers.

6 THE COURT: Still waiting on lunch ladies and
7 gentlemen so as soon as it is here we'll break.

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State v Darren Belt
Gary Myers-Direct Examination by Mr. Ziegler
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1 [Whereupon, Corporal Myers comes forward]
2 [Whereupon, the witness is duly sworn by the Clerk
3 of Court]
4 MR. DETREVILLE: Your Honor, may I briefly approach
5 prior to this witness giving testimony?
6 THE COURT: You may. Go ahead and swear him in.
7 CLERK OF COURT: He's been sworn. State your full
8 name and spell your last name for the record.
9 THE WITNESS: Gary Allen Myers, M-Y-E-R-S.
10 [Whereupon, an off the record bench conference is
11 held]
12 THE COURT: Mr. Ziegler?
13 MR. ZIEGLER: Thank you, Your Honor.
14 - - - - -
15 GARY MYERS,
16 Having been first duly sworn,
17 Was examined and testified as follows:
18 DIRECT EXAMINATION
19 BY MR. ZIEGLER:
20 Q. Good afternoon Corporal Myers.
21 A. Good afternoon.
22 THE COURT: Mr. Foreperson, your first decision.
23 Lunch is here. Do you want to finish with this witness
24 or do you want to break for lunch?
25 FOREPERSON: We'll continue.

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1 THE COURT: All right. Did you -- I need you to
2 ask everybody.

3 [Whereupon, the jury confers]

4 THE COURT: Everybody is good. All right. Thank
5 you.

6 Q. [Mr. Ziegler] What police agency are you with?

7 A. The Mount Pleasant Police Department.

8 Q. How long have you been with them?

9 A. Since 2003.

10 Q. And what is your -- what positions have you had with
11 the department and what is your current position?

12 A. My current position is a corporal. I've been a
13 field training officer and also just a regular patrol
14 officer.

15 Q. In 2013, May of 2013 what role were you in with the
16 department?

17 A. I was a corporal on a patrol team.

18 Q. And so what responsibilities did you have?

19 A. On that night a sergeant was working and I was just
20 a line officer working the road.

21 Q. And what does that generally entail?

22 A. Just patrol the town and respond to calls; just
23 everything any normal patrol officer would do.

24 Q. And on May 7th, 2013 did you respond to an armed
25 robbery incident?

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1 A. Yes, I did.

2 Q. Where did you first respond to that incident?

3 A. It was called out in the area of Moultrie Middle
4 School which is on Coleman Boulevard. I responded to
5 that area. I believe I started on Simmons Street and
6 started patrolling the area we call the Old Village.

7 Q. On foot or in a vehicle?

8 A. At that time in a vehicle.

9 Q. So what were you looking for generally?

10 A. It was called out as a description of just three
11 black males and we were patrolling the area for anybody
12 matching that description.

13 Q. And when you -- did you -- what was the first time
14 you located a possible person that could be involved in
15 that armed robbery?

16 A. While I was patrolling that area Officer Ivey got
17 out with a person that was on I believe it was King
18 Street near Greenwich in the Old Village. So I responded
19 to him as backup.

20 Q. And what did you -- who did Officer Ivey have? Who
21 was he in contact with at that time when you arrived?

22 A. A Ricky Hayes.

23 Q. And was he taken into custody?

24 A. He was.

25 Q. What happened after that?

State v Darren Belt
Gary Myers-Direct Examination by Mr. Ziegler
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1 A. At that time there was another officer on scene with
2 Mr. Hayes. Officer Ivey and I began patrolling that area
3 for any other suspects.

4 Q. How did you patrol? Were you ---

5 A. --- we were on foot at that point.

6 Q. So from your understanding at that point how many
7 individuals were you looking for?

8 A. A total of three.

9 Q. But after one had been...

10 A. Two more, correct.

11 Q. Two others?

12 A. Yes.

13 Q. And did you come across anyone else who was
14 suspected of being involved?

15 A. We did. In that same area of Greenwich Street is an
16 area called Hamp Fludd. Officer Ivey and I were
17 patrolling.

18 He advised that he observed someone's feet sticking
19 out from under a truck. At that point we called out that
20 person and he complied and we ended up ultimately taking
21 him into custody as well.

22 Q. And did he have any items of interest on his person?

23 A. He had two wallets, one was his and one was I hope I
24 say it right McElhenney.

25 Q. So you testified that Mr. -- what was that person's

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1 name?

2 A. I believe it was Randi Parks.

3 Q. After Mr. Parks was taken into custody did you
4 continue to search the area?

5 A. Yes. After he was taken into custody I was
6 patrolling on foot in the area around that same area.

7 Q. What were you looking for? A person or things ---

8 A. --- a third suspect, correct. Another suspect or
9 any type of evidence of the crime.

10 Q. So there was -- there was another person you were
11 still looking for, another individual?

12 A. Yes.

13 Q. And did you while you were on foot did you locate a
14 third person?

15 A. I did not, no; not on foot.

16 Q. What did you do after that after you searched the
17 area?

18 A. While we were searching that area Officer Gillespie
19 called out with a traffic stop. My sergeant at the time
20 Sergeant Horton responded to his traffic stop and then
21 called me to that scene to the traffic stop.

22 Q. And what did you do at that traffic stop?

23 A. After I arrived on scene the person in that vehicle
24 was taken into custody. I then conducted an inventory of
25 the vehicle because it was being towed.

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1 Q. You said the vehicle ---

2 MR. DETREVILLE: --- Your Honor, I renew my
3 objection from previous arguments.

4 THE COURT: All right. It will be noted for the
5 record. Thank you. Mr. Ziegler, you may continue.

6 Q. [Mr. Ziegler] The vehicle was being towed?

7 A. Yes.

8 Q. And so what was your responsibility to -- you said
9 to inventory it?

10 A. Correct. Any time we tow a vehicle we do an
11 inventory of the vehicle for anything of value.

12 Q. And when you were looking in that vehicle did you
13 find anything in the backseat that was of interest?

14 A. On the backseat behind the driver was a book bag
15 that contained a pair of white shoes, an electric razor,
16 phone cord, flip phone, and then a couple of letters.

17 Q. Okay. And where were those letters in the
18 backpack?

19 A. Inside a zippered large pouch; one of the
20 compartments within the book bag.

21 Q. Was that book bag closed?

22 A. I believe it was initially yes.

23 Q. And you opened it?

24 A. Yes.

25 Q. Did you find -- and you found the letters inside of

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1 it?

2 A. Yes.

3 Q. And whose name was the addressee on those letters?

4 A. It was Ricky Hayes, Ricky Lamont Hayes, Ricky L.
5 Hayes; one of those.

6 MR. DETREVILLE: Your Honor, same renewal of our
7 objection.

8 THE COURT: Thank you.

9 Q. [Mr. Ziegler] Did you seize that item, the backpack,
10 and the letters inside of it?

11 A. Officer Gillespie was out with me conducting an
12 inventory and it was ultimately taken into evidence, yes.

13 Q. And do you specifically remember any other items in
14 the backseat? Do you remember whether or not there was
15 any clothing or any other items besides the backpack?

16 A. I do not, no.

17 Q. Do you recall whether there were or were not?

18 A. I do not recall whether there was or was not.

19 Q. Corporal Myers I'm now showing you what has been
20 marked as State's exhibit 23 for identification purposes.

21 [Whereupon, the witness is shown exhibit]

22 Q. Do you recognize this item?

23 A. Yes. It appears to be the one that was in the
24 backseat that day.

25 Q. What is it?

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1 A. I'm sorry?

2 Q. What is this item?

3 A. A backpack.

4 Q. And you said it was the one in the backseat?

5 A. It looks like the one that was in the backseat. I
6 believe it to be that one.

7 MR. ZIEGLER: Your Honor, the State moves to admit
8 State's exhibit 19 or excuse me, 23 into evidence.

9 MR. DETREVILLE: Same renewal of objection, Your
10 Honor. I'd also object to ---

11 THE COURT: --- counsel, please approach.

12 [Whereupon, an off the record bench conference is
13 held]

14 THE COURT: Mr. Zeigler, lay a better foundation on
15 that exhibit. Thank you.

16 MR. ZIEGLER: Yes, Your Honor.

17 Q. [Mr. Ziegler] Corporal Myers if you were to inspect
18 this backpack and open it would you be able to tell if
19 this was the backpack that you located on May 7th, 2013?

20 A. Yes. I mean I believe it to be the backpack. It's
21 the same, it looks the same and I believe it to be the
22 backpack. White shoes; yes, this would be the backpack.

23 Q. And is this the backpack that you removed from the
24 defendant's vehicle, the vehicle that the defendant was
25 driving?

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1 A. Yes. I believe that to be the one that was removed
2 from the vehicle, yes.

3 MR. ZIEGLER: The State moves to admit exhibit 19.
4 I'm sorry, 23.

5 THE COURT: Is it 19 or 23?

6 MR. ZIEGLER: 23, Your Honor.

7 THE COURT: Okay. And pursuant -- I understand
8 you have ---

9 MR. DETREVILLE: --- no other objection, Your
10 Honor.

11 THE COURT: Thank you. State's 23 is admitted
12 over your objection.

13 [Whereupon, State's exhibit number 23 is entered
14 into evidence by the court]

15 Q. [Mr. Ziegler] Corporal Myers I'm now showing you
16 what is marked for identification purposes as State's
17 exhibits 19, 20, 21, and 22.

18 [Whereupon, the witness is shown exhibits]

19 Q. Do you recognize those items?

20 A. Yes. They are the letters that were in the backpack
21 that day.

22 Q. And did you -- were you the one that removed these
23 letters from that backpack?

24 A. At the time of the stop, yes.

25 Q. And do they appear to be in the same condition they

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1 were at the time when you removed them from the backpack?

2 A. I believe so, yes.

3 MR. ZIEGLER: The State moves to admit exhibits 19
4 through 22.

5 THE COURT: Any additional objection?

6 MR. DETREVILLE: Nothing additional.

7 THE COURT: Preserving your recent or your previous
8 objection State's 19, 20, 21, and 22 into evidence noting
9 your objection. You may publish as needed.

10 [Whereupon, State's exhibit numbers 19, 20, 21, and
11 22 are entered into evidence by the court]

12 MR. ZIEGLER: Thank you, Your Honor.

13 Q. [Mr. Ziegler] I'm now publishing State's exhibit 19.
14 Do you recognize this?

15 A. Yes, it's one of the envelopes.

16 Q. And who is the name that it is addressed to?

17 A. Ricky L. Hayes.

18 Q. What's the address?

19 A. 1150 North Shadow Drive, Mount Pleasant South
20 Carolina 29464.

21 Q. I'm now showing you -- now publishing State's
22 exhibit 20. Is that addressed to the same individual as
23 the last one?

24 A. Yes.

25 Q. Would that be the same address as well?

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1 A. Yes.

2 Q. I'm now publishing State's exhibit 21. Is this
3 letter addressed to the same person as the others?

4 A. Yes, it is.

5 Q. Is that the same address?

6 A. Yes, it is.

7 Q. Now publishing State's exhibit 22. Is this letter
8 addressed to the same person as the previous letters?

9 A. Yes, same address.

10 Q. Thank you. And the four letters I've just shown
11 you were those located in this backpack?

12 A. Yes.

13 Q. And was this backpack located in the defendant's
14 vehicle ---

15 A. --- in the backseat of the vehicle yes, behind the
16 driver's seat ---

17 Q. --- in the vehicle the defendant was driving?

18 A. Yes.

19 Q. You've just mentioned where it was?

20 A. In the backseat behind the driver's seat, yes.

21 MR. ZIEGLER: No further questions of this witness,
22 Your Honor.

23 THE COURT: Mr. DeTreville?

24 MR. DETREVILLE: Thank you, Your Honor. May it

25 please the court? May I approach the evidence table to

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1 get an item?

2 THE COURT: You may.

3 [Whereupon, Mr. DeTreville reviews documents]
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1 CROSS-EXAMINATION

2 BY MR. DETREVILLE:

3 Q. Good afternoon Corporal Myers.

4 A. Good afternoon.

5 Q. You testified previously -- I was unclear was it you
6 or was it Detective Ivey who found one of the victim's
7 wallets on Mr. Randi Parks?

8 A. Ivey and I were together at the time.

9 Q. Okay. Was it you who physically retrieved it from
10 him or was Detective Ivey do you recall?

11 A. I do not recall.

12 Q. Okay. And did you participate in questioning Mr.
13 Parks at the time of his arrest at all?

14 A. I was present, yes.

15 Q. Did you ask him any questions about where the gun
16 was?

17 A. I believe -- I don't recall who asked the questions
18 to be honest with you. I know we had asked where the gun
19 was.

20 Q. Okay. Did you receive a satisfactory response from
21 Mr. Parks about where the gun was? Did he tell you where
22 it was?

23 A. No, we never found it that night. Ivey and I did
24 not find it.

25 Q. Okay. Is it safe to say that either yourself or

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1 Detective Ivey were more or less imploring Mr. Parks to
2 let you know where the gun was that there may be children
3 in the area and somebody could get hurt or something to
4 that effect?

5 A. I'm sure we asked him where it was. As to the
6 direct line of questioning I don't recall.

7 Q. Okay. Fair enough. You testified previously that
8 you responded first -- you responded to the call.

9 A. Correct.

10 Q. And I believe you mentioned Simmons as being the
11 first area that you responded to?

12 A. Yes, sir. It runs along the school, yes.

13 Q. How long did it take you to respond and how long
14 between the time the call came in until you were on
15 Simmons Street?

16 A. I don't recall, probably two minutes.

17 Q. Very quickly?

18 A. Fairly quickly, yes.

19 Q. Okay. And you were patrolling in a vehicle?

20 A. Yes.

21 Q. Okay. How much territory did you cover in your
22 search in your police car?

23 A. It wasn't long. I wasn't in the Old Village very
24 long before Officer Ivey called out with...

25 Q. Between the time you arrived at the Old Village

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1 until the time you arrived to assist Detective Ivey how
2 much time had passed?

3 A. Maybe a couple of minutes; I don't recall.

4 Q. And how far was it from where you were on Simmons
5 when you got a call from Detective Ivey asking for
6 assistance? How far away were you?

7 A. Two streets, three streets.

8 Q. Okay. At any time while you were patrolling in Old
9 Village conducting a search did you observe a green jeep
10 driving around in the neighborhood?

11 A. Not at that time, no.

12 Q. Did you observe one parked on the side of the road
13 anywhere?

14 A. I wasn't there very long, no.

15 Q. Okay. No black males driving a green jeep?

16 A. Not that I recall.

17 Q. Okay. How many -- so far we've been made aware
18 that Officer Gillespie, yourself, Detective Ivey were
19 immediately in the vicinity following the robbery. How
20 many other officers were in the area patrolling?

21 A. I have no idea.

22 Q. Okay. Less than five?

23 A. More than likely.

24 Q. Less than five?

25 A. Probably.

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1 Q. But you wouldn't recall who they were?

2 A. No.

3 Q. Okay. After Mr. Hayes and Mr. Parks were arrested
4 and placed in custody you I believe testified that you
5 continued your search patrol on foot is that correct?

6 A. Correct.

7 Q. And I believe your testimony was that you were
8 looking for another black male?

9 A. A third suspect, correct.

10 Q. Okay. But I believe your specific testimony was
11 that you were looking for another black male is that
12 correct?

13 A. Yes, sir. That was the description given.

14 Q. Okay. Did you encounter any other black males in
15 the vicinity during this period?

16 A. No.

17 Q. So your testimony was that you conducted -- we're
18 skipping ahead in time a little bit but following the
19 traffic stop on Mr. Belt and following his arrest you
20 conducted an inventory search of Mr. Belt's vehicle is
21 that correct?

22 A. Yes.

23 Q. Okay. Would you mind explaining for the benefit of
24 the jury what an inventory search is and what it entails?

25 A. You're searching the vehicle for anything of value.

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1 We note anything of value on a form that protects that
2 property from the time that we're done with it until the
3 time it gets towed and the person gets his vehicle back.

4 Q. Okay. And what were the items of value that you
5 retrieved from the vehicle?

6 A. They would be listed on the tow form.

7 Q. Okay. These four letters that have been entered
8 into evidence are listed on the tow form is that correct?

9 A. I believe they would be.

10 Q. Okay. Are those items of value?

11 A. Well they would also be -- they're taken to be
12 secured into evidence so that would be listed as well.

13 Q. Okay. So in addition to securing items of value
14 essentially and I don't want to put words in your mouth
15 but to protect the police from charges that they've
16 stolen things out of people's cars; things of that nature
17 is that correct?

18 A. Us, the tow company; anything.

19 Q. In addition to that you're also collecting evidence
20 relating to a crime is that correct?

21 A. If it's there, yes.

22 Q. Did you collect a black shirt or a black hat from
23 Mr. Belt's vehicle?

24 A. Not that I recall, no.

25 Q. But if it had been there you would have?

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- 1 A. Well Officer Gillespie was out with me as well. We
2 did that together. More than likely; it's possible.
- 3 Q. Now at the time you were -- were you a corporal at
4 the time also?
- 5 A. Yes.
- 6 Q. And Officer Gillespie was PFC, a private?
- 7 A. I believe so, yes.
- 8 Q. Would it be an accurate statement that he would have
9 deferred to you on these matters?
- 10 A. Not on an inventory search of a vehicle where two
11 officers do an inventory of a vehicle.
- 12 Q. No? Okay. So he was an active participant in the
13 inventory search?
- 14 A. Yes, as far as I believe. Or he at least took the
15 items to the station, yes.
- 16 Q. Okay. To the best of your knowledge was any black
17 shirt, black hooded sweatshirt, black hat, latex gloves;
18 anything of that nature collected from Mr. Belt's vehicle
19 and logged into evidence?
- 20 A. Not that I recall, no.
- 21 Q. Do you recall seeing any of those things?
- 22 A. I do not, no.
- 23 Q. You testified that you located this particular
24 backpack in the backseat of Mr. Belt's vehicle is that
25 correct?

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1 A. Yes.

2 Q. And that the backpack was closed and zipped up and
3 things of that nature when you discovered it so you
4 opened it up to search it?

5 A. I believe so, yes.

6 Q. And you found some toiletries, various odds and ends
7 within the backpack is that a fair statement?

8 A. Yes. Shoes and stuff like that.

9 Q. Okay. But you also found four pieces of
10 correspondence that have been entered into evidence that
11 were addressed to a Mr. Ricky Hayes, correct statement?

12 A. Yes.

13 Q. Do you know how long that backpack had been in Mr.
14 Belt's vehicle?

15 A. I have no idea.

16 Q. Did you take note of how old the mail was that you
17 retrieved from the backpack?

18 A. No.

19 Q. The postmarks? If I told you that this mail was
20 from August of 2012 would that surprise you?

21 A. No.

22 Q. So you don't know when that backpack was placed in
23 Mr. Belt's car and you don't know anything about the mail
24 other than its addressed to Mr. Hayes. Fair statement?

25 A. Correct.

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1 Q. Okay. Now you testified that the address and
2 certainly it's fairly self evident that all of these
3 items of mail are addressed to a Mr. Hayes at 1150 North
4 Shadow Drive correct?

5 A. Yes.

6 Q. Are you familiar with North Shadow Drive?

7 A. I know where the area is, yes.

8 Q. Okay. Is it in a subdivision called Hickory
9 Shadows?

10 A. Yes.

11 Q. Did you ever had occasion to question Mr. Belt at
12 any time during this from the time that you got there
13 until the time you left did you ask him any questions?

14 A. Not that I recall.

15 Q. Okay.

16 MR. DETREVILLE: If I might have a moment, Your
17 Honor?

18 THE COURT: Take your time.

19 Q. [Mr. DeTreville] Corporal Myers did you find a gun
20 in Mr. Belt's car?

21 A. No.

22 Q. Did you find any property belonging to either a Mr.
23 Shane Burnett or a Mr. Greg McElhenney in Mr. Belt's car?

24 A. No, not that I recall.

25 Q. Okay.

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1 MR. DETREVILLE: No further questions, Your Honor.

