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Volume I of II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County

Honorable Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MICHAEL DONTA BROOKS,

APPELLANT

APPELLATE CASE NO

RECORD ON APPEAL

KATHRINE H. HUDGINS
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

DAVID SPENCER
Senior Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

E.L. CLEMENTS, III
Solicitor, Twelfth Judicial Circuit
City-County Complex
180 N. Irby St., MSC-Q
Florence, SC 29501
(843) 665-3091

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA	)	IN THE TWELFTH JUDICIAL CIRCUIT
COUNTY OF FLORENCE	)	IN THE COURT OF GENERAL SESSIONS
	)	2014-GS-21-00813
STATE OF SOUTH CAROLINA,	)	
	)	
PLAINTIFF,	)	
	)	
VERSUS	)	
	)	
MICHAEL DONTA BROOKS,	)	
	)	DATE: JUNE 15-18, 2015
DEFENDANT.	)	PLACE: FLORENCE, SC

TRIAL TRANSCRIPT

B E F O R E:

THE HONORABLE MICHAEL G. NETTLES

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

JOHN C. JEPERTINGER, ESQUIRE
DAVID RICHARDSON, ESQUIRE
ATTORNEYS FOR THE STATE

PRO SE DEFENDANT - PARTIAL
RALPH WILSON, ESQUIRE
ATTORNEY FOR THE DEFENDANT

PROVIDED FOR: SCCID - LORIENE FRENCH

COURT REPORTER: JO RICE
jrice@sccourts.org
SOUTH CAROLINA JUDICIAL DEPARTMENT

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1 PRE-TRIAL MOTIONS

2 THE COURT: Mr. Wilson, you are recognized. I understand
3 that you and/or your client has a motion.

4 MR. WILSON: Yes, sir, Your Honor. I represent Mr. Brooks
5 and, obviously, the trial is scheduled and slated for today and
6 has been for several months now. Anyway, Mr. Brooks has
7 informed me, and he really has over the last month or so, that
8 he wants to represent himself and we appeared in front of Judge
9 Seals, I think, last week. He indicated that to Judge Seals at
10 that time. Also, at that time we made a motion for an
11 evaluation, a state hospital evaluation. Judge Seals denied
12 that motion, but he is insistent that he wants to represent
13 himself and I have assured him that I will bring that to the
14 Court's attention and let the Court make a determination as to
15 whether or not he is allowed to represent himself.

16 THE COURT: All right. Mr. Brooks, I'm going to ask that
17 you stand where you are as the clerk administers the oath.

18 (Clerk of Court administers the oath to Mr. Brooks)

19 THE COURT: Mr. Brooks, I'm Michael Nettles. I'm the
20 resident judge for the 12th Judicial Circuit, which is Florence
21 and Marion Counties and I'm going to be the one that presides
22 over the trial of this case and I understand that you want to
23 discharge your lawyer. I want you to tell me why.

24 MR. BROOKS: Well, Your Honor, I have been putting in
25 complaints for six months now. I have a list of documents on

1 this case. I also have contacted The South Carolina State Bar
2 discipline lawyer and they have an investigation going, on
3 against him, the reason being the issues now that he's not
4 trying to address on my case that I need to address. My case is
5 not supposed to go forward, Your Honor. I have a lot of issues
6 on my case that he is trying to avoid. I feel like he is,
7 basically, trying to help move my case along when it's not
8 supposed to. There's State tampering on my case, Your Honor,
9 evidence tampering, evidence missing off my case, malicious
10 prosecution. I have a list of things that's been wrong with my
11 case. My case has been contaminated. They are trying to frame
12 me. He's not trying to do anything to help me in this regard. I
13 have prepared motions to present this. I have compelling
14 documents that support all this and experts from the South
15 Carolina Law Enforcement Division to come onto my case. Your
16 Honor, he has not, at all, tried to contact them, these things
17 that I can prove on my case. It's like he's doing everything he
18 can to avoid these issues that I want to address. If I could
19 prove that my statements have been tampered and that's under
20 common law, that's destruction of justice, a felony offense. I
21 could prove this with documents. Why, I can prove there's no
22 evidence. They're saying they have evidence. There is no
23 evidence on my case and I can prove this with my evidence, my
24 law sheets on my case. There are a number of different things I
25 can prove. I can prove my DNA was tampered with.