2 THE COURT: Redirect Mr. Ziegler?

3 MR. ZIEGLER: Nothing, Your Honor.

4 THE COURT: Ladies and gentlemen we've reached an
5 appropriate time for us to take our lunch break. Please
6 go ahead and take your notepads with you into the jury
7 room. Your lunch is there waiting on you. Please
8 remember all of my admonitions. Do not begin discussing
9 this case amongst yourselves or with anyone. Please let
10 -- I anticipate that it will be about 30 minutes. We'll
11 take a short lunch break work through and then we'll
12 bring you back out here. Please let the bailiffs know if
13 you need any more time than that. Please rise for the
14 jury.

15 [Whereupon, the jury exits at 1:25 p.m.]

16 THE COURT: Anything before we take our break Mr.
17 Ziegler?

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1 MR. ZIEGLER: Your Honor, I do have one issue about
2 the ---

3 THE COURT: --- you may step down Corporal Myers.
4 I'm sorry.

5 [Whereupon, the witness is excused and exits the
6 witness stand]

7 MR. ZIEGLER: About the mention of a previous
8 trial. We discussed pretrial that it would be a previous
9 statement under oath. The jury now has been told that
10 there was a previous trial of this matter.

11 THE COURT: When was that?

12 MR. DETREVILLE: I don't recall letting that slip,
13 Judge.

14 THE COURT: When was that Mr. Ziegler?

15 MR. ZIEGLER: It was during -- said by defense
16 counsel during Officer Gillespie's testimony.

17 THE COURT: What I heard was prior testimony. Did
18 he say prior ---

19 MR. ZIEGLER: --- it was trial on multiple times.

20 MR. DETREVILLE: I don't recall saying trial, Judge
21 but ---

22 THE COURT: --- we'll verify it and if it is truly
23 trial I'll just admonish or what are you requesting?

24 MR. ZIEGLER: I suppose that if you put in context
25 for the jury properly so they aren't assuming that it is

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1 a previous trial of this defendant.

2 THE COURT: Well over the lunch half-hour you craft
3 something that you would like for me to do so that we
4 don't draw even more attention to the fact that there was
5 testimony. So I'm going to verify. I didn't hear trial
6 but stranger things have happened.

7 MR. DETREVILLE: And I do not recall ---

8 THE COURT: --- that's okay. Let's be back at
9 2:15, 2:15. Will that give you enough time Mr. Ziegler?

10 MR. ZIEGLER: Yes.

11 THE COURT: Is that enough time for you Mr.
12 DeTreville?

13 MR. DETREVILLE: I can keep going Judge.

14 THE COURT: Okay, 2:15.

15 [Whereupon, court is in recess from 1:35 p.m. until
16 2:15 p.m.]

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

18 MR. ZIEGLER: Yes, Your Honor. With the matter
19 about the mention of a trial ---

20 THE COURT: --- you were correct. We did check and
21 you were correct so I apologize. I did not hear it and I
22 guess perhaps intentionally blocked it out since we had
23 already had that discussion. So what do you want me to
24 do?

25 MR. ZIEGLER: I would propose an instruction to the

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1 jury that there has been mention of a previous trial and
2 that that previous trial was not the trial of this
3 defendant. It was a trial of a co-defendant.

4 THE COURT: Okay.

5 MR. DETREVILLE: First let me offer my apologies to
6 the court. That was inadvertent on my part. I don't
7 have an objection to that. I think that it's reasonable.

8 THE COURT: I'm not going to handle that matter
9 here. I think I'll put it in my charge, just a general
10 charge since you didn't make a contemporaneous objection.
11 I think that would draw even more attention to it so
12 we'll just do it in the charge. I think that's
13 appropriate but in the future if Mr. DeTreville says that
14 please make an objection so that we can deal with it at
15 that time. Let's bring them in.

16 [Whereupon, the jury enters at 2:17 p.m.]

17 THE COURT: Thank you. Please be seated. Mr.
18 Ziegler, call your next witness.

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Shane Burnett-Direct Examination by Mr. Ziegler
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1 MR. ZIEGLER: The State calls Mr. Shane Burnett.

2 [Whereupon, Mr. Burnett comes forward]

3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]

5 CLERK OF COURT: Please state your full name and
6 spell your last name for the record.

7 THE WITNESS: Shane Burnett. The last name is B-U-
8 R-N-E-T-T.

9 THE COURT: Mr. Ziegler?

10 - - - - -

11 SHANE BURNETT,

12 Having been first duly sworn,

13 Was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. ZIEGLER:

16 Q. Good afternoon Mr. Burnett.

17 A. Hi.

18 Q. Why were you not able to be with us this morning?

19 A. I had a job interview.

20 Q. Was that something that you could change?

21 A. No. It was real important for my family so I had to
22 go.

23 Q. But are you here with us the rest of the day?

24 A. Yes. I got the job.

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

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- 1 A. Just off of Clements Ferry Road in Berkeley County.
- 2 Q. And how long have you lived in the Charleston area?
- 3 A. For about six years.
- 4 Q. Where did you live before that?
- 5 A. In Atlanta where I was born and raised; just outside
- 6 of Atlanta.
- 7 Q. Are you married?
- 8 A. I am.
- 9 Q. Do you have any children?
- 10 A. I do. We've got a two year son named James and a
- 11 six month old daughter named Gabrielle [phonetic].
- 12 Q. What is your education?
- 13 A. A four year degree from the University of Georgia in
- 14 Business Administration.
- 15 Q. Do you have any financial licenses?
- 16 A. I do. I worked for as a financial advisor for
- 17 Edward Jones for a number of years and a few series of
- 18 designations.
- 19 Q. What is your current employment?
- 20 A. I'm a business analyst for Mattress Firm until
- 21 today. So now I'm a brokerage director for Mass Mutual.
- 22 Q. I want to direct you to the night of May 6th 2013
- 23 and the early hours of May 7th, 2013. Do you remember
- 24 being a victim of an armed robbery that night?
- 25 A. I do.

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1 Q. What were you doing that night?

2 A. Glenn and I were out having a couple of beers,
3 seeing a band play and walking home.

4 Q. Do you live near Art's?

5 A. I did at the time.

6 Q. I'm sorry, is that where you were that night
7 watching the band play?

8 A. Yes, at Art's; I'm sorry, yes.

9 Q. And where is Art's Bar?

10 A. Coleman Boulevard, Mount Pleasant right next to
11 Moultrie Middle School.

12 Q. How did you get there?

13 A. We walked.

14 Q. And who accompanied you to Art's?

15 A. It was me, Glenn, and another friend of ours named
16 Ronnie.

17 Q. Was Ronnie with you all night?

18 A. For the most part. He left about I'm guessing about
19 an hour before us and he walked home and like I said
20 about an hour later Glenn and I were walking home when
21 the robbery occurred.

22 Q. How do you know Glenn?

23 A. We were neighbors. At the time I lived a few doors
24 down from him.

25 Q. And how much did you have to drink at Art's?

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1 A. Two possibly three beers over a several hour period.

2 Q. And how were you -- when you decided to leave Art's
3 how were you planning to get home?

4 A. Also walking. We walked there and we were going to
5 walk home. It was really close and obviously we didn't
6 want to drive.

7 Q. So when you left Art's you began walking?

8 A. Yes.

9 Q. What side of the street were you walking on?

10 A. That would be the east corner of the side of the
11 street I guess; on the same side as Art's and Moultrie
12 Middle School.

13 Q. Okay.

14 A. We had not crossed Coleman Boulevard after we left
15 Art's before the robbery occurred.

16 Q. And what were you doing? Again, who were you with
17 on your walk home?

18 A. It was just me and Glenn. We were walking down the
19 street singing some song.

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

21 A. Fairly well lit. A lot of cars going by; a decent
22 amount of traffic for that time of night. I don't
23 remember there being any other passengers walking on the
24 street but cars going by; fairly busy.

25 Q. About what time did you leave?

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1 A. Art's? We left Art's right around midnight. Maybe
2 11:30 to midnight, something like that; just a few
3 minutes before the robbery occurred.

4 Q. And when the robbery began where on Coleman
5 Boulevard were you?

6 A. Directly in front of Moultrie Middle School.

7 Q. Had you reached Moultrie Middle School yet?

8 A. Okay, actually I said directly. We were I don't
9 know 100 feet from being directly in front of Moultrie
10 Middle School. No, we hadn't quite reached it yet.

11 Q. What other landmark was there?

12 A. There is a market pavilion right next to Moultrie
13 Middle School that they have concerts at and a farmer's
14 market once every now and then. So we were directly in
15 front of that actually.

16 Q. Okay. And so please provide the jury your account
17 of the robbery that occurred when you two were walking on
18 that side of Coleman Boulevard.

19 A. So I was on the left hand side of the sidewalk and
20 Glenn was on the right. I'm walking down the road;
21 excuse me walking down the sidewalk and ---

22 Q. --- and who was closer to the road?

23 A. I was closer to the road. I was on the street side
24 and Glenn was on the non-street side I guess and we were
25 arm-in-arm singing some silly song being a little drunk.

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1 And from my right hand side and Glenn's also right hand
2 side two -- I remember two guys running up and getting in
3 front of us, we turned to face them so now our backs are
4 to Coleman Boulevard to the road and we were both facing
5 that market pavilion next to the middle school.

6 Then another guy came over and ran up behind my
7 back. At the time I think I said that there was two more
8 people behind my back but I couldn't be sure. All I know
9 it was definitely two guys standing in front of us. One
10 of them had a gun and put it to Glenn's stomach and said
11 give me whatever you got in your pockets.

12 Then he pointed the gun to me and put it in my
13 stomach and I said I don't have anything. And then he
14 put a gun to my head and I said wait a minute I do have
15 something hang on. And I dumped a bunch of junk on the
16 ground; keys, cell phone, pack of cigarettes.

17 And when they went for it all three or however many
18 of them there were, three of them I believe, went for
19 everything on the ground I took my wallet out and threw
20 it behind me to get it away from me out into the middle
21 of the road.

22 And at that time we heard Officer -- now I know its
23 Officer Gillespie running up behind us saying get on the
24 ground. Glenn and I hit the ground and the other three
25 guys ran.

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1 Q. Can you reiterate the property that you threw down?

2 A. A cell phone, a handful of change, a pocket knife,
3 it was a little pack of cigars and I think a lighter.

4 Q. And when Officer Gillespie, the police officer,
5 appeared what happened?

6 A. Like I said he yelled get down so we did; they
7 didn't and they ran. A few minutes later Officer
8 Gillespie came back to us and started getting our
9 description of the guys. We spend a few minutes talking.

10 He dispatched whoever and then we walked all three
11 of us walked back across Coleman Boulevard to get in a
12 more populated area just in case those guys came back.

13 Q. And I'd like to go back to a few of the details Mr.
14 Burnett.

15 A. Yes.

16 Q. How many robbers did you see?

17 A. I saw two in front of me and at least one behind me.

18 Q. Do you know how many for a fact were behind you?

19 A. No, I don't know for a fact. At the time I thought
20 there were three possibly four. I didn't to this day I
21 don't know if there was two behind me or one behind me.
22 I know there was at least one.

23 Q. Were they -- what was their demeanor these three
24 robbers?

25 A. Nervous, unplanned, jittery. They were jumping back

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1 and forth trying to stop us from running. It seemed to
2 me that they thought we were going to run and they were
3 just kind of going back and forth left and right trying
4 to stop us from running.

5 Q. So how would you describe that situation? Was it
6 calm or hectic or was it?

7 A. It definitely wasn't calm. Both Glenn and I were
8 actually I would use the word calm, as calm as you can be
9 when somebody has pointed a gun at you, but the guys
10 seemed very nervous, just very excited and amped up.

11 We were just standing there waiting for something to
12 happen doing whatever they told us to do so. The whole
13 situation was pretty intense, yes.

14 Q. So these individuals what do you remember about the
15 individual with the gun?

16 A. He seemed -- that's where my attention was focused
17 because he was the one holding the gun. I was focused on
18 the gun but when he held the gun up to my head, to my
19 face, his face and my face the weapon was directly in
20 line with the two of us so I got a very good look at his
21 face. And he just -- to be honest he looked like just an
22 attractive young man, young; not very big. So I got a
23 pretty good look at him.

24 Q. Do you remember any of his clothing?

25 A. Dark colored, dark colored clothing. At the time I

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1 thought that maybe he had dreadlocks or that maybe he was
2 wearing a hoodie. I couldn't really tell which; I was
3 more focused on the weapon.

4 Q. And would that be the person with the gun that you
5 thought that about?

6 A. Yes, correct. Yes.

7 Q. And so the other person who was in front of you you
8 said could you describe that person?

9 A. Yes. So from where I'm standing the person holding
10 the gun in front of me to my left to the gunman's right I
11 looked at him and I specifically looked at him because I
12 know a fair amount about firearms and I looked at the gun
13 and it appeared like a six shot revolver, Smith and
14 Wesson .38 caliber.

15 And I remember looking at it looking down the
16 cylinders because it was so close to my face I looked
17 down the cylinders and I didn't see any bullets in there
18 and I thought that gun is empty. There's possibly one in
19 the chamber but the other four cylinders that I can see
20 are empty or they appeared to be empty at that time.

21 So my first thought was I can grab that. My hands
22 were here [indicates] and the gun is there [indicates]
23 all I have to do is grab it. But then I thought well
24 there is at least two more guys here and once I grab that
25 gun there is going to be a fight. So I looked to my left

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1 and I saw him. And I remember thinking he's got a scar
2 on his eye. He looked like -- he just looked like he had
3 been in a lot of fights, a lot of trouble. At that
4 moment I made the decision not to grab the weapon. It
5 just didn't look like a calculated risk that I was
6 willing to take.

7 Q. And the person that you are describing what was it
8 about the person that you noticed?

9 A. The scar on his eye.

10 Q. And do you know if that person -- could you tell
11 anything about that person's other features; any hair or?

12 A. Also dark colored clothing, face the one main
13 feature that I can remember is that scar. If he had been
14 -- I hate to use the term good looking but if he had been
15 as good looking and as little boyish looking as the
16 person holding the gun I probably would have grabbed it.
17 But I remember looking at him and thinking I don't know;
18 I don't want to tangle with him.

19 Q. And the third individual that was behind you do you
20 remember anything about him?

21 A. No, other than black male under the age of 30.
22 That's about all I could say. I saw him out of the
23 corner of my eye run behind us but my focus wasn't on
24 him.

25 Q. And what do you remember about the gun?

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1 A. Like I said black, it appeared to me to be a .38
2 caliber Smith and Wesson six shot revolver. Again, I
3 know enough about guns I could look down the cylinders.

4 And I thought either -- well I can't say that I
5 thought of it at the time but at the time I thought those
6 cylinders are empty just because you can't see the silver
7 jacketed reflection off of a bullet.

8 Later on I found out they were hollow points and I
9 couldn't see the reflection because they were lead,
10 exposed lead in the hollow point so that's why I didn't
11 see the bullets.

12 Q. And where again was it pointed?

13 A. First at Glenn's stomach, then at my stomach, then
14 at my face.

15 Q. So how did you feel during the robbery?

16 A. For the first split second I thought it was a joke.
17 They just seemed like kids just like I said before just
18 unplanned and just nervous. It made me mad. Later on
19 when the whole thing was over of course it scared me.
20 But at the moment I got mad. I just wanted to punch
21 them.

22 Q. And as far as what the individuals did when property
23 was thrown on the ground do you remember what
24 participation came from each of the individuals?

25 A. When I took items out of my two front pockets and

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1 | threw them on the ground they all three, I saw three,
2 | certainly the two in front of me went to the ground, the
3 | one behind us came around and went to the ground and just
4 | started gathering up things. I purposely threw them kind
5 | of scattered so it would take them a second to pick them
6 | up. And that's when I threw my wallet.

7 | I got my wallet -- when their attention was focused
8 | on the ground I took my wallet out and threw it away from
9 | me. I had a large sum of money in my wallet and I didn't
10 | want them to get it.

11 | Q. Okay. And what was the participation of the
12 | individuals as far as you said they were moving around?
13 | What was the participation of each of them for that?

14 | A. I don't understand the question ---

15 | Q. --- were they all moving around?

16 | A. Yes, all three of them were just moving around.
17 | Again, it appeared like they were trying to stop us from
18 | running.

19 | And I specifically remember because I remember
20 | thinking I'm not running anywhere; you've got a gun. I'm
21 | not running. I just thought it was odd that they were
22 | dancing around so much. They just seemed very nervous.

23 | MR. ZIEGLER: Beg the court's indulgence.

24 | THE COURT: Take your time.

25 | [Whereupon, Mr. Ziegler and Mr. Maynor confer]

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1 MR. ZIEGLER: Your Honor, I have a pointer that can
2 be used for photos.

3 Q. [Mr. Ziegler] Mr. Burnett, I'm now showing you what
4 has been marked as State's exhibit number 3. Do you
5 recognize this photo?

6 [Whereupon, the witness is shown photograph]

7 A. I do.

8 Q. What is that?

9 A. So that is again I think its southeast side but it's
10 the same side of the street that ---

11 Q. --- excuse me. I'll actually put it up on the
12 screen for you so you can describe it. Now publishing
13 State's exhibit 3. Mr. Burnett, which way is Art's Bar
14 in this photo?

15 A. So Art's Bar is over this direction ---

16 Q. --- Mr. Burnett, stay behind the gate please.

17 A. Pardon me; I'm sorry. So that would be Art's Bar is
18 this direction [indicates] on that sidewalk.

19 Q. Okay. And about where in that photo did the
20 robbery occur again?

21 A. It took place right there [indicates].

22 Q. Okay. And which direction did Officer Gillespie
23 come from?

24 A. Gillespie came from this direction [indicates]
25 running if not perpendicular maybe at an angle from over

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1 this area [indicates]. So Glenn and I were walking from
2 Art's Bar and Grill walking this direction [indicates].
3 I was here [indicates], Glenn was here [indicates], and
4 the guys came from possibly down those steps [indicates]
5 or from behind this [indicates]. I don't know which
6 because we weren't facing them.

7 Then we turned, Glenn was here [indicates] and I was
8 here [indicates] facing that direction [indicates].
9 Officer Gillespie came from the back.

10 Q. Okay. And when -- again what happened when Officer
11 Gillespie arrived?

12 A. When Gillespie was coming from this direction
13 [indicates] he yelled get on the ground. Glenn and I
14 both did, they didn't and they ran this direction
15 [indicates]. Possibly running up those stairs
16 [indicates] or maybe jumping a fence. I don't know; we
17 were on the ground at that point but they ran through
18 that little plaza area [indicates].

19 Q. And as far as you've described the gunman do you
20 remember the gunman having any facial hair or any other
21 facial features?

22 A. I don't remember other than the fact that he was
23 like I said just a good looking kid. I don't remember
24 facial hair mostly because by the time I looked at him
25 the gun was directly between us and he was pointing the

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1 gun like this [indicates] and it was kind of blocking
2 this area [indicates] of his face, his hand and the gun
3 were. So I don't recall facial hair. He seemed a bit
4 shorter than me.

5 Q. If you had to -- if you were describing the stature
6 between the gunman and the other individual in front of
7 you how were they different in stature or were they the
8 same?

9 A. At the time I thought the guy sitting to my left who
10 was not holding the gun who had the facial scar, the scar
11 in his eye; I thought he was a little bit bigger than me.
12 The guy holding the gun directly in front of me seemed a
13 lot smaller than me.

14 Q. And was that in -- how do you mean bigger? Is
15 that...

16 A. Not necessarily in height. Actually they both
17 seemed -- to be more specific, I'm sorry to be more
18 specific they both seemed shorter than me. The guy
19 holding the gun appeared to be not so broad shoulders,
20 just smaller in stockiness if that's a word; so shorter,
21 a little bit thinner than me.

22 The guy to my left to the gunman's right, he seemed
23 to be shorter but a little stockier. But that could have
24 been thicker clothing; I don't know.

25 Q. So when Officer Gillespie returned to you could you

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1 give a brief description of what happened then?

2 A. When he came back you said when he returned to us?

3 Q. Yes.

4 A. He came back. He was on his radio calling out for
5 help, for assistance. He asked us real quick you know
6 are you guys okay. We said yes, we're okay. And then he
7 said -- we just talked for a moment about what he
8 experienced, what I experienced and then we walked back
9 across the street to get in a more populated area.

10 Q. What was that for? Why did you walk across the
11 street?

12 A. Just in case they came back. Gillespie stopped
13 giving foot patrol -- at the time he told me he said he
14 stopped chasing them because they ran into an unlit area.

15 Q. Okay. And did you remember Glenn going to the
16 hospital?

17 A. I do, yes.

18 Q. Did you go -- where did you go that night? Did you
19 go to the station at all?

20 A. I went to the station to give a statement and Glenn
21 went to the hospital.

22 Q. Some of the details that you testified to today were
23 not in your previous statement. Why is it that all those
24 details are not in your previous statement?

25 A. When I went to the station it was quite a while

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1 maybe almost an hour before I was able to give my
2 statement. As soon as I walked in the station I
3 overheard a few of the officers talking that they had
4 three guys in custody.

5 It was late; I was tired so to be honest I didn't
6 think it was really important; they had them in custody.
7 I sure wasn't thinking two years down the road sitting in
8 court. As far as I knew they had them in custody; let's
9 wrap it up and go home so.

10 Q. So did that cause you to be less detailed?

11 A. Yes, absolutely. Yes, I wish I had been more
12 specific.

13 MR. ZIEGLER: Beg the court's indulgence.

14 [Whereupon, Mr. Ziegler and Mr. Maynor confer]

15 MR. ZIEGLER: No further questions of this witness,
16 Your Honor.

17 THE COURT: Mr. DeTreville?

18 MR. DETREVILLE: Thank you, Your Honor. May it
19 please the court?

20

21

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25

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1 CROSS-EXAMINATION

2 BY MR. DETREVILLE:

3 Q. Good afternoon Mr. Burnett.

4 A. Hi.

5 Q. You've testified previously under oath that you were
6 accosted by three men possibly four men is that correct?

7 A. Yes.

8 Q. Okay. And you also testified under oath previously
9 that you didn't get a good look at the guys that accosted
10 you is that also correct? Do you recall that statement?

11 A. No, I don't recall that statement.

12 Q. Okay.

13 MR. DETREVILLE: May I approach the witness, Your
14 Honor.

15 THE COURT: You may.

16 Q. [Mr. DeTreville] Mr. Burnett I'm showing you a
17 transcript of your under oath testimony, previous
18 testimony. May I place that in front of you?

19 [Whereupon, the witness is shown document].

20 Q. If you could if you wouldn't mind ---

21 THE COURT: --- Mr. DeTreville, I need you to speak
22 a little more loudly. Thank you.

23 MR. DETREVILLE: Pardon me, Your Honor.

24 Q. [Mr. DeTreville] If you wouldn't mind reading for us
25 the question beginning on line 7 here and your response

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1 ending on line 17.

2 A. [Reading] Question: Please tell the jury your
3 account of the robbery that occurred on May 17th, 2013
4 after comma as you were walking home from Art's Bar.
5 Please tell the jury what happened.

6 Answer: Okay. Walking down the street I was on
7 the street side. Glenn was on the side of the school. I
8 think we were walking arm in arm or something. Anyway
9 two black males ran up from the side. We turned to face
10 them so now my back and Glenn's back were to Coleman
11 Boulevard and a third ran around us. I didn't get a real
12 good look.

13 Q. In your mind does that mean you didn't mean you
14 didn't get a good look at the three suspects?

15 A. No, that's not what was in my mind. What that tells
16 me is I didn't get a good look at where they came from.

17 Q. Okay. So that testimony should be interpreted as
18 you didn't see where they came from not that you didn't
19 get a good look at the suspects themselves.

20 A. I would say that testimony is open to
21 interpretation. My meaning was I didn't get a good look
22 where they came from.

23 Q. Okay. How long did this particular episode take
24 from start to finish -- from the time you were accosted
25 until the time the individuals began running how long did

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1 that take?

2 A. Not long, eight to ten seconds at most.

3 Q. Eight or ten seconds okay. And in that eight or ten
4 seconds you were able to develop a detailed description
5 of two of the assailants?

6 A. Yes.

7 Q. You were able to develop a detailed description of
8 the firearm being used and not only a detailed
9 description of the firearm being used but also to notice
10 that what appeared to be certain chambers in the revolver
11 were empty?

12 A. Yes.

13 Q. And this was going on while you had a gun pointed in
14 your face is that correct?

15 A. Yes.

16 Q. Okay. And in that -- while you're developing that
17 you're also dumping all your things from your pockets out
18 on the sidewalk is that correct?

19 A. Yes.

20 Q. Did you ever divert your attention from any of the
21 assailants or were you watching them the whole time?

22 A. I was watching them the entire time.

23 Q. Okay. Your attention did not get drawn towards the
24 gun at any point; were specifically focused on the gun?

25 A. Sir, if I understand the question so yes. I focused

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1 on the two individuals in front of me and the weapon.

2 Q. How would you divide the amount of time that you
3 spent observing the two individuals in front of you as
4 opposed to observing the gun that was in your face?

5 A. I don't know if I could quantify that with a
6 percentage?

7 Q. Okay. Out of a total of eight to ten seconds you
8 couldn't say how much time you spent looking at the gun
9 and noticing that certain of the chambers were empty?

10 A. Looking down the chambers and what I thought at the
11 time they were empty took a second maybe two at most.

12 Q. Okay. So possibly five or six seconds you had to
13 observe the two individuals in front of you?

14 A. Maybe longer.

15 Q. Okay. At any point during this eight to ten second
16 episode did anybody pull a knife on you?

17 A. Not that I saw.

18 Q. Did anybody hold a knife to your throat at any time?

19 A. No.

20 Q. Did anybody pull a knife on Mr. McElhenney?

21 A. Not that I saw.

22 Q. Or hold it to his throat?

23 A. Not that I saw.

24 Q. Okay. Do you recall testifying under oath that the
25 non-gunman who was standing in front of you was taller

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1 than you?

2 A. I'm sorry. Repeat the question one more time.

3 Q. Do you recall testifying under oath that the second
4 individual standing in front of you, not the gunman, but
5 that the second individual standing in front of you was
6 taller than you?

7 A. I don't recall it but it's possible that I did say
8 that.

9 Q. Okay. And how tall are you Mr. Burnett?

10 A. Five-nine.

11 Q. Okay. So if you did testify to that then the
12 second assailant in front of you would it be safe to say
13 that this person was five-ten or more?

14 A. I do believe -- yes, I believe that five-ten is
15 taller than me.

16 Q. Okay. And is that an accurate description of the
17 second person who was standing in front of you?

18 A. Is the description that that person is five-ten or
19 taller an accurate description of this person, no.

20 Q. Correct. So when you gave that testimony under oath
21 previously was that a mistake on your part? What has
22 changed your mind since previously testifying under oath
23 to today that causes you to believe that that person was
24 no longer five foot ten inches?

25 A. I never said a height. I said I believed he was

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1 taller than me. It's possible that he was shorter than
2 me. All things are possible.

3 MR. DETREVILLE: May I approach the witness, Your
4 Honor?

5 THE COURT: You may.

6 Q. [Mr. DeTreville] Mr. Burnett I'm again showing you a
7 transcript of your previous under oath testimony. Would
8 you mind reading for the benefit of the jury the question
9 starting on line 22 and then your response which
10 terminates on line 6 of the next page?

11 MR. ZIEGLER: Your Honor, if defense counsel could
12 state the page please.

13 MR. DETREVILLE: I'm sorry; it's page 142...

14 THE COURT: Thank you.

15 A. [Reading] Question: And the other person who was
16 you said ran in front of you what did that person look
17 like? Answer: This guy was maybe my height but quite a
18 bit heavier than the first guy, the guy I'm talking
19 about, the guy with the gun.

20 He was heavier than that, maybe a little stockier,
21 looked to me like had some kind of facial scar or
22 something wasn't right about his eye or face. I was
23 mainly focused on the gun but he also had fairly light
24 skin and I would say the same age range 25 to 30 years
25 old.

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1 Q. [Mr. DeTreville] Thank you Mr. Burnett. So going by
2 that testimony and your testimony today that you are five
3 foot nine is that correct?

4 A. Yes.

5 Q. Is it a safe assumption that that testimony, under
6 oath testimony that you gave was that that individual was
7 approximately five foot nine, five foot eight or five
8 foot nine?

9 A. I don't remember at the time the testimony to which
10 you are referring whether or not I intended that he was
11 five foot nine or less or more. I just can't answer
12 that. I don't know.

13 Q. Okay. But I would draw your attention to your
14 testimony today. It's true that you have testified that
15 that second individual was shorter than the gunman who
16 you also described as being shorter than you is that
17 correct?

18 A. I'm sorry, say that one more time.

19 Q. You described that second individual the one to whom
20 we are referring as being shorter and stockier.

21 A. Uh Huh.

22 Q. Okay. But in your previous testimony he was of a
23 similar stature to you?

24 A. Yes.

25 Q. Okay. How much shorter than you was this person?

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1 A. I don't know. I didn't measure him. I don't know.

2 Q. Okay. Significantly shorter, slightly shorter?

3 A. Significantly shorter than you.

4 Q. Okay. Fair enough. And I apologize for
5 reiterating this question what is it that has changed in
6 your mind since giving that testimony previously about
7 the similar stature to today's testimony where this
8 person is distinctly shorter?

9 A. I don't know that anything has changed in my mind
10 about the height of the person between then and today. I
11 can't say that anything in my mind has changed about the
12 height of that person.

13 Q. Okay. Could I ask you to explain the disparity in
14 your testimonies then?

15 A. You can. I can't.

16 Q. Are you telling me you don't have a response for
17 that? Did I understand that correctly?

18 A. No, you're not understanding that correctly. What
19 I'm saying is I don't recall being very specific on the
20 height of him then. I don't even remember what I said
21 five minutes ago specifically about the height of this
22 person.

23 Q. Okay. How long after the incident took place how
24 long thereafter were you in the Wild Wings parking lot?
25 How long did that process take?

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1 A. I'm sorry; how long after the event?

2 Q. After the incident how long did it take for
3 Gillespie to take you over to Wild Wings?

4 A. Not long; five or ten minutes.

5 Q. Okay. And did I understand your testimony
6 correctly that Officer Gillespie began asking you for
7 descriptions of the suspects?

8 A. He did.

9 Q. And what was the description of the suspects that
10 you provided to Officer Gillespie then?

11 A. You're asking me what I said the description that I
12 gave to him that night?

13 Q. Yes, sir.

14 A. I said three possibly four black males, roughly 20
15 to 30 years of age. I'm sorry I don't recall what I said
16 to him that night.

17 Q. Okay. And how long were you in the Wild Wings
18 parking lot before you were transported to Mount Pleasant
19 Police Department?

20 A. About 30 minutes.

21 Q. At any time during that 30 minutes did the police
22 bring any suspects to the Wild Wings parking lot for you
23 to identify any of those individuals as being involved in
24 this?

25 A. No.

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1 Q. Okay. At any point subsequent were you shown or
2 did you attend a lineup where you were expected to pick a
3 suspect out of a group of individuals who were standing
4 in front of you?

5 A. No.

6 Q. At any time subsequent to that were you shown a
7 series of photographs and asked to pick out any of the
8 suspects?

9 A. No.

10 Q. Okay. Your testimony that you -- your previous
11 testimony that you read just a moment ago I believe your
12 previous testimony today was that the second individual
13 that you observed had something messed up with his eye is
14 that correct?

15 A. I don't know that I would have used the exact word
16 messed up but yes, I did say that something was -- a scar
17 or ---

18 Q. --- I think the testimony was something to the
19 effect of it looked like he had been in a bunch of fights
20 or something to that effect?

21 A. That sounds about right.

22 Q. Okay. And in your previous testimony you stated
23 that he looked like he had either a facial scar or
24 something wrong with his eye. Is that correct the
25 testimony that you just recited?

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1 A. Yes.

2 Q. Okay. Was it a facial scar or was it something
3 with his eye?

4 A. What I saw that night was something on his eye
5 possibly also going to his face.

6 Q. Okay.

7 A. So possibly both but I know there was something
8 wrong with his eye.

9 Q. Okay. But when you testified previously that he
10 had either a facial scar or something with his eye were
11 you unclear at that time of whether it was a facial scar
12 or something with his eye?

13 A. Was I unclear whether; I'm sorry what? Ask me
14 again.

15 Q. When you said that it was either or. Either a
16 facial scar or something with his eye were you unclear
17 when you were giving that testimony as to which one it
18 was?

19 A. No.

20 Q. But you provided two alternatives.

21 A. Was that a question?

22 Q. Which one was it? When you were testifying and
23 saying he either had a facial scar or he had something
24 wrong with his eye which one was it? Did he have a
25 facial scar or did he have something wrong with his eye?

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1 A. He had something wrong with his eye; possibly
2 something wrong also with his face.

3 Q. Okay. So you're not sure about the facial scar but
4 you are now sure about something with his eye?

5 A. I was always sure about the eye. I've never been
6 sure whether or not it also involved his face.

7 Q. When you were transported to the Mount Pleasant
8 Police Department I believe your testimony was that you
9 gave a written statement approximately an hour later?

10 A. Yes, that's correct.

11 Q. And I believe your testimony then also was that it
12 didn't seem that the police were interested in a detailed
13 description of the suspects at that time.

14 A. I don't remember ever saying that, no.

15 Q. Okay. Would you describe for me what you were
16 expected to do in terms of giving a written statement
17 when you arrived at the Mount Pleasant Police Department?

18 A. So the expectation of my duty to give a description
19 be as detailed as possible and write everything down.

20 Q. Okay. And so you were as detailed as possible in
21 your written statement that you gave to police that
22 particular evening is that correct?

23 A. No. It was not as detailed as I could have been.
24 Again at that moment I thought or I had heard they had
25 three guys in custody so no; I wasn't as detailed as I

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1 could have been.

2 Q. Okay. So when you were giving your written
3 statement you didn't feel the need to include details
4 about physical descriptors of these suspects because you
5 felt like the case had already been opened and closed?

6 A. That's correct, yes.

7 Q. So when you provided a written statement to Mount
8 Pleasant Police Department that described four assailants
9 all of the same description 18 to 25 years of age black
10 males all wearing black clothing no facial hair and hair
11 length equals shoulder length you were describing all
12 four assailants when you gave that written description?

13 A. I don't recall that night whether I was describing
14 one or four.

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

17 THE COURT: You may.

18 Q. [Mr. DeTreville] Would it refresh your recollection
19 to see your written statement from that evening, sir?

20 [Whereupon, the witness reviews document]

21 A. So yes, apparently I was giving the same description
22 for what I thought at the time were four, yes.

23 Q. Okay. So at the time you thought that there were
24 four and you gave an identical description of all four of
25 them as being 18 to 25, light skin black males -- I'm

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1 sorry; I don't think light skin is in there -- and all
2 having shoulder length hair.

3 A. That's correct.

4 Q. Okay. And does that substantially match the
5 description you have given in previous testimony or in
6 your testimony here today?

7 A. Does that substantially match?

8 Q. Let me rephrase. Does it match at all?

9 A. Yes, I think it does.

10 Q. Okay. How so?

11 A. I guess to answer your question the way you're
12 asking it I have to see all the testimony of what you're
13 speaking. I don't -- you tell me what?

14 Q. I'm referring to your testimony today.

15 A. Okay..

16 Q. For example. Is it correct that you stated that you
17 believed that the assailants were between the ages of 20
18 and 30?

19 A. I did say that at the time, yes.

20 Q. You testified to that today have you not?

21 A. Yes.

22 Q. Okay. But in your written statement it says they
23 were all between the ages of 18 and 25.

24 A. It does say that, yes.

25 Q. Okay. You did not provide any description of the

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1 suspect's hair in your testimony today but you provided
2 fairly detailed descriptions of their hair in your
3 written statement correct?

4 A. I don't know that I would call that fairly -- I
5 don't know that I would call that detailed.

6 Q. Shoulder length hair?

7 A. I don't know how detailed I would say that that is;
8 it's two words.

9 Q. So just to reiterate you didn't include any of the
10 details that you're testifying to today because you
11 didn't think it was necessary?

12 A. That night I did not think it was necessary.

13 Q. Okay. Subsequent to this incident did you see any
14 news coverage regarding what had transpired?

15 A. The next day I did, yes.

16 Q. The next day. And what was your reaction to seeing
17 that news coverage?

18 A. I saw it online and they had my first and last name
19 and Glenn's first and last name in the story and so I
20 called the news station and had them remove that. I
21 didn't want our names posted publically.

22 Q. And as part of that news coverage isn't it true that
23 there were mug shots attached to the story that you
24 looked at?

25 A. Yes.

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1 Q. Okay. So you gave a statement at the time of the
2 incident that provided no details regarding facial scars
3 or anything of that nature, subsequently saw mug shots of
4 the suspects and then after seeing those mug shots you're
5 able to provide detailed descriptions of the suspects is
6 that a fair statement?

7 A. It's a leading statement. I would have been able to
8 provide those details without seeing the mug shots.

9 Q. Okay. So the mug shots assisted you in developing
10 your description of the suspects?

11 A. Absolutely not.

12 Q. I'm sorry; what was your testimony a moment ago?

13 A. I said I would have been able to provide detailed
14 description in front of me even if I had not seen the mug
15 shots online.

16 Q. Okay. But you couldn't provide that detailed
17 description before you saw the mug shots?

18 A. That's not correct. It's not that I couldn't; it's
19 that I didn't.

20 Q. Okay. It's that you didn't feel it was necessary
21 was your testimony.

22 A. Correct. At that time I did not feel it was
23 necessary.

24 Q. The area where this took place was well lit. Is
25 that an accurate statement?

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1 A. Yes, it's an accurate statement.

2 MR. DETREVILLE: If I might have a moment, Your
3 Honor.

4 THE COURT: You may.

5 [Whereupon, Mr. DeTreville reviews documents]

6 Q. [Mr. DeTreville] And I believe you testified
7 previously that the description that you gave to Officer
8 Gillespie at the time that he returned to you having
9 chased these individuals was of three black males wearing
10 dark clothing is that correct?

11 A. Yes, that's correct.

12 Q. Okay. And at that particular time did you not feel
13 the need to give him greater detail about as to the
14 description of the individuals?

15 A. You're asking if whether or not I felt the need at
16 that moment. Gillespie saw them and he ran after them.
17 He was radioing in and I saw other cops coming in from
18 all around. I didn't feel the need to be any more
19 descriptive than I was, no, or I would have been.

20 Q. So the only time that you have particularly been
21 descriptive about these individuals has been today?

22 A. That's not the only time I've been descriptive of
23 them. I've been more descriptive of them in the last 20
24 minutes because you've been asking.

25 Q. Okay. But these detailed descriptions were not

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1 available prior to your testimony. They are not on a
2 piece of paper somewhere. They're not in a police report
3 somewhere. None of those things; it was never provided
4 prior to that time.

5 A. To the best of my knowledge.

6 Q. Okay. Did you tell -- I believe your testimony was
7 that you informed Officer Gillespie that the suspects
8 were wearing hoodies and or possibly had dreadlocks is
9 that correct?

10 A. Yes, that's correct.

11 Q. Okay. And when did you decide that the suspects
12 did not have dreadlocks?

13 A. I don't know that I ever decided that they didn't
14 have dreadlocks.

15 Q. Did the suspects have dreadlocks?

16 A. I have no idea.

17 Q. I'm confused. Please help me. You gave a
18 description to a police officer who was looking for armed
19 robbery suspects that they had dreadlocks. And I'm not
20 hearing dreadlocks from you ---

21 MR. ZIEGLER: --- objection, Your Honor. Pitting.

22 THE COURT: Overruled.

23 Q. [Mr. DeTreville] I'm not hearing from you today that
24 any of the suspects had dreadlocks. Did the suspects
25 have dreadlocks?

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1 A. I don't know. I don't know that I knew that night
2 whether they had dreadlocks or not. Either they had
3 dreadlocks or they were wearing hoodie sweatshirts that
4 in the heat of the moment when you're staring at
5 someone's eyes and a gun in your face I'm more focused on
6 that than whether the triangular dark shape thing around
7 their head is hair or a cloth.

8 Q. But the area was well lit you testified.

9 A. Yes.

10 Q. So you couldn't tell the difference between a hoodie
11 and dreadlocks?

12 A. At that moment I didn't focus on -- no, I did not
13 focus on whether they were dreadlocks or a cloth, hoodie.

14 Q. But you were able to focus on facial features ---

15 A. --- absolutely ---

16 Q. --- detailed facial features?

17 A. Yes.

18 Q. You described the suspects as three black males in
19 dark clothes. Did you have any greater description of
20 the dark clothing that they were wearing?