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

1 THE COURT: Mr. Brooks, let me ask you this question before
2 we get into all the details of it.

3 MR. BROOKS: Yes, sir.

4 THE COURT: I know that you have some complaints with your
5 lawyer, Mr. Wilson, but do you understand what your lawyer is
6 for? What is your lawyer's job?

7 MR. BROOKS: My lawyer is, basically, trying to represent
8 me and do the best that he can to help me and if he's not
9 trying to do that, then it's no good to me.

10 THE COURT: That's his job, is to help you, to represent
11 you and to be your advocate. And you understand that, don't
12 you?

13 MR. BROOKS: Yes, sir. I completely understand that.

14 THE COURT: All right. You see Mr. Jepertinger over there.
15 What is his job?

16 MR. BROOKS: To prosecute me. He's trying to do his best to
17 prosecute me.

18 THE COURT: All right. His job is to present the evidence
19 that the State has gathered and present it to a jury and to be
20 an advocate for the State and try to get a conviction against
21 you. Is that your understanding?

22 MR. BROOKS: Yes, it is.

23 THE COURT: You understand that all along, don't you?

24 MR. BROOKS: Completely, Your Honor.

25 THE COURT: Now, eventually, we are going to have a jury

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1 impaneled over here and what is the role of the jury?

2 MR. BROOKS: To decide if I am guilty or innocent, Your
3 Honor, and to go over the evidence that has been presented to
4 them, to listen to both sides of the case, and make a ruling on
5 that, Your Honor.

6 THE COURT: And what is my job?

7 MR. BROOKS: To reside over the case and govern it and make
8 sure that things are done fairly and motions presented before
9 you and the documents supporting that and rule in favor of the
10 documents in and rule in the favor of the law.

11 THE COURT: Right. I think you've got a pretty good
12 understanding of what's going on. How many times have you been
13 in trouble before?

14 MR. BROOKS: Off and on over the past -- small things.

15 THE COURT: Small parts. How many times have you been in
16 general sessions court?

17 MR. BROOKS: Oh, seven or eight, probably, stuff like that.

18 THE COURT: So, you understand what the program is all
19 about, don't you?

20 MR. BROOKS: Yes, sir. I do. I completely understand.

21 THE COURT: All right. Let's move on to the issue about
22 firing your lawyer. Let me explain something to you. Of course,
23 I'm not your lawyer and I'm not here to advise you, but you
24 need to understand that you have very, very, very, very serious
25 charges against you: armed robbery; burglary first, which you

1 could receive up to life imprisonment; kidnaping; possession of
2 a weapon during a violent crime; a felon in possession during a
3 violent crime. The bottom line is, if you lose this case, you
4 very well could go to prison for the rest of your life. Do you
5 understand that?

6 MR. BROOKS: (Nods head)

7 THE COURT: Now, the other thing that you need to
8 understand is, if I were in your position, there are about, I
9 would say, six lawyers in the State of South Carolina that I
10 would want to be representing me if I found myself in your
11 spot. Mr. Wilson would be one of those.

12 MR. BROOKS: Your Honor, I'm not saying ---

13 THE COURT: Listen to me, now. He has worked as a
14 prosecutor for a number of years. He worked for the Horry
15 County Solicitor's Office for a number of years and then he was
16 the elected Solicitor. He's been out doing very high profile,
17 very complex criminal cases for a number of years now. I've
18 dealt with him, I don't think we ever actively tried a case,
19 but we had a number of cases together when I was practicing
20 law. He is as competent a lawyer as there is in South Carolina.
21 Now, one of the things that you need to understand is, the
22 very worst thing that could happen to you is for you to
23 represent yourself in this case without a lawyer. That's the
24 worst thing that could happen.