21 A. I don't believe I ever gave a more detailed
22 description of that; I don't think so.

23 Q. Okay. So if I could summarize your testimony and
24 tell me if I summarize incorrectly you weren't able to
25 tell in a well lit area you weren't able to tell the

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1 difference between a hoodie and dreadlocks. You weren't
2 able to get into that much detail. You weren't able --
3 at one point you thought the second suspect was your size
4 or taller now he's short and stocky.

5 And you were able to discern detailed facial
6 features that you did not report to any police officers
7 at the time of the incident. Would all of those things
8 be fair statements?

9 A. I think that you have picked out the details that
10 help your case.

11 Q. I'm reciting back to you your testimony Mr. Burnett.

12 A. I understand.

13 Q. If I've misstated anything please let me know. It's
14 not my desire to put words into your mouth.

15 MR. DETREVILLE: If I may have a moment, Your
16 Honor.

17 THE COURT: Take your time.

18 [Whereupon, Mr. DeTreville reviews documents]

19 Q. [Mr. DeTreville] Were any of the individuals that
20 you observed wearing a hat?

21 A. I don't recall seeing a hat but it's possible that
22 they were.

23 Q. Can you state with certainty whether any of the
24 individuals were wearing a hat?

25 A. No.

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1 Q. Thank you.

2 MR. DETREVILLE: No further questions of this
3 witness, Your Honor.

4 THE COURT: Mr. Ziegler?

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Shane Burnett-Redirect Examination by Mr. Ziegler
September 16, 2015

1 REDIRECT EXAMINATION

2 BY MR. ZIEGLER:

3 Q. Mr. Burnett, the night that this robbery occurred
4 were you -- or after the robbery occurred I should say
5 when you were at the station and the moments after the
6 robbery were you relaxed or were you...

7 A. I was very, very tired; just emotionally drained.
8 My wife was six months pregnant at the time and that's
9 all I could think of. I just wanted to go home. I was
10 very tired.

11 Q. So would it surprise you that your statement given
12 that night wouldn't have been -- wouldn't have had every
13 possible detail?

14 A. I would be surprised of anybody's who did under
15 those circumstances.

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

18 THE COURT: You may.

19 Q. [Mr. Ziegler] Defense counsel had you read from a
20 previous statement under oath page 142 beginning from
21 line 22 to the next page line 6. Beginning from line 22
22 could you please read from that again?

23 [Whereupon, the witness is shown document]

24 A. [Reading] Question: And the other person who was
25 you said ran in front of you what did that person look

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1 like? Answer: This guy was maybe my height but quite a
2 bit heavier than the first guy, the guy I'm talking
3 about; the guy with the gun. He was heavier than that
4 maybe a little stockier maybe.

5 Looks to me like had some kind of facial scar or
6 something wasn't right about his eye or face. I mainly
7 focused on the gun but he also had fairly light skin and
8 I would say about the same age range 25 to 30.

9 Q. Thank you. And in that statement did you ever say
10 that the individual you were describing was taller than
11 you?

12 A. I don't believe I read the word tall in there; no I
13 said maybe.

14 Q. Did you describe him as stockier than the gunman?

15 A. Yes.

16 Q. Is that how you described him earlier today?

17 A. Yes, it is.

18 MR. ZIEGLER: Thank you, Your Honor. No further
19 questions of this witness, Your Honor.

20 THE COURT: Mr. DeTreville?
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RECROSS-EXAMINATION

2 BY MR. DETREVILLE:

3 Q. In your mind Mr. Burnett what was the phrase this
4 guy was maybe my height mean?

5 A. That means he could be taller or shorter.

6 Q. How much taller or how much shorter?

7 A. Less than two feet give or take.

8 Q. So your description of this person that you are
9 giving under oath testimony to and your under oath
10 testimony today is that this person could have been three
11 foot nine or could have been seven foot nine?

12 A. I was being exaggerative. He was possibly taller
13 possibly shorter than me. I didn't give any descriptions
14 as to what the quantity of that was.

15 Q. If he was possibly -- if you were confused as to
16 whether he was possibly taller than you or possibly
17 shorter than you could someone not have heard that that
18 meant he was similar in stature to you?

19 A. I think somebody could defer that from that
20 statement yes.

21 Q. Okay. If I was to tell you that Mr. Belt is five
22 foot two is that maybe your height?

23 A. Is that maybe my height? No, that is not ---

24 Q. --- would that fall under your description of what
25 it means to be maybe your height?

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1 A. Yes. If someone was four foot two I would say no,
2 they are maybe not my height. If someone was seven foot
3 two I would say no, they're not maybe my height. Would
4 then eight inches or what did you say five foot two so
5 what is that six or seven inches difference? That's
6 pretty close to my height.

7 Q. Okay.

8 MR. DETREVILLE: No further questions of this
9 witness, Your Honor.

10 THE COURT: All right. You may step down.

11 [Whereupon, the witness is excused and exits the
12 witness stand]

13 THE COURT: It's an appropriate time to take a
14 break. Do y'all need a break?

15 FOREPERSON: We're okay.

16 THE COURT: Call your next witness.
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State v Darren Belt
Andrew Decamp-Direct Examination by Mr. Ziegler
September 16, 2015

1 MR. ZIEGLER: The State calls Detective Andrew
2 Decamp.

3 [Whereupon, Detective Decamp comes forward]

4 [Whereupon, the witness is duly sworn by the Clerk
5 of Court]

6 CLERK OF COURT: State your full name and spell
7 your last for the record.

8 THE WITNESS: It's Detective Andrew Decamp, D-E-C-
9 A-M-P, Mount Pleasant Police Department.

10

11 ANDREW DECAMP,

12 Having been first duly sworn,

13 Was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. ZEIGLER:

16 Q. Detective Decamp how long have you worked at Mount
17 Pleasant Police Department?

18 A. I was hired in March of 2009 so six and a half
19 years.

20 Q. And what has been your progression in the
21 department?

22 A. I started off the first three years on patrol as a
23 patrol officer. I've been a detective with the Criminal
24 Investigations Bureau for the past three and a half
25 years.

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1 Q. And as a detective what are your responsibilities?

2 A. In our unit we are all general investigations so we
3 handle any type of criminal investigation that would need
4 extra attention or investigation that would exceed a
5 patrol level.

6 Q. And were you in the Investigations Division in May
7 of 2013?

8 A. I was.

9 Q. And on May 7th, 2013 were you involved in the
10 investigation of armed robbery in Mount Pleasant?

11 A. I was.

12 Q. And what was your involvement in the investigation
13 to begin with?

14 A. Just prior to the incident occurring I was actually
15 had been called out as the on-call investigator working
16 an unrelated case in Mount Pleasant.

17 During that case I was actually in route with
18 Corporal Eckert and a crime scene investigator to serve a
19 search warrant for that case at a residence.

20 Q. Was that related in any way to this case, sir?

21 A. No, it's not. While trying to make it to that
22 residence to serve the search warrant we actually, I and
23 other officers that I was with, heard Officer Gillespie's
24 transmissions advising that there had been an armed
25 robbery at which point we responded, myself included,

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1 responded to the area where Officer Gillespie was. I was
2 responding from about the area of Brickyard.

3 Q. And where did you respond? What particular area did
4 you respond to?

5 A. I responded to the parking lot of I believe its
6 Moultrie Plaza. It's with Wild Wings on Coleman
7 Boulevard across from Moultrie Middle School. That's
8 where I met with Officer Gillespie who was speaking to
9 one of the victims from the incident, Mr. Burnett.

10 Q. And did you have any involvement in taking a
11 statement from Mr. Burnett?

12 A. I did. After speaking with Officer Gillespie
13 separately from Mr. Burnett Officer Gillespie briefed me
14 on the incident and then I spoke with Mr. Burnett and
15 explained that we would like to interview him in
16 reference to the incident.

17 At that point he agreed to ride with me to the
18 police department to conduct the interview. I provided
19 him a ride over to the police department where we
20 conducted an interview in the CIB office interview room.

21 Q. Did he provide a written statement?

22 A. He did.

23 Q. And did -- where did you take Mr. Burnett after that
24 after that?

25 A. After he provided a written statement I gave him a

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1 ride back to his residence in Mount Pleasant and then
2 responded back to Mount Pleasant Police Department.

3 Q. Okay. And when you got back to the police
4 department what did you do?

5 A. Once I arrived back at the police department I was
6 advised that there were several suspects in custody in
7 reference to the robbery investigation.

8 I was further advised that Mr. Darren Belt was in
9 custody. He was -- and he was waiting in the Mount
10 Pleasant Police Department in B-A room which serves as a
11 surplus interview room directly off the patrol room.

12 Q. And what did you do -- were you tasked with speaking
13 with Mr. Belt?

14 A. I was. I was instructed to speak with him, to
15 conduct an interview and see what information he had
16 regarding the incident.

17 Q. And did you advise him of his Miranda rights?

18 A. I did. When I entered the room I introduced myself
19 and I also explained to Mr. Belt his Miranda rights using
20 a standard Miranda rights Advisement of Rights form
21 department issued.

22 I read the form aloud to him and at the end of that
23 he indicated to me that he understood his rights and he
24 completed the form.

25 Q. So did he waive his rights, Miranda?

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1 A. He did.

2 Q. And how did the conversation go with Mr. Belt the
3 defendant?

4 A. It was very undetailed. I tried to explain to him
5 that I wanted to speak to him about the events that
6 occurred that night or I'm sorry, earlier that morning.
7 Mr. Belt explained to me stating that he had come into
8 Mount Pleasant from out of town, had driven in and was
9 looking for a neighborhood called Shadow Creek on Chuck
10 Dawley Boulevard near the Kangaroo gas station.

11 When we spoke about why he was looking for that
12 neighborhood he stated that he was there to meet up or
13 see a woman. Mr. Belt was unable to provide further
14 detail as far as directions to her home or her identity
15 or an address or any information that could be
16 verifiable.

17 Mr. Belt stated that after being unsuccessful in
18 trying to locate that residence he decided to leave. So
19 at the time that he was pulled over by police officers he
20 stated that he was on his way back out of town having
21 been unsuccessful in locating that residence.

22 Q. And was there anything else in the -- did you do
23 anything else to investigate other than that interview
24 and that statement that Mr. Belt gave regarding what he
25 was doing?

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1 A. No, that was the extent of my involvement.

2 Q. If you had to estimate the total amount of time that
3 that interview lasted or that Mr. Belt was there in the
4 interview room what would your general estimate be?

5 A. I would say approximately an hour off and on
6 speaking with Mr. Belt.

7 Q. Was anyone else in the room during that interview?

8 A. No, there wasn't.

9 Q. Was there a recording of it? Did Mount Pleasant
10 have cameras in the B-A rooms ---

11 A. --- at that time we weren't equipped with recording
12 equipment for interviews for crime so at that point it
13 was not a recorded interview.

14 MR. ZIEGLER: No further questions, Your Honor.

15 THE COURT: Mr. DeTreville?

16 MR. DETREVILLE: Thank you, Your Honor.

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State v Darren Belt
Andrew Decamp-Cross-Examination by Mr. DeTreville
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1 CROSS-EXAMINATION

2 BY MR. DETREVILLE:

3 Q. Good afternoon detective.

4 A. Good afternoon.

5 Q. Detective Decamp do I have your title correct?

6 A. Yes, sir.

7 Q. I didn't catch it earlier. I just going to

8 apologize if I was using the wrong title. As you've been

9 a police officer I believe you testified for six and a

10 half years is that correct?

11 A. That's correct.

12 Q. And as part of your police training you're trained

13 to write and issue incident reports pertaining to

14 official police activities is that correct?

15 A. Absolutely.

16 Q. Okay. And as part of your training you're also

17 taught to include as much detail as possible in these

18 incident reports is that correct also?

19 A. That's true.

20 Q. Okay. You testified that you retrieved Mr. Burnett

21 from the Wild Wings parking lot and transported him to

22 the Mount Pleasant Police Department is that correct?

23 A. That's correct.

24 Q. And the purpose of taking him there was to elicit a

25 statement from him is that correct?

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1 A. That's correct. I wanted a controlled environment
2 to sit down with him and get a written statement.

3 Q. Okay. And you did in fact take a written statement
4 from him is that correct?

5 A. That's correct.

6 Q. The statement that was given was actually in Mr.
7 Burnett's own handwriting. You didn't write it for him
8 he wrote it is that correct?

9 A. If I could see a copy of the statement just to
10 verify?

11 MR. DETREVILLE: May I approach, Your Honor?

12 THE COURT: You may.

13 [Whereupon, the witness is shown document]

14 A. Sir, the initial written statement is in the
15 handwriting of Mr. Burnett and then there was a follow up
16 question and answer section with him that was written by
17 me. And that's documented on the statement...

18 Q. [Mr. DeTreville] Thank you for clarifying that
19 Detective. Approximately what time was it when you were
20 taking this statement from Mr. Burnett?

21 A. I believe that we started our interview probably a
22 little after 1:15 in the morning.

23 Q. 1:15? So were you aware of what time the alleged
24 incident took place?

25 A. I responded to the initial crime scene at

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1 approximately 12:30 in the morning.

2 Q. Okay.

3 A. And that was in response to Officer Gillespie's
4 transmission so I would say give or take you know 10
5 minutes ---

6 Q. --- it had happened sometime briefly before 12:30?

7 A. Correct.

8 Q. Okay. So as I understand you have Mr. Burnett at
9 the Mount Pleasant Police Department within an hour or so
10 of the incident taking a statement from him?

11 A. Correct.

12 Q. Is that correct? Okay. Do you recall Mr.
13 Burnett's demeanor while you were interviewing him?

14 A. I do. When I was speaking with Mr. Burnett he
15 seemed to be calm and he was also quiet in his demeanor.
16 However, in speaking with him he was also very
17 forthcoming with detailed information regarding the
18 robbery.

19 Q. Okay. And did you actually include in your report
20 that he was eager to provide details of the reported
21 robbery is that correct?

22 A. That's correct.

23 Q. Okay. At any time while you were taking a
24 statement from Mr. Burnett did he seem exhausted to you?

25 A. Not that I recall, no.

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1 Q. Okay. Or that he just wanted to go; he was done
2 with the whole thing or anything of that nature?

3 A. No, he never stated that to me. The process was
4 fairly smooth with him and after finishing up the written
5 statement I was the one to offer to give him a ride back
6 to his residence and everything seemed to be okay.

7 Q. Very good. So your impression that you recorded in
8 an incident report was that Mr. Burnett was very eager to
9 provide details regarding this robbery?

10 A. Yes.

11 Q. So it would be your understanding that the written
12 statement that Mr. Burnett provided included a great deal
13 of details of his recollection of what had transpired.
14 Is that a fair leap in logic?

15 A. Yes, that's fair.

16 Q. Okay. And do you recall the description that Mr.
17 Burnett provided of the assailants in his written report?

18 MR. ZIEGLER: Objection, Your Honor. Hearsay.

19 THE COURT: Overruled. You may answer.

20 A. I do know he provided a detailed description or as
21 much as he did that was recorded in the written
22 statement. I don't recall it firsthand. If I could
23 review the written statement that would ---

24 Q. [Mr. DeTreville] --- would refresh your recollection
25 to see Mr. Burnett's written statement?

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1 A. Absolutely.

2 MR. DETREVILLE: May I approach, Your Honor?

3 THE COURT: You may.

4 Q. [Mr. DeTreville] Please take as much time as you
5 need to take.

6 [Whereupon, the witness reviews document]

7 Q. And you can retain that to refresh your recollection
8 if you'd like Detective if that would be of assistance to
9 you Detective Decamp.

10 A. Okay.

11 Q. What was the description of the assailants that Mr.
12 Burnett provided to you an hour after the incident?

13 A. Mr. Burnett stated that he believed there were four
14 assailants at the incident. He described them to be
15 between 18 to 25 years of age.

16 He described them as black males. He also stated
17 that they were all wearing black clothing. That he
18 recalled that they had no facial hair and hair length was
19 approximately shoulder length.

20 Q. And is there actually a notation in that statement
21 that says that that description applies to all four
22 assailants?

23 A. Yes, it does.

24 Q. Okay. And in your mind when Mr. Burnett was giving
25 you this statement he was providing you with a great deal

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1 of detail; as much detail as he could provide given his
2 eagerness?

3 A. Sure. When he was explaining this to me he was
4 describing the situation as it happened. It being -- and
5 this is his justification but it being dark and
6 everything. In speaking with me this was the description
7 that he provided when we spoke prior to him writing his
8 written statement.

9 When we spoke prior to him writing down a written
10 statement he said that these were the details that he
11 remembered; not necessarily singling out each assailant
12 with descriptors; meaning that he saw each of these
13 assailants during the incident and stated that he
14 couldn't necessarily differentiate between these common
15 characteristics.

16 Q. Okay. Thank you, Detective. And there's no
17 greater detail other than the description that you just
18 recited from this report provided in the statement that
19 Mr. Burnett gave or in the question and answer section of
20 this report is that correct?

21 A. That's correct.

22 Q. You stated that you conducted an interview of Mr.
23 Belt at the police station as well is that correct?

24 A. I did.

25 Q. Okay. And you stated that I think the word that

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1 you used was the conversation was a bit undetailed?

2 A. Correct.

3 Q. You asked him where he was going when he was stopped
4 by police.

5 A. I believe I asked him where he came from -- you know
6 where he was coming from and then also where he was
7 headed.

8 Q. Okay. And his response to was that he was coming
9 from I think you testified out of town?

10 A. Yes, sir. He said he had driven into Mount Pleasant
11 and that he had come to Mount Pleasant to locate or meet
12 with a woman in a neighborhood called I believe he
13 referred to it as Shadow Creek on Chuck Dawley Boulevard.

14 Q. So perhaps I misunderstood your testimony earlier.
15 I was of the belief that you stated that Mr. Belt told
16 you he was coming in from out of town. Is that accurate?

17 A. I'm sorry; out of the town of Mount Pleasant ---

18 Q. --- out of the town of Mount Pleasant ---

19 A. --- came to Mount Pleasant specifically to this
20 woman's residence.

21 Q. I apologize. I interpreted that to mean the
22 Charleston Metro area. So he was coming from somewhere
23 other than Mount Pleasant seeking a woman's residence in
24 a neighborhood that he described to you as Shadow Creek
25 is that correct?

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- 1 A. Correct.
- 2 Q. And he further described where that neighborhood
- 3 was, is that true also?
- 4 A. That's correct.
- 5 Q. Okay. And he stated that it was near a Kangaroo
- 6 station on Chuck Dawley Boulevard?
- 7 A. That's correct.
- 8 Q. Is that the substance of what he told you?
- 9 A. Yes, sir.
- 10 Q. Is there in fact a Kangaroo gas station on Chuck
- 11 Dawley Boulevard to your knowledge?
- 12 A. There is.
- 13 Q. And what is the name of the neighborhood behind the
- 14 Kangaroo gas station on Chuck Dawley Boulevard?
- 15 A. It's Hickory Shadows.
- 16 Q. Okay. So Mr. Belt had the name of the neighborhood
- 17 off by one word, fair statement?
- 18 A. If that's the neighborhood he was looking for then
- 19 yes, that's correct.
- 20 Q. But he did tell you that the neighborhood he was
- 21 looking for was behind the Kangaroo gas station on Chuck
- 22 Dawley Boulevard?
- 23 A. That's right.
- 24 Q. And that's precisely where Hickory Shadows is?
- 25 A. That's correct.

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1 Q. Okay. Are you familiar with that area?

2 A. I am.

3 Q. Is there a North Shadow Boulevard in that area also?

4 A. There is a -- I'm not sure if it's a boulevard but
5 yes there is a North Shadow and a South Shadow.

6 Q. Okay. Would you feel comfortable with providing
7 this court with an estimate of how far it is from the
8 Exxon station on Coleman Boulevard to the Kangaroo gas
9 station on Chuck Dawley Boulevard?

10 A. I'm sorry; one more time?

11 Q. From the Exxon station on Coleman Boulevard, the
12 place where Mr. Belt was pulled over for speeding.

13 A. Okay.

14 Q. I believe it's Coleman and Whilden is the crossing
15 street.

16 A. Okay.

17 Q. And the Kangaroo gas station on Chuck Dawley
18 Boulevard approximately how far is that?

19 A. I would guess maybe a mile and a half to two miles.

20 Q. Okay. And if you were to drive that mile and a
21 half to two miles how long do you think that would take?

22 A. Probably a few minutes.

23 MR. DETREVILLE: No further questions of this
24 witness, Your Honor.

25 THE COURT: Mr. Ziegler?

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1 REDIRECT EXAMINATION
2 BY MR. ZIEGLER:
3 Q. Detective Decamp when the defendant told you in the
4 interview he said he was looking for a Shadow Creek was
5 that the name of a neighborhood that you recognized?
6 A. No, not readily recognizable. I don't know a Shadow
7 Creek.
8 MR. ZIEGLER: No further questions of this witness,
9 Your Honor.
10 THE COURT: Mr. DeTreville?
11 MR. DETREVILLE: No additional questions, Your
12 Honor.
13 THE COURT: You may step down.
14 [Whereupon, the witness is excused and exits the
15 witness stand]
16 THE COURT: Ladies and gentlemen let's take a short
17 mid afternoon break. Do not begin your deliberations; do
18 not discuss this case with anyone. You may take your
19 notepads with you or leave them in your chair. Please
20 rise for the jury?
21 [Whereupon, the jury exits at 3:39 p.m.]
22 THE COURT: Anything before we take our break?
23 MR. ZIEGLER: Your Honor, may we approach about
24 scheduling?
25 THE COURT: Sure.

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1 [Whereupon, an off the record bench conference is
2 held]

3 [Whereupon, court is in recess from 3:40 p.m. until
4 3:58 p.m.]

5 THE COURT: Anything before we bring in the jury
6 Mr. Ziegler?

7 MR. ZIEGLER: No, Your Honor.

8 THE COURT: Mr. DeTreville?

9 MR. DETREVILLE: Your Honor, may we approach?

10 THE COURT: You may.

11 [Whereupon, an off the record bench conference is
12 held]

13 [Whereupon, court is in recess from 3:59 p.m. until
14 4:09 p.m.]

15 THE COURT: We're going to mark a note as Court's
16 2. One of the jurors had a babysitting issue and we have
17 figured that out.

18 [Whereupon, court's exhibit number 2 is marked by
19 the court reporter]

20 THE COURT: So we will be going with two witnesses
21 and everybody is aware that we will be going until those
22 two witnesses are completed tonight.

23 MR. ZIEGLER: Your Honor, I've informed Ms. Clifton
24 there will be a firearm introduced through this ---

25 THE COURT: --- and I'm assuming everything is

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1 properly secured?

2 MR. ZIEGLER: Yes, ma'am.

3 THE COURT: Thank you. All right.

4 [Whereupon, the jury enters at 4:10 p.m.]

5 THE COURT: Thank you. Call your next witness.

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1 MR. ZIEGLER: The State calls Mr. Randi Parks.
2 [Whereupon, Mr. Parks comes forward]
3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]

5 CLERK OF COURT: State your full name and then
6 spell your last name.

7 THE WITNESS: Randi Parks, P-A-R-K-S.

8 THE COURT: Mr. Ziegler?

9 - - - - -

10 RANDI PARKS,

11 Having been first duly sworn,

12 Was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. ZIEGLER:

15 Q. Good afternoon Mr. Parks. May I call you Randi?

16 A. Yes, sir.

17 Q. And I'll remind you Randi just to be speaking into
18 the microphone as much as possible so that we can hear
19 you. How old are you Randi?

20 A. Twenty seven.

21 Q. Where are you from?

22 A. New York.

23 Q. Where have you lived in South Carolina?

24 A. Columbia, South Carolina.

25 Q. How long have you lived here in South Carolina?

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- 1 A. Since 2001.
- 2 Q. And what kind of education do you have?
- 3 A. Some college.
- 4 Q. Are you married or do you have any children?
- 5 A. Yes, married.
- 6 Q. Do you have children?
- 7 A. Yes, one.
- 8 Q. When did you get married?
- 9 A. Back in 2010.
- 10 Q. Randi, if I tell you some of the criminal
- 11 convictions you have on your record do you remember
- 12 those?
- 13 A. Yes, sir.
- 14 Q. Do you remember from 2004 possession with intent to
- 15 distribute a controlled substance?
- 16 A. Yes, sir.
- 17 Q. In 2005 do you remember a burglary 2nd degree?
- 18 A. Yes, sir.
- 19 Q. And from 2012 do you remember that there were four
- 20 convictions for burglary 2nd degree?
- 21 A. Yes, sir.
- 22 Q. And two counts, two convictions for grand larceny?
- 23 A. Yes, sir.
- 24 Q. Randi are you familiar with the incident that we're
- 25 here about today?

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1 A. Yes, sir.

2 Q. Were you charged with two counts of armed robbery
3 for your involvement in the incident?

4 A. Yes, sir.

5 Q. Have you pled guilty to both of those charges?

6 A. Yes, sir.

7 Q. And have you been sentenced on those charges yet?

8 A. No, sir.

9 Q. Have you met with myself and other members of my
10 office, the Solicitor's office, in the past?

11 A. Yes, sir.

12 Q. And have you told myself and others in my office
13 what happened in this robbery?

14 A. Yes, sir.

15 Q. Have you been promised anything by members of my
16 office?

17 A. No, sir.

18 Q. Have you received any benefit from my office?

19 A. No, sir.

20 Q. Did you remember that there was an escape charge
21 from this case that you had?

22 A. Yes, sir.

23 Q. And are you aware that that was dismissed by a
24 member of my office?

25 A. Yes, sir.

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1 Q. I'd like to -- did you have -- I'd like to go to
2 this robbery incident that we are here about today in
3 particular. Did you have any co-defendants in this armed
4 robbery?

5 A. Yes, sir.

6 Q. And I want to get into your prior relationship with
7 those co-defendants. Do you know a Darren Belt?

8 A. Yes, sir.

9 Q. How long have you known him or since when have you
10 known him?

11 A. 2003 or 2002.

12 Q. And where did you know him from?

13 A. The neighborhood we stayed in.

14 Q. The neighborhood is what you said?

15 A. Yes, sir.

16 Q. How often did you see him in the past?

17 A. Almost every day.

18 Q. And as far as you know where is he from?

19 A. Charleston I believe.

20 Q. Did he ever live in Columbia?

21 A. Yes, sir.

22 Q. So when you knew him that must have been in
23 Columbia?

24 A. Yes, sir.

25 Q. And he was living in the same neighborhood as you?

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1 A. Yes, sir.

2 Q. Does Darren Belt have a nickname?

3 A. Yes, sir.

4 Q. What is it?

5 A. Lizard.

6 Q. And why does he have that nickname?

7 A. I was always told that was his nickname.

8 Q. Okay. What does Darren Belt look like generally?

9 A. Light skin.

10 Q. You said light skin?

11 A. Light skin, very short.

12 Q. Is there any distinguishing features about his face?

13 A. Yes, sir.

14 MR. DETREVILLE: I'm sorry Your Honor. Could I have
15 the witness speak up some? I'm having some difficulty
16 hearing.

17 THE COURT: Mr. Parks, I need you to speak loudly.
18 Can you do that for me?

19 THE WITNESS: Yes, ma'am.

20 THE COURT: Thank you.

21 Q. [Mr. Ziegler] Is there anything distinctive about
22 his face?

23 A. His eye.

24 Q. What is it like? Is it unusual?

25 A. Yes.

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- 1 Q. Do you know Ricky Lamont Hayes?
- 2 A. Yes, sir.
- 3 Q. How long did you know him?
- 4 A. Since 2010.
- 5 Q. What do you call him?
- 6 A. Cousin.
- 7 Q. Did he have a nickname?
- 8 A. Yes, sir.
- 9 Q. What was that?
- 10 A. Sharky.
- 11 Q. Is there anything short or anything for his middle
- 12 name?
- 13 A. Yes, Mont.
- 14 Q. Mont? Okay. Did you call him Mont at all?
- 15 A. Yes.
- 16 Q. As far as you know where did he live, Ricky Hayes?
- 17 A. Mount Pleasant.
- 18 Q. Has he ever lived in Columbia for any time?
- 19 A. Yes, sir.
- 20 Q. Who did he stay with there?
- 21 A. His father.
- 22 Q. And who is Ricky or Lamont's father to you?
- 23 A. My uncle.
- 24 Q. Is that by blood or you call him that?
- 25 A. I just call him that.

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1 Q. When Lamont was in Columbia how often did you see
2 him?

3 A. All the time; as long as he was down there.

4 Q. Randi I want to direct you to May 6, 2013. I'd like
5 you to take the members of the jury back to the night
6 before this armed robbery occurred. What city were you
7 in the night before the armed robbery occurred?

8 A. Columbia, South Carolina

9 Q. Who were you with?

10 A. Myself, Darren Belt, and some females.

11 Q. So you were with Darren Belt. Generally what were
12 the two of you doing?

13 A. Hanging out. We hadn't seen each other in a while
14 and we was gambling.

15 Q. So did anything happen to you -- I'm sorry; what was
16 the last thing you said?

17 A. Gambling.

18 Q. Okay. How so? What were you?

19 A. Dice.

20 Q. And did anything happen to you that night or that
21 morning while you were playing dice?

22 A. Yes, it got robbed.

23 Q. And if you had to estimate about what time did that
24 robbery happen in the morning; I know it was a long time
25 ago.

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- 1 A. Probably about 6:30 or 7:00 in the morning. The sun
2 was coming up.
- 3 Q. And that was the day before or that was May 6th,
4 2013?
- 5 A. The same day that we had came down.
- 6 Q. Okay. But earlier the same day?
- 7 A. Yes, early that morning.
- 8 Q. After you were robbed in the dice game what did you
9 do after that?
- 10 A. We left and went to go get Ricky.
- 11 Q. Who did?
- 12 A. Me and Darren Belt.
- 13 Q. Okay. And where did you go to get Ricky?
- 14 A. From his father's house.
- 15 Q. Did you ride in a vehicle?
- 16 A. Yes.
- 17 Q. Whose vehicle did you ride to go get Ricky?
- 18 A. Darren Belt's.
- 19 Q. And when you went to get Ricky did you find him?
20 Was he there?
- 21 A. Yes, sir.
- 22 Q. And again where was he?
- 23 A. He was at my Uncle Rick's house, which is his
24 father.
- 25 Q. And when you saw him when you got to the house and

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1 you saw him did Ricky have a gun with him at that time?

2 A. Yes.

3 Q. Did he have a gun with him the rest of the day?

4 A. Yes, sir.

5 Q. Did he bring it with him?

6 A. Yes, sir.

7 Q. Did you tell Ricky about what happened with the dice
8 game or anything?

9 A. Yes, sir.

10 Q. At any time during that day after you met up with
11 Ricky about what time of day was it? Was it morning when
12 you met up with Ricky or was it?

13 A. It was still morning probably about 8 o'clock ---

14 Q. --- and at any time during that day did the three of
15 you decide to go to Charleston?

16 A. Yes, later on that day.

17 Q. Whose idea was that to go to Charleston?

18 A. Ricky Hayes.

19 Q. Did you and Darren Belt agree to go to Charleston?

20 A. Yes, sir.

21 Q. Again, this was a long time ago but to estimate
22 about what time of the day did you end up leaving to go
23 to Charleston?

24 A. I'd say maybe 3 or 4 o'clock.

25 Q. And why were you going to Charleston?

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- 1 A. Come down and make some money.
- 2 Q. How so?
- 3 A. To get -- actually to probably rob.
- 4 Q. You were trying to find somebody to rob?
- 5 A. Yeah.
- 6 Q. And in whose vehicle did you drive to Charleston?
- 7 A. Darren Belt's.
- 8 Q. Who drove?
- 9 A. I did.
- 10 Q. What kind of vehicle was it that Darren Belt had?
- 11 A. A jeep.
- 12 Q. And so the three of you you've said yourself, Darren
- 13 Belt, and Ricky Lamont Hayes the three of you were riding
- 14 to Charleston is that correct?
- 15 A. Yes, sir.
- 16 Q. Do you know the area well?
- 17 A. No, sir.
- 18 Q. How many times have you been to Charleston if you
- 19 had to guess?
- 20 A. Maybe once or twice.
- 21 Q. And who was directing the three of you when you got
- 22 to Charleston?
- 23 A. Ricky Hayes.
- 24 Q. Where was the first part of town you went to do you
- 25 remember?

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- 1 A. I guess it was downtown Charleston.
- 2 Q. What were you going to do there?
- 3 A. He was trying to stop and see a female, Ricky Hayes.
- 4 Q. Who was?
- 5 A. Ricky Hayes.
- 6 Q. Okay. Did you ever see that person?
- 7 A. No, no sir.
- 8 Q. Once you were in Charleston were you driving?
- 9 A. No, sir.
- 10 Q. Who was driving in Charleston?
- 11 A. Ricky Hayes took the wheel.
- 12 Q. Okay. And after you left downtown where did you
- 13 go?
- 14 A. To one of Ricky Hayes's friends' house.
- 15 Q. Do you know where that was?
- 16 A. No sir, not actually.
- 17 Q. Do you know what part of town it was?
- 18 A. I think it was Mount Pleasant also but I wasn't too
- 19 sure.
- 20 Q. Were you drinking or using drugs that day?
- 21 A. Yes, sir.
- 22 Q. What were you doing?
- 23 A. Drinking.
- 24 Q. Were you smoking any marijuana that day?
- 25 A. Yes, sir.

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- 1 Q. You said you went to Ricky's friends' house in Mount
2 Pleasant?
- 3 A. Yes, sir.
- 4 Q. Where did you go after that?
- 5 A. From there we went to -- the truck started smoking
6 so we ended up going to his granddaddy's house.
- 7 Q. Who Ricky's?
- 8 A. Yes, sir.
- 9 Q. Did anyone fix the truck?
- 10 A. Yes, his granddaddy did.
- 11 Q. And by truck do you mean ---
- 12 A. --- the jeep.
- 13 Q. The jeep that you were riding in?
- 14 A. Yes.
- 15 Q. And after you got the truck fixed, the jeep fixed at
16 Ricky Hayes's granddaddy's house where did you go then?
- 17 A. We ended up leaving there and going to another
18 female's house.
- 19 Q. Do you know who that was?
- 20 A. I thought at the time her name was Mandy.
- 21 Q. What part of town was that in?
- 22 A. Mount Pleasant.
- 23 Q. So what were you doing at that girl's house?
- 24 A. We was sitting there basically chilling, drinking
25 and smoking and Ricky Hayes was trying to come up with a

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1 scheme.

2 Q. A scheme for what?

3 A. To rob, for somebody to rob.

4 Q. Who was he -- was he talking to anyone about that?

5 A. The girl; the female.

6 MR. DETREVILLE: Objection, Your Honor. It's
7 hearsay.

8 THE COURT: Is there an exception?

9 MR. ZIEGLER: No, Your Honor.

10 THE COURT: Okay. Sustained. Please strike that
11 last statement from your notes.

12 Q. [Mr. Ziegler] Why did you end up leaving this girl's
13 house and about what time of -- do you remember if it was
14 nighttime?

15 A. Yes sir, it was night.

16 Q. When you left?

17 A. We left because she said her father was coming to --
18 her keys were stuck in the car and she didn't want us to
19 be there when her father came so we had to leave.

20 Q. You had to leave? And so did you end up leaving her
21 house?

22 A. Yes, sir.

23 Q. About what time do you think you left her house?

24 A. I'd say almost about 11 or 12 o'clock or close to.

25 Q. How did you leave? What mode of transportation did

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1 you use for leaving?

2 A. Darren Belt's truck.

3 Q. Where did you get in it?

4 A. I got in the backseat.

5 Q. What happened?

6 A. I fell asleep.

7 Q. At that time when you fell asleep where did you
8 think you were going?

9 A. I thought we was going back to Columbia.

10 Q. To switch gears for a minute here Randi you said
11 that you pled guilty in the armed robbery incident that
12 we're here about today is that right?

13 A. Yes, sir.

14 Q. Would you please look around the courtroom and tell
15 the members of the jury whether any of the people who
16 participated in that armed robbery on May 7th, 2013 with
17 you can you tell the jury if any of those people are in
18 the courtroom today?

19 A. Yes, sir.

20 Q. Could you please point that person out?

21 A. I really can't get my hand out. In blue.

22 Q. The person in blue?

23 A. Blue shirt.

24 MR. ZIEGLER: Let the record reflect, Your Honor,
25 that the witness has identified the defendant.

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1 THE COURT: Mr. DeTreville?

2 MR. DETREVILLE: If he could perhaps be a bit more
3 specific.

4 THE COURT: Okay. A little more detail Mr.
5 Ziegler. There are a couple of blue shirts in the
6 courtroom.

7 Q. [Mr. Ziegler] Randi, can you please describe the
8 person you indicated was participating in this armed
9 robbery with you? Can you describe in more detail what
10 that person is wearing?

11 A. A blue shirt, a tie; a black and silver tie it looks
12 like, khaki pants, braids.

13 Q. And who is that?

14 A. Darren Belt.

15 MR. ZIEGLER: Your Honor please let the record
16 reflect at this point that the witness has specifically
17 identified the defendant.

18 THE COURT: It will reflect. Thank you.

19 Q. [Mr. Ziegler] So Randi after you fell asleep in the
20 defendant's vehicle what happened then?

21 A. I had gotten waked up. The truck was stopped and I
22 ended up getting waked up telling me to get up and get
23 out the truck.

24 Q. Who was telling you to do that?

25 A. Both Ricky Hayes and Darren Belt.

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1 Q. Did you get out of the car?

2 A. After I grabbed the stuff off the seat that had
3 dropped out my pocket from when I was asleep then I
4 exited the vehicle.

5 Q. What was that stuff you grabbed off the seat that
6 fell out your pocket?

7 A. Some change, wallet, keys.

8 Q. And how did you proceed from that point? They told
9 you to get out the vehicle and you did. What happened
10 then?

11 A. By the time I got out the vehicle they was already
12 crossing the street so I caught up with them as they were
13 crossing the street.

14 Q. Okay. And once you caught up with them what
15 happened then? Did anyone say anything to you?

16 A. Yes. Ricky Hayes had pointed out two individuals
17 walking, two white males, and he handed me the pistol and
18 telling me to hit them -- go through the cut and catch
19 them through the other side.

20 Q. Could you describe in more detail the cut that you
21 were going to the other side?

22 A. At nighttime it was looking like almost a park.

23 Q. A park you said?

24 A. That's what it looked like. It was a fence and he
25 was telling me to go around the fence and catch them

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1 through the other side.

2 Q. Okay. And what did Ricky Hayes tell you to do?

3 What was going on?

4 A. He handed me the pistol and as he pointed out the
5 men he told me how to get around the gate and tell me
6 which side to catch them and that they were going to come
7 from the back.

8 MR. DETREVILLE: Your Honor, I'd object. I believe
9 this is hearsay testimony.

10 THE COURT: Overruled. Mr. Parks I do need you to
11 speak loudly. Do you need the microphone closer to you?

12 THE WITNESS: I'll try to scoot up.

13 THE COURT: All right. Thank you.

14 Q. [Mr. Ziegler] What do you remember about these --
15 you said these two white males?

16 A. One was tall and one was short.

17 Q. And once you had the gun in your hand what did you
18 understand you were going to do?

19 A. Go catch them from the other side and stick them up.

20 Q. Was Darren Belt doing anything during this
21 particular exchange where you said Ricky Hayes handed you
22 the gun?

23 A. He was just standing there letting Ricky Hayes talk.

24 Q. Okay. And what happened next? What did you
25 actually do?

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- 1 A. I went ahead and went around and came out through
2 the other side of the fence. As I came out I put the gun
3 up and catch them through the other side as they was
4 walking up.
- 5 Q. Okay. What did you say to them?
- 6 A. Give me what you got.
- 7 Q. Did you point the gun at them?
- 8 A. Yes, sir.
- 9 Q. And what did Ricky Lamont Hayes and Darren Belt do
10 while you was pointing the gun?
- 11 A. They came up through the back behind them.
- 12 Q. Behind who?
- 13 A. The victims.
- 14 Q. And what kind of actions were they taking?
- 15 A. They were basically searching their pockets,
16 grabbing them. One had one of the victims and one had
17 the other.
- 18 Q. And did you or they take any property from those
19 men, the victims?
- 20 A. I believe so. I had the wallet.
- 21 Q. Do you know how you got that wallet?
- 22 A. No sir, not at first.
- 23 Q. Was there any property on the ground?
- 24 A. That's where I believe I had picked the wallet up
25 before I ran.