25 MR. BROOKS: Yes, sir.

1 THE COURT: Probably, the best thing you have going for
2 you is that you have Mr. Wilson here on your side.

3 MR. BROOKS: Yes, sir.

4 THE COURT: You might not, for some reason, you might
5 disagree with some of the things he's telling you, but he
6 understands the program. Have you ever been to law school
7 before?

8 MR. BROOKS: No, sir. I haven't.

9 THE COURT: Have you ever read any books on the rules of
10 evidence?

11 MR. BROOKS: I have been studying some, yes, sir.

12 THE COURT: All right. Regardless of how much you've
13 studied, you don't understand what your lawyer understands and,
14 see, the problem with you going forward representing yourself
15 is, you are going to be charged with the responsibility of
16 knowing criminal procedure, the substantive criminal law and
17 all the rules of procedure and that's going to work to your
18 detriment, because if you elect to go forward on your own, then
19 things are going to be stacked against you. Do you understand
20 that?

21 MR. BROOKS: Yes, sir.

22 THE COURT: But one of the things you need to understand
23 is, you have an absolute constitutional right, I can't make you
24 accept him as your lawyer. The law says that I can't do that
25 and I will abide by that, but you understand, I cannot explain

1 to you how important it is for you to allow Mr. Wilson to
2 represent you and pay attention to what he's got to say. Do you
3 understand that?

4 MR. BROOKS: Yes, sir.

5 THE COURT: Do you want him to represent you or do you want
6 to proceed by yourself?

7 MR. BROOKS: I want to proceed forward by myself, Your
8 Honor.

9 THE COURT: All right. Well, I'm going to allow you to do
10 that, but before I do that, I need to ask you a number of
11 different questions. How old are you?

12 MR. BROOKS: I'm 33. I'll be 34 in August.

13 THE COURT: All right. How far did you go in school?

14 MR. BROOKS: I went up until the 11th grade and then got my
15 GED.

16 THE COURT: Okay. Can you read and write?

17 MR. BROOKS: Yes, sir.

18 THE COURT: All right. Do you understand that if you
19 represent yourself that you are going to be held responsible
20 for understanding all the procedural and substantive law? Do
21 you understand that?

22 MR. BROOKS: Yes, sir.

23 THE COURT: And your lack of knowledge is going to work
24 against you. Do you understand that?

25 MR. BROOKS: Yes, sir. I do.

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1 THE COURT: Do you have any questions of me?

2 MR. BROOKS: Can I ask you, one thing?

3 THE COURT: Sure.

4 MR. BROOKS: What's the good of having someone representing
5 me that knows all that, that's not doing anything to try to
6 help me?

7 THE COURT: Well, I'm going to let Mr. Wilson address the
8 issues with regard, to the extent that he can, address the
9 issues that have been put before the Court.

10 MR. WILSON: Your Honor, and I don't even know how to do
11 this, because --without prejudicing him, I don't know that I
12 can, in open court with the Solicitor ---

13 THE COURT: To the extent that you want to respond, you
14 can.

15 MR. WILSON: I don't know that I want to or that I should,
16 because whatever I say, it's going to be, it may be prejudicial
17 to him.

18 THE COURT: Right.

19 MR. WILSON: And so I can't really discuss it in open court
20 without, in my mind, prejudicing him to some degree.

21 THE COURT: I understand.

22 MR. WILSON: I think it's better that I don't.

23 THE COURT: All right. Mr. Brooks, what I'm going to do is,
24 do you have any other questions with regard to the issue of him
25 representing himself? Any other issues that the State would

1 like to cover on the record?

2 MR. JEPERTINGER: Judge, I think that you have covered most
3 of them, that he would be held to the same standard that any
4 attorney that has sat for the bar and passed it would be held
5 to in terms of evidentiary issues, things of that nature, Your
6 Honor.

7 THE COURT: All right. Any other thing that you would like
8 to place on the record with regard to his representing himself,
9 Mr. Wilson?

10 MR. WILSON: No, sir. I think that I have certainly
11 explained that to him. We've had conversations about it. He has
12 indicated to me that that is what he wanted to do and I think
13 he understands the pitfalls in representing himself and in
14 spite of that he wants to do that and I'm more than willing,
15 have been willing throughout this entire process, to assist him
16 in any way that I possibly can. We've, obviously, have had
17 several disagreements over what the law is and how the law
18 applies and how it should work and I can't change his opinion
19 about it and so I don't know what else I can do.