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1 Q. And what was generally -- what was the defendant
2 Darren Belt doing during the incident?

3 A. He was holding down one of the victims searching
4 through his pockets; basically just holding him. Then
5 after awhile I heard them yell police and then they ran.

6 Q. And by holding them what do you mean by that?

7 A. Behind them how you say grabbing them as they
8 reached in his pocket. It's kind of hard to explain. He
9 had his hand like over I guess his shoulder and was
10 reaching in his pocket with the other hand.

11 Q. When you said someone yelled hey, what happened next
12 after?

13 A. I didn't hear it the first time. They heard it and
14 they ran and then I heard a police officer say police
15 again and I turned around and seen the police officer and
16 then I ran; and I ran the other way.

17 Q. And where did you run?

18 A. At first I ran through the park and jumped over the
19 fence. Then I ended up running into some woods and I
20 came out of the first woods and tried to hide under this
21 car and then Lamont said this is the first place the
22 police going to look. Then I came out ---

23 Q. --- excuse me a minute. Can you just slow down a
24 little bit and just speak up a little bit please. Again,
25 which way did you run and do you remember what you were

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1 running through?

2 A. I ran the other way. They ran straight through but
3 I ran through the other way on the side of the victim's
4 back to the side I came from through the fence. Then I
5 ended up jumping over a fence and then entering some
6 woods.

7 I ran through the woods. I came out the one side
8 and then I went to go hide under this car and then Lamont
9 was like this is the first place the police is going to
10 look. So I came out the car and ran again into some
11 woods.

12 And as I came out I came out through like this
13 little -- it looked like an alley way almost and I seen
14 the police coming through one side of the street. I
15 could see their lights so I ended up running under this
16 truck.

17 Q. What did you do under the truck?

18 A. I ended up hiding under the axle beam.

19 Q. So when you were under the truck did you ever see
20 Ricky Lamont Hayes?

21 A. Yes, he came out through the same cut I came from
22 like a couple of minutes later.

23 Q. And what happened after you saw him?

24 A. As soon as I saw him the police ended up seeing him
25 and ended up blue lighting him and ended up catching him

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1 right there on the street and pulling him over.

2 Q. Could you see that?

3 A. Yes, sir.

4 Q. So what did you do then once you saw the police with
5 Ricky Hayes?

6 A. I stayed under the truck for a minute and watched
7 what was going on with the police and him.

8 Q. And did you do anything then?

9 A. After awhile I seen them still messing with him and
10 I ended up coming from under the car -- I mean from under
11 the axle beam on the truck and tried to jump the little
12 fence. But when I tried to jump the fence there was
13 police on that side too so I jumped back down and ran
14 back under the truck again.

15 Q. So you went back to where you were?

16 A. Yes, sir.

17 Q. Anything happen when you came back over the fence?

18 A. Yes. When I came back over the fence I dropped the
19 gun.

20 Q. Did you look for it?

21 A. I tried to look for it but it was too dark where I
22 was at so I couldn't see it. I felt around for it for a
23 second and then once I seen like lights again I ended up
24 going right back under the truck.

25 Q. So you got back under the truck but you didn't have

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1 the gun at that point?

2 A. No, sir.

3 Q. What happened next when you were back under the
4 truck?

5 A. I sat there for a minute and looked around. I
6 remember throwing up. After that I stayed under the
7 truck I guess a while then they ended up coming through
8 the first time and didn't see me and then they came back
9 around I guess because I had my foot down there and they
10 ended up seeing my foot and ended up getting me then.

11 Q. The police did?

12 A. Yes, sir.

13 Q. Did you say you ended up throwing up?

14 A. Yes, sir.

15 Q. Was that while you were still hiding?

16 A. Yes, sir.

17 Q. Did the police find you with one of the victim's
18 wallets in your pocket?

19 A. Yes, sir.

20 Q. Did the police ask you where that gun was?

21 A. Yes, sir.

22 Q. Did you tell them where it was?

23 A. No, sir.

24 Q. Did you know exactly where it was?

25 A. No, sir. I knew an area but not exactly the

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1 position of it.

2 Q. Did you -- you said you looked for it yourself?

3 A. Yes, sir.

4 Q. But couldn't find it?

5 A. Yes, sir.

6 Q. And you said the police found you. I'd like to talk
7 about your dealings with the police after that. Did you
8 go to the police station that night?

9 A. Yes, sir.

10 Q. Did you give a statement to the police the night of
11 the robbery?

12 A. I believe so, yes sir.

13 Q. And did you tell the police the truth that night;
14 the whole truth?

15 A. No, sir.

16 Q. Did you lie to them at all?

17 A. Yes, sir.

18 Q. And why did you lie? What did you provide? What
19 did you tell them?

20 A. I told them like bits and pieces.

21 Q. Okay. So why were you doing that?

22 A. I didn't want to tell the truth. I didn't want to
23 tell on nobody.

24 Q. You didn't want to tell on anybody? So were you
25 protecting, trying to protect anyone?

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- 1 A. Yes, sir.
- 2 Q. Who all were you trying ---
- 3 MR. DETREVILLE: --- Objection, Your Honor. That
- 4 is a leading question.
- 5 THE COURT: Overruled.
- 6 A. Myself and the other co-defendants with me.
- 7 Q. [Mr. Ziegler] And who were they?
- 8 A. Ricky Hayes and Darren Belt.
- 9 Q. So you've stated you've testified you gave a
- 10 statement to the police that night and you gave little
- 11 details you said and it wasn't the whole truth you've
- 12 testified.
- 13 So did you give another statement to the police the
- 14 day after the robbery occurred? Did you go back to the
- 15 police station?
- 16 A. Yes sir, I did.
- 17 Q. And who came to get you to the station?
- 18 A. Detective Eckert.
- 19 Q. Okay. Did you talk to him that day?
- 20 A. Yes, sir.
- 21 Q. And did you tell him the whole truth on that
- 22 particular occasion?
- 23 A. No sir, not the whole truth.
- 24 Q. Did you lie to him at all?
- 25 A. Yes, sir.

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1 Q. And why did you do that?

2 A. I was still trying to protect myself and the others.

3 Q. And so you've stated that's two statements you've
4 given to the police where you were lying to them and
5 still trying to protect yourself and others. When
6 Detective Eckert -- did he take you back to the jail?

7 A. Yes, sir.

8 Q. What happened when he took you back to the jail?

9 A. I tried to escape.

10 Q. Why did you do that?

11 A. I kind of blacked out. I don't know, thinking about
12 other things and the gate was open so I ran.

13 Q. Did Detective Eckert allow you to talk to anyone
14 before that happened?

15 A. Yes, sir.

16 Q. Who did you talk to?

17 A. My wife.

18 Q. Were there any events in your life that were
19 happening around that time?

20 A. Yes, she was pregnant.

21 Q. So did you get away from Detective Eckert?

22 A. A little while; not long.

23 Q. Did you -- how did it end?

24 A. I gave up.

25 Q. Were you taken back into the jail?

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- 1 A. Yes, sir.
- 2 Q. And then at some point did you send letters to the
- 3 defendant Mr. Belt's attorney saying he was innocent?
- 4 A. Yes sir, I did.
- 5 Q. Was that true?
- 6 A. No, sir.
- 7 Q. Why did you write that letter just in general?
- 8 A. Out of fear.
- 9 Q. And again were those letters true that you wrote?
- 10 A. No, sir.
- 11 Q. Did you send them to Mr. Belt's attorney?
- 12 A. Yes, sir.
- 13 Q. Was Darren Belt innocent as you said in those
- 14 letters?
- 15 A. No sir, he wasn't.
- 16 Q. Was he involved in the armed robbery?
- 17 A. Yes, sir.
- 18 Q. And all these things that we talked about Randi your
- 19 visits to the police station, your running away, your
- 20 writing these letters to Mr. Belt's lawyer did all of
- 21 this occur before you came to the Solicitor's office to
- 22 be interviewed the first time you came to the Solicitor's
- 23 office?
- 24 A. Yes, sir.
- 25 Q. So what changed between all that other stuff and the

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1 time you came to the Solicitor's office?

2 A. I thought about my actions and I wanted to accept
3 the responsibility of it.

4 MR. DETREVILLE: I'm sorry, Your Honor. I couldn't
5 hear that response. If we could have the witness repeat
6 the answer?

7 THE COURT: Can you repeat your answer?

8 THE WITNESS: I said I thought about my actions and
9 I wanted to accept the responsibility of it.

10 Q. [Mr. Ziegler] And at the Solicitor's office did you
11 identify photos of Ricky Hayes and Darren Belt?

12 A. Yes, sir.

13 Q. Did you identify them as people who participated in
14 the robbery?

15 A. Yes, sir.

16 Q. Did you identify a photo of the gun that you used in
17 the robbery?

18 A. Yes, sir.

19 Q. And when you came to the Solicitor's office that
20 first time were you telling the truth?

21 A. Yes, sir.

22 Q. Randi, do you remember what your phone number was at
23 the time of this incident?

24 A. Yes, sir.

25 Q. What was it?

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1 A. 803-521-9187.

2 Q. Do you recall anything that was in the defendant's
3 Darren Belt's vehicle before the robbery happened;
4 anything in the backseat?

5 A. A book bag.

6 Q. Whose was that?

7 A. Ricky Lamont Hayes.

8 Q. Randi, how tall are you?

9 A. About five-eight.

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

12 THE COURT: You may.

13 Q. [Mr. Ziegler] Randi, I'm going to show you an item
14 that will be marked for identification purposes as
15 State's exhibit 33.

16 [Whereupon, State's exhibit number 33 is marked by
17 the court reporter]

18 [Whereupon, the witness is shown exhibit]

19 Q. Do you recognize this item?

20 A. Yes, sir.

21 Q. What is this?

22 A. The gun we used on the robbery.

23 Q. Is this gun that you held during the robbery?

24 A. Yes, sir.

25 Q. Does it appear to be in the same condition as it was

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1 then?

2 A. Yes, sir.

3 MR. ZIEGLER: Your Honor, the State moves to admit
4 exhibit number 33.

5 THE COURT: Any objection?

6 MR. DETREVILLE: None, Your Honor.

7 THE COURT: State's 33 into evidence without
8 objection.

9 [Whereupon, State's exhibit number 33 is entered
10 into evidence by the court]

11 Q. [Mr. Ziegler] Randi, what type of gun is this?

12 A. A .38.

13 Q. As far as other -- is it a revolver?

14 A. Revolver.

15 MR. ZIEGLER: Your Honor, may I publish it to the
16 jury, just show it to the jury?

17 THE COURT: You may show it to the jury.

18 [Whereupon, Mr. Ziegler shows the gun to the jury]

19 Q. [Mr. Ziegler] Randi, you said you hadn't been to
20 Charleston many times.

21 A. Sir?

22 Q. Had you been to Charleston you said maybe once or
23 twice ---

24 A. --- once or twice.

25 Q. So were you familiar with the area?

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1 A. No, sir.

2 Q. Who was familiar with the area?

3 A. Ricky Hayes.

4 Q. Do you know was Darren Belt familiar with the
5 Charleston area at all do you know?

6 A. Probably Charleston not Mount Pleasant though.

7 Q. Okay.

8 MR. ZIEGLER: Beg the court's indulgence.

9 THE COURT: Take your time.

10 [Whereupon, Mr. Ziegler views documents]

11 MR. ZIEGLER: The State has no further questions
12 for this witness, Your Honor.

13 THE COURT: Mr. DeTreville?

14 MR. DETREVILLE: Thank you, Your Honor. May it
15 please the court?

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1 CROSS-EXAMINATION

2 BY MR. DETREVILLE:

3 Q. Mr. Parks, you pled guilty to two counts of armed
4 robbery in August of 2014 is that a correct statement?

5 A. Yes, sir.

6 Q. Okay. So that's been over a year since you pled
7 guilty to these crimes?

8 A. Yes, sir.

9 Q. Okay. And you have not been sentenced as part of
10 that guilty plea at any point since August of 2014 true
11 statement?

12 A. Yes, sir.

13 Q. Okay. And you have what is called a deferred
14 prosecution or deferred sentencing deal does that sound
15 familiar?

16 A. No, sir --

17 Q. You've never heard the words deferred sentencing
18 before?

19 A. No, sir.

20 Q. Okay. You've been in trouble before with the law.

21 A. Yes, sir.

22 Q. True statement? I think that the Solicitor did a
23 good job of getting some of those things out in the open
24 for you. As recently as 2012 you'd been convicted of
25 four counts of 2nd degree burglary and two counts of

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- 1 grand larceny is that correct?
- 2 A. Yes, sir.
- 3 Q. Okay. So you're familiar with the court system and
- 4 the process fair statement?
- 5 A. Yes, sir.
- 6 Q. Okay. Did you plead guilty to the burglary charges
- 7 and the grand larceny charges?
- 8 A. Yes, sir.
- 9 Q. Okay. How long did it take for you to get
- 10 sentenced after you pled guilty to those charges?
- 11 A. I'm not sure; a couple of months.
- 12 Q. A couple of months? Are you sure it wasn't a couple
- 13 of minutes?
- 14 A. No, a couple of months.
- 15 Q. Okay. Were you testifying against co-defendants as
- 16 part of that guilty plea also then?
- 17 A. No, sir.
- 18 Q. No? Okay. And isn't it in fact true that
- 19 approximately 60 days before May 6th of 2013 you had
- 20 actually just been released from the Department of
- 21 Corrections on these burglary and larceny charges is that
- 22 a true statement?
- 23 A. Yes, sir.
- 24 Q. Okay. Now you testified on direct examination from
- 25 the Solicitor that you have given by my count one, two,

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1 three, four, five, six statements in this case. Does
2 that sound accurate?

3 A. I think four.

4 Q. Four? Okay. I'm including the two letters that you
5 wrote to me as statements as well.

6 A. I guess so.

7 Q. Okay. Sounds good then. And the Solicitor did a
8 good job of leading you through each of those statements
9 and having you admit that all of those statements were
10 lies before I could get up here and confront you about
11 them being lies do you recall that?

12 A. Yes, sir.

13 Q. Okay. So you gave a statement on the night of the
14 incident, that being May 7th of 2013 correct?

15 A. Yes, sir.

16 Q. Okay. And I think you said you lied in that
17 statement by only giving bits and pieces of what was
18 true.

19 A. Yes, sir.

20 Q. Okay. Which were the bits and pieces that were
21 true?

22 A. Not knowing the name.

23 Q. Not knowing the name of whom?

24 A. The defendants, the other defendants.

25 Q. Okay. Which of it was false?

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1 A. Most of it was true but just bits and pieces I
2 wasn't giving the full statement.

3 Q. Okay. So when you said that you didn't have a gun
4 in that statement was that bit and piece true or was that
5 false?

6 A. False.

7 Q. Okay. So that was a lie?

8 A. Yes, sir.

9 Q. Okay. When you said that you were visiting family
10 in the Mount Pleasant area that's what brought you into
11 town that was a lie also correct?

12 A. Yes, sir.

13 Q. Okay. And where you were staying that you were
14 staying at an old girls house where we were earlier lie?

15 A. No, sir.

16 Q. I'm sorry?

17 A. We was at her house.

18 Q. You were sleeping there, staying there.

19 A. Before that he said we was going to stay there but
20 we never did.

21 Q. Okay. So that was a lie?

22 A. Yes.

23 Q. Okay. When you said that everything happened so
24 fast that you didn't know what happened at the scene;
25 lies?

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1 A. Yes, sir.

2 Q. When you said that you had two beers to drink that
3 day; lie?

4 A. Yes, sir.

5 Q. And I'm going through this line by line. Let me
6 know when I come across something that is truthful. Did
7 you smoke marijuana or do any drugs earlier in the night?
8 I smoked marijuana earlier in the day; that's all. Lie?

9 A. Yes, sir.

10 Q. Do you remember what street you were on when you
11 encountered the white males? Your answer is no. True or
12 false?

13 A. True.

14 Q. Okay. So you didn't know Coleman Boulevard.
15 That's the truthful portion of this statement that you
16 gave that night?

17 A. Yes, sir.

18 Q. Okay. Thank you. Thereafter you gave another
19 statement the very next day. Why were you giving a
20 second statement in two days?

21 A. The first time I as in and out.

22 Q. I'm sorry; could you repeat that?

23 A. I was falling asleep so I guess ---

24 Q. --- you were falling asleep while you were giving
25 this statement?

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- 1 A. Yes, during certain times yes, sir.
- 2 Q. Okay. And what point while you were giving this
3 statement were you falling asleep?
- 4 A. None of it not when I was talking to him but I was
5 in and out.
- 6 Q. Okay. That was the result of intoxication?
- 7 A. Yes, sir.
- 8 Q. Okay. How much did you have to drink that night?
- 9 A. I couldn't tell you; a few beers.
- 10 Q. Okay. A few beers was enough to...
- 11 A. And staying up ---
- 12 Q. --- not really that you understand what you were
13 doing?
- 14 A. Staying up the last two days.
- 15 Q. Okay. And in the second statement that you gave on
16 May the 8th of 2013 you testified in response to the
17 Solicitor's question that this statement is another lie
18 also. Is that a fair statement?
- 19 A. Yes, sir.
- 20 Q. So can we disregard the statements that you gave on
21 May 7th and May the 8th of being total fabrications?
- 22 A. Not really but yes, sir.
- 23 Q. Okay. We'll go ahead and disregard them as total
24 fabrications then. On September the 3rd of 2013 you
25 wrote a letter addressed to me is that correct?

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1 A. Yes, sir.

2 Q. Okay. And in that letter you told me that my
3 client Mr. Belt had been falsely accused of being
4 involved in this armed robbery do you recall that?

5 A. Yes, sir.

6 Q. Okay. And you denied giving a description of Mr.
7 Belt that actually matched Mr. Belt do you recall that?

8 A. Yes, sir.

9 Q. And you also denied responsibility for yourself as
10 well correct?

11 A. Yes, sir.

12 Q. Okay. Any parts of that true or any parts of that
13 a lie?

14 A. All that's a lie.

15 Q. Okay. May I disregard this letter of September the
16 3rd, 2013 as being a total fabrication?

17 A. Yes, sir.

18 Q. Okay. That's the third statement that you've made
19 that we can totally disregard as a complete fabrication.
20 Do you recall writing another letter to me on October the
21 29th of 2013?

22 A. No, I remember writing one.

23 Q. Okay.

24 MR. DETREVILLE: Your Honor, may I approach the
25 witness?

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1 THE COURT: You may.

2 Q. [Mr. DeTreville] Mr. Parks if you would take a look
3 at this letter. And I can hold it for you if that's
4 helpful.

5 [Whereupon, the witness is shown document]

6 Q. Does looking over this letter refresh your
7 recollection about sending me this letter?

8 A. Yes, sir.

9 Q. Okay. Now in this letter you state that Darren
10 Belt is an innocent man.

11 A. Yes, sir.

12 Q. Correct? Okay. And that you have tried to tell
13 the detective on the case that many times.

14 A. Yes, sir.

15 Q. Did you ever tell the detective on the case that?

16 A. No, sir.

17 Q. You say that you don't know Darren Belt. Is that a
18 true statement?

19 A. No, sir.

20 Q. Okay. Again, you attempt to change your
21 description of the people involved in the armed robbery?

22 A. Yes, sir.

23 Q. Okay. And that was a lie also?

24 A. Yes, sir.

25 Q. Okay. May I safely disregard this letter of

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1 October 29, 2013 as being a total fabrication?

2 A. Yes, sir.

3 Q. Okay, that's number four. That was written on
4 October the 29th, of 2013 does that sound correct?

5 A. Yes, sir.

6 Q. Okay. You gave a statement to the Solicitor at the
7 Solicitor's office on November the 12th of 2013 do you
8 recall that?

9 A. Yes, sir.

10 Q. Okay. And who approached you about giving a
11 statement at the Solicitor's office?

12 A. It came through my lawyer.

13 Q. It came through your lawyer? Did your lawyer tell
14 you that it was in response to those letters being
15 supplied to the Solicitor's office?

16 A. No, sir.

17 Q. No, he didn't? Okay. But coincidentally 13 days
18 after that last letter was written you were giving what
19 you called a truthful statement at the Solicitor's office
20 correct?

21 A. Yes, sir.

22 Q. Okay. And you had actually already pled guilty to
23 the armed robberies at this point. I retract that; I'm
24 sorry. And your justification for providing a statement
25 to the Solicitor's office was that you wanted to man up

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1 and take responsibility for what you had done correct?

2 A. Yes, sir.

3 Q. Was that true?

4 A. Yes, sir.

5 Q. I should believe that?

6 A. Yes, sir.

7 Q. Okay. Now in that statement that you gave at the
8 Solicitor's office a good bit of it doesn't correlate
9 with your testimony today. Do you recall the statement
10 that you gave at the Solicitor's office?

11 A. Yes, sir.

12 Q. Okay. You testified earlier that you and Mr. Belt
13 got robbed in a dice game early in the morning of May
14 6th?

15 A. Yes, sir.

16 Q. Okay. Do you recall in your statement that you say
17 that it was you alone that got robbed in a dice game that
18 morning?

19 A. No, sir.

20 MR. DETREVILLE: May I approach the witness, Your
21 Honor?

22 THE COURT: You may.

23 Q. [Mr. DeTreville] And I'll hold this for you Mr.
24 Parks.

25 [Whereupon, the witness is shown document]

1 Q. If you could read for the jury this paragraph
2 starting with P, which is here [indicates].

3 A. [Reading] Basically around 6:30 in the morning a
4 robbery had occurred dealing with me. I got stuck up
5 with a gun and I went for my cousin's help. Ricky Hayes
6 and me and Darren both rode and went over there ---

7 THE COURT: --- could you slow down Mr. Parks.
8 Thank you.

9 THE WITNESS: I'm sorry. Restart?

10 THE COURT: Please start and loudly.

11 A. [Reading] Basically around 6:30 in the morning a
12 robbery had occurred dealing with me. I had got stuck up
13 with a gun and I went for my cousin for help. Ricky
14 Hayes and me and Darren both stuck up with a gun and I
15 went with my cousin -- rode and went over there and got
16 him.

17 I went to go pick him up and then we came back to
18 the house and we chilled there for like maybe ten minutes
19 then met up with another one of my friends and we rode
20 around for a little bit.

21 Then after that I said then after a couple of hours
22 we ended up going to a gas station and that's when Ricky
23 Hayes decided to let's go to Charleston.

24 Q. [Mr. DeTreville] Okay. So in this statement that
25 you gave to the Solicitor's office, the one that you

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1 suggest is the truthful statement it contradicts your
2 testimony here today where you say that you and Darren
3 Belt got robbed at a dice game correct?

4 A. Yes, sir.

5 Q. Okay. Which one is true? Is the statement that
6 you gave the Solicitor's office true or is your testimony
7 here today true?

8 A. Well the way it's typed -- the way it was typed like
9 that you wasn't there but his name was in it and I told
10 him that it was me and him there.

11 Q. Okay. So the problem is with the document not with
12 your statement? Somebody else made a mistake?

13 A. Yes, sir.

14 Q. Okay. At any time -- you said that when y'all
15 picked Ricky Hayes up and then he had a gun at any time
16 did -- and I guess you stated that Ricky showed you that
17 gun at some point is that correct?

18 A. Yes, sir.

19 Q. Okay. I didn't hear you testify that he showed that
20 gun to Mr. Belt.

21 A. Mr. Belt was in the room with us.

22 Q. Okay. But did Mr. Belt in fact know anything about
23 a gun at this particular juncture?

24 A. Yes, sir.

25 Q. Okay. Now you stated in your -- in this particular

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1 statement that you went to when you got to Charleston you
2 went directly to a friend of Ricky's in Mount Pleasant.
3 I think your testimony today was that you went downtown
4 when you got to Charleston. Do you recall that
5 testimony?

6 A. Yes, sir.

7 Q. Okay. Do you recall in the statement that you gave
8 to the Solicitor's office telling them that the first
9 place that you went was towards Mount Pleasant towards
10 Ricky Hayes's and another one of his associates house.
11 Do you remember doing that?

12 A. No. I told them first we went downtown.

13 Q. Okay. Did you offer any testimony today about
14 going to an associate's house in Mount Pleasant?

15 A. Yes sir, I did.

16 Q. Okay. And who was that associate?

17 A. I don't know his name.

18 Q. Okay. You don't know his name?

19 A. No.

20 Q. And what happened to that associate. Where does he
21 leave the story?

22 A. We stayed over there for a little while and then we
23 left there.

24 Q. Okay. And do you remember as part of your
25 statement saying that y'all went over there to find

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1 somebody else to rob because this associate of Mr. Hayes
2 might know somebody to rob?

3 A. Yes, sir.

4 Q. You recall that? But you didn't testify about that
5 today did you?

6 A. No sir, I didn't mention it.

7 Q. Okay. So help me Mr. Parks. Do you consider
8 omitting important facts to be a lie also?

9 A. I'm just answering the direct questions that is
10 given to me, sir.

11 Q. Okay. So may I include your omission of that fact
12 as another of your fabrications?

13 A. No, sir.

14 Q. No? Okay. And you don't know this guy's name?

15 A. No, sir.

16 Q. And you never saw him again?

17 A. No, sir.

18 Q. I think you testified after that that you went to a
19 girl's house in Mount Pleasant is that right?

20 A. Yes, sir.

21 Q. Okay. And you believe that that girl's name might
22 have been Mandy?

23 A. Yes, sir.

24 Q. Where did Mandy live?

25 A. I don't know the street.

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- 1 Q. You don't know the street?
- 2 A. No, sir.
- 3 Q. Was it on North Shadow Drive?
- 4 A. I couldn't tell you.
- 5 Q. Does that ring a bell at all?
- 6 A. No, sir.
- 7 Q. Okay. Who was driving when y'all went over to
- 8 Mandy's house?
- 9 A. I believe Hayes was.
- 10 Q. You think Hayes was, okay. Was Mr. Belt familiar
- 11 enough with the Mount Pleasant area to do the driving at
- 12 this particular point?
- 13 A. No.
- 14 Q. Okay. You've stated in your statement with the
- 15 Solicitor's office that you remembered all of the details
- 16 of that day as clear as day. Do you remember saying
- 17 that?
- 18 A. Yes, sir.
- 19 Q. Okay. Is that true?
- 20 A. Yes, sir.
- 21 Q. It is true?
- 22 A. Yes, sir.
- 23 Q. Okay. Where did you get the wallet that they found
- 24 you with?
- 25 A. I picked it up.

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- 1 Q. You picked it up?
- 2 A. Yes, sir.
- 3 Q. Okay. How many different times have you told
- 4 people that Mr. Hayes gave that wallet to you?
- 5 A. I believe once in a statement.
- 6 Q. Just once?
- 7 A. Yes, sir.
- 8 Q. Are you sure it was just once?
- 9 A. Or twice. The first two statements I believe.
- 10 Q. Once or twice?
- 11 A. Yes.
- 12 Q. Something like that? Do you recall also saying I
- 13 don't know how I got the wallet?
- 14 A. Yes, sir.
- 15 Q. Okay. So you didn't recall how you got the wallet
- 16 and you also said that you got it from Ricky Hayes. But
- 17 your memory is clear as day correct?
- 18 A. Yes, sir.
- 19 Q. Okay. I believe you testified earlier that both
- 20 Mr. Hayes and Mr. Belt were behind the two victims in
- 21 this armed robbery was that your testimony?
- 22 A. Yes, sir.
- 23 Q. And that you were in front of them?
- 24 A. Yes, sir.
- 25 Q. Okay. Did you ever touch any of the victims?

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1 A. No, sir.

2 Q. Did you touch them with the gun?

3 A. No, sir.

4 Q. Okay. You didn't make any contact with them at
5 all?

6 A. No.

7 Q. Okay. You stated in the statement that you gave to
8 the Solicitor's at their office that my client Mr. Belt
9 had a knife and was holding it to the victim's throats.
10 Do you recall giving that statement?

11 A. Yes, sir.

12 Q. Was that true?

13 A. Yes, sir.

14 Q. I'm sorry I didn't hear you?

15 A. Yes, sir.

16 Q. That is true?

17 A. Yes, sir.

18 Q. Okay. To whom's throat did he hold the knife?

19 A. I can't remember which victim.

20 Q. Okay. It was only one of them?

21 A. There was two victims but I'm saying I couldn't
22 remember which one he had it.

23 Q. But he only held the knife to one of their throats?

24 A. Yes, sir.

25 Q. Okay. Whose knife was it?

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- 1 A. I guess it was his.
- 2 Q. Did you see a knife earlier in the day?
- 3 A. No, sir.
- 4 Q. Did you ever mention a knife in any of your other
- 5 statements that you gave?
- 6 A. No, sir.
- 7 Q. So the first time a knife appears in any of your
- 8 stories is in your truthful statement that you gave to
- 9 the Solicitor's office; fair?
- 10 A. Yes, sir.
- 11 Q. Okay. In a number of your statements, I lost track
- 12 of how many, you describe the vehicle that you were
- 13 driving around in that day as either a car or a truck and
- 14 you said it was either green or it was blue but you
- 15 couldn't quite remember sound fair?
- 16 A. Yes, sir.
- 17 Q. Okay. But you remember clear as day was your
- 18 testimony.
- 19 A. Yes, sir.
- 20 Q. In that statement. Okay. Which one was it?
- 21 A. I can't actually remember what color it was but I
- 22 believe it was green. I told them I couldn't remember if
- 23 it was green or blue because the way the color of the
- 24 truck is.
- 25 Q. Could you speak up a little bit Mr. Parks? I

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1 couldn't quite hear you.

2 A. I said I couldn't remember which color the truck
3 was. The way the color of the truck was I couldn't
4 remember which color it actually was.

5 Q. Okay. So you go back and forth between blue and
6 green is that right?

7 A. Yes, sir.

8 Q. Okay. Do you know anybody else who drives a blue or
9 green truck?

10 A. Maybe. A couple of people probably.

11 Q. Okay. You stated in your statement that you gave
12 in the Solicitor's office that you left Columbia about
13 3:30 or 4 o'clock that day?

14 A. Yes, sir.

15 Q. Wasn't it closer to probably about 6 o'clock that
16 day? Do you recall sending text messages to individuals
17 about 6 o'clock telling them that you had just left to go
18 to Charleston?

19 A. I did send some texts.

20 Q. Okay. And you remember the contents of those text
21 messages saying I just left for Charleston and that was
22 at about 6 o'clock p.m. correct?

23 A. I guess.

24 Q. Okay. So if you left Columbia at 6 o'clock in the
25 evening what time did you -- what time were you going to

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1 these associates houses and Mandy's house and the
2 grandfather's house to get the car fixed and all that
3 sort of stuff before you committed a robbery at 12:15?
4 Were you just literally staying at each place for five
5 minutes before you moved on to the next spot?

6 A. Some of them; a few of them.

7 Q. And I don't want to put words in your mouth but if
8 you left Columbia at 6 o'clock you would have gotten to
9 Charleston approximately 7:30 or 8 o'clock at night?

10 A. It was still light out when we got down here.

11 Q. In the summertime it's or in the spring and summer
12 time it's still light out at 7:30 or 8 isn't it?

13 A. The text time was probably a little different
14 because that was my wife. She texted me probably when
15 she got off work so I didn't tell her exactly -- I just
16 told her I had left for Charleston.

17 Q. Okay. So you have an explanation for the text
18 messages saying that you were leaving at 6 o'clock, okay.
19 And the statement that you gave to the Solicitor's office
20 you talked about some conversations about a robbery
21 taking place.

22 I don't see where you ever mentioned Mr. Belt being
23 involved in any of those conversations. Was he?

24 A. Yes sir, I told the Solicitor.

25 Q. Okay.

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1 MR. DETREVILLE: May I approach the witness, Your
2 Honor?

3 THE COURT: You may.

4 Q. [Mr. DeTreville] Could you read for me? These are
5 your words here starting with "P" and then there is a
6 question and then there is "P" again those three
7 particular sections. Can you see it okay?

8 A. Yes, sir. [Reading] Well we talked about -- well I
9 didn't really talk to her I was trying to have sex with
10 her really. I didn't really do too much talking with her
11 really. They was doing their own little conversation and
12 me and Darren was sitting on the couch.

13 We played with the little boy for a while and we
14 basically watched some videos and drinking and smoking
15 weed. And was there any talk about doing a lick between
16 the three of you guys at Mandy's house?

17 Yes, he asked her about who else we could rob and
18 she had told him she knew about a dude selling pills or
19 whatever who had pills, who had money in a trailer. I
20 believe that we could have went in and did a home
21 invasion on him.

22 Q. Okay. So that conversation took place between
23 whom?

24 A. [No response]

25 Q. That conversation that you just referred to took

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- 1 place between whom?
- 2 A. Mandy and Ricky Hayes.
- 3 Q. Okay. And I guess I should go back to my question.
- 4 Where is Darren Belt in these conversations?
- 5 A. He's sitting on the couch with me.
- 6 Q. Not involved in the conversation. I believe you
- 7 said he was watching videos and drinking.
- 8 A. Both of us really wasn't part of the conversation.
- 9 Q. Okay. But in your statement it also says that you
- 10 were trying to have sex with this young lady Mandy? Is
- 11 that her name?
- 12 A. Yes.
- 13 Q. Who lives in Mount Pleasant? And I believe you
- 14 testified earlier that you're married is that correct?
- 15 A. Yes, sir.
- 16 MR. ZIEGLER: Objection, Your Honor. Relevance.
- 17 THE COURT: It's already been asked and answered.
- 18 Q. [Mr. DeTreville] And you've been married since 2010?
- 19 A. Yes, sir.
- 20 Q. Okay. So you were running around behind your
- 21 wife's back at this period in time also?
- 22 A. Yes, sir.
- 23 Q. Okay. Very good. What were you wearing that day
- 24 Mr. Parks?
- 25 A. All black. I believe it was black thermal.

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1 Q. I'm sorry?
2 A. Black thermal or black shorts type.
3 Q. Could you say that word again?
4 A. Black thermal or black shorts type.
5 Q. Black thermal?
6 A. Yes.
7 Q. Okay. Like a jacket?
8 A. No, like a thermal like the one I have on now except
9 in black.
10 Q. Oh, I see. A shirt of sorts? Okay.
11 MR. DETREVILLE: If I might have a moment, Your
12 Honor?
13 THE COURT: Take your time.
14 [Whereupon, Mr. DeTreville views documents]
15 Q. [Mr. DeTreville] I believe you testified earlier Mr.
16 Parks that you are about five foot eight?
17 A. Yes, sir.
18 Q. Was it five eight or five nine?
19 A. No, five eight.
20 Q. Five eight. How tall is Mr. Belt?
21 A. About five seven and some change probably.
22 Q. Five seven and some change?
23 A. Yes.
24 Q. Okay. He's just about this much [indicates]
25 shorter than you are would you say?

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1 A. Yes.

2 MR. DETREVILLE: Mr. Belt, would you mind standing
3 up for us briefly?

4 [Whereupon, the defendant stands]

5 Q. [Mr. DeTreville] Do you still believe that he's
6 about this much [indicates] shorter than you or would you
7 like to adjust down your approximation of how tall he is?

8 A. Probably -- I know he's just a little bit shorter
9 than me.

10 Q. Very good. If I told you that Mr. Belt was five two
11 would you dispute that?

12 A. No.

13 Q. You've known Mr. Belt for a long time you stated in
14 multiple statements. You've known him going back ten
15 years or whatever so clearly you've had the opportunity
16 to observe how tall he is?

17 A. Yes, sir.

18 Q. Okay. In your statement to the Solicitor's office
19 you described Mr. Belt as having cornrows do you recall
20 that?

21 A. Yes, sir.

22 Q. Is his hair the same as it was back then?

23 A. It's so long ago but yes, I think so.

24 Q. Okay. Are those cornrows?

25 A. Yes, sir.

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- 1 Q. Those are cornrows in your mind; not braids?
- 2 A. Braids.
- 3 Q. Not braids? Are they cornrows or are they braids?
- 4 A. The same thing.
- 5 Q. Dreads?
- 6 A. No, that's not dreads.
- 7 Q. Not dreads, okay. Now you stated in your testimony
- 8 that both Hayes and Belt came up behind the victims while
- 9 you had the gun is that correct?
- 10 A. Yes, sir.
- 11 Q. Okay. And you also stated that I believe your
- 12 testimony was Mr. Belt had his arm across one of the
- 13 victim's shoulders while he has his other hands going
- 14 through his pockets.
- 15 A. Yes, sir.
- 16 Q. Is that fair?
- 17 A. Yes, sir.
- 18 Q. How long would you say that this whole thing took?
- 19 A. Probably about like three minutes, two minutes.
- 20 Q. Two or three minutes? At what point if Mr. Belt has
- 21 his arm over somebody's shoulder and is going through his
- 22 pockets at what point was he holding a knife to
- 23 somebody's throat?
- 24 A. The same arm he was holding that hand around them.
- 25 Q. Okay. So you didn't mention that in your testimony

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1 earlier. You just said he had his hand across his
2 shoulder. You didn't say he had his hand across his
3 shoulder holding a knife to his head, to his neck. Is
4 that your testimony now?

5 A. Yes, sir.

6 Q. Okay. You're lying aren't you about the knife?

7 A. No, sir.

8 Q. Okay. You were the one who had the gun.

9 A. Yes, sir.

10 Q. There is no question about that?

11 A. No, sir.

12 Q. Okay. You were the one who got caught with the
13 victim's wallet on you aren't you?

14 A. Yes, sir.

15 Q. Okay. You were the one who stuck the gun in the
16 victim's faces?

17 A. Yes, sir.

18 Q. That was you. You were the one who hid on the axle
19 of a truck?

20 A. Yes, sir.

21 Q. To stay away from police? Okay. At what point --
22 I don't understand how you dropped the gun. Can you
23 explain that to me?

24 A. I went to try to hop this fence which was right next
25 to the truck. As I went up I seen police on the other

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1 side so when I came back down the gun had dropped and I
2 went to try to search for it but I couldn't see it or
3 find it.

4 Q. Do you recall testifying under oath previously?

5 A. Yes, sir.

6 Q. Do you recall when you testified under oath that you
7 said that you actually knew where the gun was the whole
8 time?

9 A. I didn't know. I knew what area it was I said.

10 Q. Just the area?

11 A. Yes.

12 Q. How big an area are we talking about?

13 A. I don't know; a few feet.

14 Q. A few square feet of where you knew -- of where the
15 gun was?

16 A. A certain part of the area.

17 Q. Okay. So when you told the police when they asked
18 you where the gun was at the time of your arrest; lie?

19 A. No, sir. I told them I didn't know where it was at.

20 Q. Okay. And you've attempted to justify your lies as
21 being protective of yourself and of your friends. Do I
22 understand that correctly?

23 A. Yes, sir.

24 Q. Okay. Who are you protecting right now?

25 A. Nobody.

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1 Q. Wouldn't it be a true statement to say that you are
2 protecting yourself?

3 A. No, sir.

4 Q. Your escape charge got dismissed almost as quickly
5 as it got filed didn't it?

6 A. Not really.

7 Q. Okay. And an escape charge carries five years.
8 You knew that though right?

9 A. Yes, sir.

10 Q. Okay. And you're aware of what the penalties for
11 armed robbery are as well correct?

12 A. Yes, sir.

13 Q. And you're aware there is a range on those potential
14 penalties that you could get something lower or you could
15 get something really high?

16 A. Yes, sir.

17 Q. And as you testified earlier your sentencing has
18 been deferred for the past year.

19 A. Yes, sir.

20 Q. Isn't that in fact because you're not going to be
21 sentenced until you complete your cooperation with the
22 Solicitor's office?

23 A. I can't answer that. I don't know.

24 Q. Is that your expectation?

25 A. No, sir.

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1 Q. That's a lie right?

2 A. What you mean?

3 Q. Are you expecting to get 60 years at the conclusion
4 of all of your testimony?

5 A. I couldn't tell you that.

6 Q. Okay. Or are you expecting to get something
7 substantially less than that?

8 A. I couldn't tell you. It's not up to me.

9 Q. Okay. That's a lie right?

10 A. It's not up to me.

11 Q. Okay. So when you escaped -- you testified that
12 you escaped from the custody of Detective Eckert the day
13 after this robbery correct?

14 A. Yes, sir.

15 Q. And I think you said something about you blacked out
16 and ran?

17 A. Yes, sir.

18 Q. Why did you black out? What's that about?

19 A. I don't know. Too much stress I believe.

20 Q. Okay. Isn't testifying that you blacked out and
21 ran simply a means of not really disclosing your reasons
22 for running? Aren't you lying now by saying that you
23 blacked out and ran?