20 THE COURT: All right.

21 MR. WILSON: Your Honor, and just let me say, I know back
22 when he first told me this, as I said, it's been a month-and-a-
23 half or maybe two months ago, I've always indicated to him I
24 don't think it's a good idea, but it is his decision and I will
25 certainly abide by whatever he decides.

1 THE COURT: Okay. There was some mention about competency.
2 What is your understanding, regardless of his understanding of
3 the law or his judgment in that regard, do you feel that he is
4 competent to stand trial?

5 MR. WILSON: Yes, sir.

6 THE COURT: Does he understand the roles of the various
7 people in the court and he understands ---

8 MR. WILSON: I have no doubt in my mind that he is
9 competent to stand trial. I have absolutely no doubt about
10 that. What our -- we have had difficulty communicating, but
11 it's been because of my view of what the evidence is or my view
12 of what the law is versus what his view of the evidence or his
13 view of what the law is.

14 THE COURT: He's got a great working knowledge of how the
15 system works?

16 MR. WILSON: Yes, sir. He understands it very well.

17 THE COURT: Okay. All right..

18 MR. BROOKS: Your Honor?

19 THE COURT: Yes, sir, Mr. Brooks.

20 MR. BROOKS: My understanding, it's not hard to prove when
21 somebody is framing you and changing your statements. It's not
22 hard to prove when evidence is missing on your case and
23 tampering with DNA and all that if you've got documents to
24 support it. I don't need Johnnie Cochran to do that, Your
25 Honor. I can prove that with documents.

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1 THE COURT: All right. Well, Mr. Brooks, what I'm going to
2 do is, I'm going to ask that Mr. Wilson remain seated behind
3 you and if you have any question about procedure or a question
4 about the law, he's going to be there for you to ask him
5 questions. Also, the other thing I'm going to allow you to do,
6 if you kind of get a feeling like this thing is going south and
7 you don't know what to do or how to do it, he's going to be
8 there and I will allow him to step in and represent you. Does
9 that sound fair?

10 MR. BROOKS: I'm fine to do that, you know, when it's time
11 for me to produce these documents to prove that.

12 THE COURT: Well, that's the other thing. There is a way
13 you introduce documents and I doubt that you understand how to
14 do that, but if there are documents that are relevant,
15 documents that are admissible, he does. You don't.

16 MR. BROOKS: Yes, sir.

17 THE COURT: Do you understand? Do you understand the
18 predicament that puts you in?

19 MR. BROOKS: Yes, sir. Are the interview and inventory log
20 sheets admissible in court?

21 THE COURT: Well, there is a manner in which you can do
22 that and your lawyer, I'm going to allow you, over lunch, to
23 discuss that with him, but that's one of the problems. The very
24 first problem you're going to have is getting stuff into
25 evidence. I'm going to allow you to talk with him about that

1 and y'all can make decisions. I'm not here to counsel you, to
2 advise you or to tell you what is admissible and what isn't at
3 this juncture. Do you understand that?

4 MR. BROOKS: Yes, Your Honor.

5 THE COURT: All right. Does that sound fair, that you are
6 going to be allowed to proceed forward representing yourself
7 with Mr. Wilson as standby counsel and if you want to ask him
8 questions, you can ask him. If you don't want to say anything
9 to him, you don't have to. Do you understand that?

10 MR. BROOKS: Yes, sir, Your Honor. After we pick the jury,
11 I will be able to present in a pre-trial hearing, a motion that
12 I have?

13 THE COURT: Yes.

14 MR. BROOKS: That's all I need to know.

15 THE COURT: All right. Very good. Mr. Jepertinger, you are
16 recognized. I understand that there are some other matters we
17 need to tend to.

18 MR. JEPERTINGER: Yes, sir. I think out of an abundance of
19 caution, I think I need to proceed with a Jackson v. Denno
20 hearing and a Neil versus Biggers hearing.