24 A. No sir, I'm not.

25 Q. Okay. You testified that you ran a short distance

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- 1 and then you gave yourself up is that right?
- 2 A. Yes, sir.
- 3 Q. That's not true is it?
- 4 A. It's true.
- 5 Q. That is true?
- 6 A. Yes.
- 7 Q. Did you get out of your handcuffs at some point
- 8 while you were running from Detective Eckert?
- 9 A. Yes, sir.
- 10 Q. Okay. How far into your escape was that?
- 11 A. I don't know. What you do mean getting out the
- 12 cuffs? I believe like the first couple of minutes.
- 13 Q. And did you give yourself up to Detective Eckert
- 14 immediately after you got out of the handcuffs?
- 15 A. No, sir.
- 16 Q. No. In fact Detective Eckert had to attack you and
- 17 subdue you in order to put you back into custody. Isn't
- 18 that a truthful statement?
- 19 A. Not really.
- 20 Q. Have you not complained about Detective Eckert's
- 21 treatment of you upon your rearrest in previous testimony
- 22 saying that you thought that he used excessive force on
- 23 you?
- 24 A. Yes, sir.
- 25 Q. You remember that now don't you?

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- 1 A. I didn't say he used excessive force.
- 2 Q. Okay. But you didn't remember that just a second
- 3 ago. You gave yourself up was your testimony just a
- 4 second ago is that correct?
- 5 A. [No response]
- 6 Q. Can I get an answer Mr. Parks?
- 7 A. No, sir.
- 8 Q. You didn't testify just a minute ago that you gave
- 9 yourself up?
- 10 A. Yes, I did and that's why I said he used excessive
- 11 force because I already gave up.
- 12 Q. Well in addition to Detective Eckert bringing you
- 13 back into custody isn't it also true that a retired North
- 14 Charleston police officer had to stop on the side of the
- 15 road jump out of his car and help Detective Eckert subdue
- 16 you at the time true statement?
- 17 A. True statement. He came once I already was down.
- 18 Q. Okay. So that's not really giving yourself up very
- 19 much is it?
- 20 A. I was already on the floor in cuffs when he came.
- 21 Q. Okay. And that charge has been dismissed.
- 22 A. Yes, sir.
- 23 Q. That's fortunate for you. So when there are
- 24 discrepancies between your various statements, and you
- 25 help me with this, when there are discrepancies between

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1 your different statements which one as I supposed to
2 believe? Pick one for me.

3 A. The one I'm telling now.

4 Q. The one that you're telling now?

5 A. Yes, sir.

6 Q. So should I not believe the statement that you gave
7 the Solicitor's office because there are a lot of
8 discrepancies there?

9 A. That was true.

10 Q. Even the discrepancies between that statement and
11 your testimony today? Which one do I believe; help me?

12 A. From the Solicitor's office to now.

13 Q. Okay. So even when they don't correspond with one
14 another when they conflict with one another how do I
15 decide which of the two to choose from?

16 A. I can't answer that sir.

17 Q. Okay. The truth of the matter Mr. Parks and I'll
18 just ask you this question straight up you lie a lot
19 don't you?

20 A. No, sir.

21 Q. Okay. Have we not covered possibly a dozen of your
22 lies in the last ten to fifteen minutes or so?

23 A. No, sir.

24 Q. You wouldn't classify that as lying a lot? At what
25 point do you start lying a lot?

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1 A. Some were lies. I tried to hide things.

2 Q. Okay. How do we know that you're not lying now to
3 try to hide things? How do we know that you're not
4 trying to save your own skin and a deferred sentencing
5 deal?

6 A. I'm not.

7 Q. Okay. I should trust that?

8 A. That's up to you.

9 Q. Is that what you're telling me?

10 A. That's up to you.

11 Q. Okay. That's up to me. Very good. You can't.

12 It's up to me. You can't sit up on the stand and
13 truthfully testify that you are somebody who tells the
14 truth. Would that be a fair statement?

15 A. No, sir.

16 Q. You do feel like you're somebody who tells the
17 truth?

18 A. Yes, sir.

19 Q. Okay. And why do you feel like you're somebody who
20 tells the truth?

21 A. Because at this time and before I knew it was time
22 to do right.

23 Q. Do right for yourself right?

24 A. Do right period.

25 Q. And that's why you gave a statement to the

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1 Solicitor's office two weeks after you wrote you last
2 letter to me.

3 A. Yes, sir.

4 Q. You weren't actually in fear and that's why you
5 wrote those letters were you?

6 A. Yes, I was.

7 Q. Okay. Did you ever request to go into protective
8 custody at the Charleston County Detention Center?

9 A. No, sir.

10 Q. Okay. What were you in fear of?

11 A. People.

12 Q. People? Okay. Should I believe that? What else
13 would you have been afraid of?

14 A. That's it.

15 Q. So should I believe the letters that you wrote to me
16 saying that Darren Belt had no involvement in this?

17 A. No, sir.

18 Q. Okay. I should disregard those?

19 A. Yes, sir.

20 Q. Okay. But I should pay attention at all times
21 where you say that he was involved in it is that what
22 you're telling me?

23 A. Yes, sir.

24 Q. Okay.

25 MR. DETREVILLE: If I could have just a moment,

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1 Your Honor?

2 THE COURT: Take your time.

3 MR. DETREVILLE: May I consult with my client
4 briefly?

5 THE COURT: You may.

6 [Whereupon, Mr. DeTreville and the defendant confer]

7 THE COURT: Ladies and gentlemen I get tired
8 sitting so feel free while he's talking if you want to
9 stand up and stretch.

10 MR. DETREVILLE: No further questions of this
11 witness, Your Honor.

12 THE COURT: Thank you. Redirect?

13 MR. ZIEGLER: Your Honor, may we approach?

14 THE COURT: You may.

15 [Whereupon, an off the record bench conference is
16 held]

17 THE COURT: Mr. Foreman if you will poll your jury
18 it would be an appropriate time again to stop after this
19 witness or if you want to hear one more witness that we
20 could do tonight or break for the evening after this
21 witness. If you will just let me know.

22 [Whereupon, the Foreperson confers with the jury]

23 THE COURT: The next witness will be significantly
24 about the same time as this witness; so at least over an
25 hour.

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1 MR. FOREPERSON: We want to take a five minute
2 break.

3 THE COURT: And then keep going?

4 MR. FOREPERSON: Yes.

5 THE COURT: Let's finish with this witness. Mr.
6 Ziegler, redirect?

7 MR. ZIEGLER: Thank you, Your Honor.

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1 REDIRECT EXAMINATION

2 BY MR. ZEIGLER:

3 Q. Randi, did you hear defense counsel say that your
4 first statement to the police and your second statement
5 to the police were complete fabrications?

6 A. Yes, sir.

7 Q. Is that true?

8 A. Yes, sir.

9 Q. Randi, if I showed you -- were there certain
10 elements of those statements that were true?

11 A. Yes sir, it was.

12 Q. And in your very first statement the night that you
13 were arrested do you remember saying that you were with
14 your cousin Lamont?

15 A. Yes, sir.

16 Q. Who is that?

17 A. Ricky Hayes.

18 Q. Do you remember saying that you were with "L",
19 someone named "L"?

20 A. Yes, sir.

21 Q. Who was that?

22 A. Lizard. That's what the "L" stands for. I just
23 didn't give the whole name as Darren Belt.

24 Q. And that was in the very first statement that you
25 ever gave to the police?

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1 A. Yes, sir.

2 Q. And do you remember in that very first statement
3 describing "L" when the officer asked you what "L" was
4 like?

5 A. Yes, sir.

6 Q. Do you remember how you described him, what his
7 hairstyle was and anything about his face?

8 A. Yes, sir. I said a messed up eye, braids, shirt ---

9 Q. --- if I showed you your statement would it refresh
10 what you said his hairstyle was?

11 A. Yes, sir.

12 [Whereupon, the witness is shown document]

13 Q. Look towards the bottom.

14 A. [Reading] Black male with cornrows and messed up
15 eye.

16 Q. And did you tell defense counsel that to you
17 cornrows and braids are somewhat similar; they are one in
18 the same?

19 A. Yes, sir.

20 Q. Do you remember telling the officer in your very
21 first statement that earlier in the night you were at
22 some white girl's house?

23 A. Yes, sir.

24 Q. Was that true?

25 A. Yes, sir.

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1 Q. And in your second statement to the police did you
2 again say that you were with Lamont?

3 A. Yes, sir.

4 Q. Did you say that you were with "L"?

5 A. Yes, sir.

6 Q. Did you tell the officer that you were at a white
7 girl's house?

8 A. Yes, sir.

9 Q. Before the incident? Was that true?

10 A. Yes, sir.

11 Q. So is your answer still that your first and second
12 statement is it a fair characterization by defense
13 counsel that your first and second statement to the
14 police were complete fabrications?

15 A. No, they wasn't.

16 Q. Did you indicate then in those statements that the
17 individuals who participated in this robbery with you
18 were the same as what you are telling us today?

19 A. Yes, sir.

20 MR. ZIEGLER: Beg the court's indulgence.

21 THE COURT: Take your time.

22 [Whereupon, Mr. Ziegler and Mr. DeTreville confer]

23 Q. [Mr. Ziegler] Then defense counsel asked you about
24 the statement that you gave at the Solicitor's office is
25 that right?

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1 A. Yes, sir.

2 Q. And he said that -- did he say that in the statement
3 that you gave to the Solicitor's office when you got
4 robbed when you were playing dice did he say that you
5 never said that Darren Belt got robbed too?

6 A. Yes sir, that's what he said.

7 [Whereupon, the witness is shown document]

8 Q. Randi, if you could read the same portion -- even a
9 shorter portion of what defense counsel had you read and
10 just up to about this part right here [indicates]
11 starting with basically right there [indicates] slowly
12 and loudly.

13 A. [Reading] Basically around 6:30 in the morning a
14 robbery had occurred dealing with me and I got stuck up
15 with a gun and I went to my cousin for help. Ricky Hayes
16 and me and Darren both rode and went over here and got
17 him.

18 I went to go pick them up and then we came back to
19 my house and we chilled there for like maybe like ten
20 minutes then met up with another one of my friends and we
21 rode around for a little bit.

22 Q. [Mr. Ziegler] What you just read does that say that
23 you got robbed?

24 A. Yes, it says that.

25 Q. Does it say anywhere that Darren Belt wasn't with

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1 you?

2 A. No, it doesn't. It says he was there with me.

3 Q. Well does it say that you then went over with him to
4 Ricky's house?

5 A. Yes, sir.

6 Q. But it doesn't say that he was not with you?

7 A. No, sir.

8 Q. Defense counsel brought up another part of that
9 statement to the Solicitor's office. Did he tell you
10 that you never said that you went downtown?

11 A. Yes, sir

12 Q. And this is your statement from the Solicitor's
13 office correct?

14 [Whereupon, the witness is shown document]

15 A. Yes, sir.

16 Q. And could you read from right here [indicates] this
17 question which is from an investigator in my office
18 starting at okay and then read your answer please?

19 A. [Reading] Okay this is Darren's G. And where did
20 you end up after you couldn't find that girl in Mt P ---

21 Q. --- read that a little slower please Randi.

22 A. [Reading] Okay, this was Darren G. Okay. And
23 where did you end up after you couldn't find the girl in
24 Mt. P? We ended up leaving up there and going. No, that
25 wasn't in Mount Pleasant it was in downtown. And we left

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1 downtown and went towards Mt. P towards Ricky Hayes
2 another one of his associate's house.

3 Q. So did you mention that you were downtown in that
4 statement?

5 A. Yes sir, I did.

6 Q. Defense counsel brought up some text messages and
7 asked if you remembered those is that right?

8 A. Yes, sir.

9 Q. And did he ask you -- did he tell you what times
10 that they were?

11 A. He said 6 o'clock.

12 Q. And who were those text messages to?

13 A. My wife.

14 Q. Did you tell her where you were going?

15 A. Yes, sir.

16 Q. Who did you tell her you were with?

17 A. I didn't give no names I don't think, I don't
18 believe. I can't remember.

19 Q. If I were to show you those text messages would you
20 remember who you said you were with?

21 A. Yes.

22 Q. Just take a look and then hand it back to me please?

23 [Whereupon, the witness reviews document]

24 A. Oh, yeah. I said me, Lamont, and Lizard.

25 Q. What was that in answer to?

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- 1 A. Saying that we was the ones coming down to
2 Charleston together.
- 3 Q. Were those sent the day of the robbery?
- 4 A. Yes, sir.
- 5 Q. They were sent while you were on your way?
- 6 A. Yes, we was already in route down here.
- 7 Q. You were already on your way?
- 8 A. Yes, probably almost here.
- 9 Q. Do you remember saying whose car you were in?
- 10 A. No, it's been so long ago I can't really remember.
- 11 Q. If I would show it to you again would you remember?
- 12 [Whereupon, the witness reviews document]
- 13 A. I told her we were in Lizard's.
- 14 Q. And do you say why you were going to Charleston?
- 15 A. To make some money.
- 16 Q. So was that true, those text message?
- 17 A. Yes, sir.
- 18 Q. Have you ever asked anytime recently anyone in my
19 office if you could be possibly moved to another jail?
- 20 A. Yes, sir.
- 21 Q. And defense counsel asked about you being in fear
22 and you testified that's why you wrote those letters.
- 23 A. Yes, sir.
- 24 Q. To defense counsel. Is that true that you were in
25 fear?

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1 A. Yes, sir.

2 Q. And have you been in fear recently?

3 A. Yes sir still am.

4 Q. And Randi have you taken responsibility for your
5 actions in this matter?

6 A. Yes sir, I have.

7 Q. Have you pled guilty?

8 A. Yes, sir.

9 MR. ZIEGLER: No further questions of this witness,
10 Your Honor.

11 THE COURT: Mr. DeTreville?

12 MR. DETREVILLE: Thank you, Your Honor.

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RECROSS-EXAMINATION

BY MR. DETREVILLE:

Q. The text messages the Solicitor was referring to do you also remember sending one to the same phone number at 7:52 in the morning saying I just got robbed at gunpoint?

A. Yes, sir.

Q. Okay. Does it say Darren and I just got robbed at gunpoint or does it say I just got robbed at gunpoint?

A. No, sir. I was telling my wife about myself.

Q. Okay. So again we go back to the same sort of story. You're telling me one thing one minute and then you're telling somebody else something else the next minute and then I have to come back and clarify that with you. Is that what's going on here?

A. No, sir.

Q. Okay. You testified on cross-examination from me that your statements that I was referring to specifically were complete fabrications and that we could totally ignore those as complete fabrications. Is that right?

A. No, sir.

Q. That was your testimony. On questioning from the Solicitor now you're telling us no, actually they're not complete fabrications. You can't totally disregard the small bits and pieces of them are salvageable is that a fair statement?

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1 A. I said that from the beginning.

2 Q. Okay. By my own count Mr. Parks I've got you
3 admitting to lying 20 times on the stand already. Is
4 that number 21?

5 A. No, sir.

6 Q. Okay. Have we essentially been reduced to poking
7 around your statements trying to find something that is
8 truthful in them?

9 A. No, sir.

10 Q. Okay. If a statement is 75 percent lies and you're
11 saying that the remaining 25 percent of it is true why
12 would anybody believe you?

13 A. I can't answer that.

14 Q. Okay. I don't think I could answer that question
15 either. Whose phone number is 803-369-2267?

16 A. My wife.

17 Q. That's your wife. So that's who you were telling
18 that you got robbed that morning?

19 A. Yes.

20 Q. And you were specific about I just got robbed?

21 A. Yes.

22 Q. Okay. When you say that you were -- you testified
23 just a second ago that one of your text messages said
24 that you were going to Charleston to get money. Was that
25 true?

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1 A. Yes.

2 Q. Doesn't it in fact say you were going to Charleston
3 to quote get some more paper?

4 A. Yes.

5 Q. Okay. At the time that you were arrested isn't it
6 true that you had counterfeit money on you?

7 A. Yes.

8 Q. And that's what you were referring to wasn't it that
9 you were going to buy some more counterfeit money?

10 A. No.

11 Q. Okay. I should believe you?

12 A. Yes.

13 Q. Okay. You had counterfeit money on you right?

14 A. Yes.

15 Q. And you refer to it specifically as more paper
16 right?

17 A. No.

18 Q. Would you like to see the text message?

19 A. I know it says paper. That's just another example
20 of money.

21 Q. Okay. Counterfeit money; correct?

22 A. No.

23 Q. Okay. You testified in response to the Solicitor's
24 questioning that a couple of weeks ago you asked to be
25 moved to Berkeley County Detention Center is that right?

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1 A. Yes, sir.

2 Q. And the reason for that is because you were afraid?

3 A. Yes, sir.

4 Q. Okay. And you testified earlier that you wrote
5 letters to me in September and October of 2013 because
6 you were afraid right?

7 A. Yes.

8 Q. Okay. So that was approximately two years ago that
9 you wrote those letters. Have you been in constant fear
10 for the last two years?

11 A. Yes, sir.

12 Q. Okay. But you only brought it to somebody's
13 attention two weeks ago?

14 A. No, sir.

15 Q. Okay. I didn't hear your testimony about when you
16 have brought it to somebody's attention previously. In
17 fact I asked you if you had ever asked to be moved to
18 protective custody and you said no.

19 A. I said no.

20 Q. I'm sorry?

21 A. I chose no not to go the protective custody.

22 Q. Okay. I don't think that was my question. I asked
23 you if you had ever requested to be moved to protective
24 custody at any time and your response was no correct?

25 A. Yes.

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1 Q. Okay. That was a lie?

2 A. No, sir.

3 Q. Why is that not a lie? I thought you just said that
4 you chose not to go?

5 A. You asked me for P-C in Charleston County. I didn't
6 want to stay in the county jail.

7 Q. But that was two weeks ago correct?

8 A. Yes, sir.

9 Q. Did you ever ask two years ago when you were writing
10 letters?

11 A. It been talked about.

12 Q. Okay. I'm going to choose to disregard that as a
13 lie also. Thank you, Mr. Parks.

14 THE COURT: Ladies and gentlemen I think it is an
15 appropriate time for us to break for the evening. After
16 you leave we still have work to do and we've been working
17 since before you got here. So out of courtesy to my
18 staff we're going to go ahead -- I assure you we will be
19 done by Friday evening if we break at this time. So
20 please do not think we are going to go into the weekend
21 or into next week.

22 Ladies and gentlemen please remember all of my
23 admonitions. Do not begin discussing this case with
24 anyone. Do not read, watch, listen to any news accounts
25 regarding this case should there be any. And please do

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1 not go to the scene where any of these events are alleged
2 to have taken place. Please be back and prepared to get
3 started at 9:30 in the morning. Please rise for the
4 jury. Take your notepads with you. We will lock them up
5 over the evening hour. Thank you.

6 [Whereupon, the jury exits at 5:50 p.m.]

7 THE COURT: Thank you. Be seated.

8 [Whereupon, the witness is excused and exits the
9 witness stand]

10 THE COURT: Okay. Anything before we break for
11 the evening Mr. Ziegler?

12 MR. ZIEGLER: No, Your Honor.

13 THE COURT: Mr. DeTreville?

14 MR. DETREVILLE: Nothing, Your Honor.

15 THE COURT: I'm going to go ahead based upon how I
16 think the trial is going to go tomorrow if it goes as
17 smoothly as it did today I'm going to go ahead and advise
18 your client of his rights.

19 MR. DETREVILLE: I'm sorry I couldn't hear you
20 because of the door.

21 THE COURT: Please place Mr. Belt under oath. I'm
22 going to advise him of his rights.

23 MR. DETREVILLE: Okay. Very good, Your Honor.

24 [Whereupon, the defendant is duly sworn by the Clerk
25 of Court]

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

COURT OF GENERAL SESSIONS
DOCKET NO. 2013-GS-10-4529
2013-GS-10-4530

STATE OF SOUTH CAROLINA

vs.

DARREN KEITH BELT

Defendant

TRANSCRIPT OF RECORD

September 17, 2015
Charleston, South Carolina

VOLUME 4 (of 4)

B E F O R E:

THE HONORABLE KRISTI L. HARRINGTON, JUDGE

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