21 THE COURT: All right. Let's proceed forward with Jackson
22 v. Denno first.

23 JACKSON/DENNO HEARING

24 MR. JEPERTINGER: Okay. I would call Justin Head to the
25 stand.

JACKSON/DENNO HEARING INVESTIGATOR JUSTIN HEAD EXAMINATION 19

1 THE COURT: Mr. Head, please come forward and place your
2 left hand on the Bible and raise your right hand as the Clerk
3 administers the oath.

4 (After being duly sworn by the Clerk of Court,
5 INVESTIGATOR JASON HEAD testified as follows:)

6 CLERK OF COURT: Thank you. Have a seat in the witness
7 chair and state your name for the record, please.

8 THE COURT: Have a seat in that witness chair. Pull up real
9 close to that microphone, speak loudly, clearly and slowly in
10 order that we can hear everything that you have to say.

11 DIRECT EXAMINATION

12 BY MR. JEPERTINGER:

13 Q Investigator Head, what is your full name?

14 A My name is Justin Brooks Head.

15 Q Okay. And what is your job?

16 A I am an investigator for the Florence Police Department.

17 Q And were you the investigator in this particular case?

18 A Yes, sir. I was.

19 Q Okay. And the case I'm referring to is The State versus
20 Michael Brooks, 2014-GS-21-813. Is that correct?

21 A Yes, sir.

22 Q All right. You arrested Mr. Brooks?

23 A Yes, sir.

24 Q And you had the ability to speak with Mr. Brooks in
25 regards to this matter?

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1 A Yes, sir. Several times.

2 Q All right. You spoke with him on March 14th, 2014?

3 A I believe that's correct. Yes, sir.

4 Q And then you spoke with him on March 17th, 2014?

5 A Yes, sir.

6 Q Okay. And I note there is no jury in here and that March

7 17th statement that you spoke with him about contained

8 several references to a polygraph. Isn't that correct?

9 A Yes, sir. It did.

10 Q And that statement was recorded, was it not?

11 A Yes, sir. It was.

12 Q And was that statement subsequently redacted or edited to

13 cut out any references to the polygraph or to his prior

14 criminal record?

15 A To the best of my knowledge, yes, sir, it was.

16 Q All right.

17 MR. JEPERTINGER: I would have this marked as State's

18 Exhibit #1, please.

19 Q After you spoke with him on the 17th, did you speak with

20 Mr. Brooks again on March the 19th?

21 A Yes, sir. I did.

22 Q And that was with regards to his results on the polygraph.

23 Correct?

24 A Correct.

25 Q Okay. And then you spoke with him again on March the 27th.

JACKSON/DENNO HEARING INVESTIGATOR JUSTIN HEAD EXAMINATION 21

1 Is that correct?

2 A I believe that's correct. I know I spoke with another
3 individual that day.

4 Q Yes, you did. You spoke with Gregory Campbell and Mr.
5 Brooks on the 27th, did you not?

6 A Yes, sir.

7 Q All right. Now, in regards to each time that you spoke
8 with Mr. Brooks, did you give him what is known as his
9 Miranda warnings?

10 A Yes, sir. I did.

11 Q Okay. For the record, can you tell the Court what you
12 would have read Mr. Brooks?

13 A Yes, sir. I would read him the Official Florence Police
14 Department Waiver of Rights Form. This is one of them.
15 (Holding up a document) I have several here.

16 Q If you could show me the form from some of the forms that
17 you did with or, all of the forms, show them to me,
18 please.

19 A Yes, sir.

20 Q And the date is listed on June 16th. Are these dates
21 correct or incorrect?

22 A They are correct.

23 Q These are for Gregory Campbell and so these don't apply.

24 Correct? Is Gregory Campbell a co-defendant in this case?

25 A Yes, sir. I pulled everybody since I didn't know which was

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

1 needed.

2 Q Terrance Baker is another co-defendant in this case?

3 A Yes, sir.

4 Q Daniel Self was a suspect, a possible suspect?

5 A Yes, sir.

6 Q And this is Brandon Brown, a possible suspect.

7 A Yes, sir.

8 Q Latasha McNeil was a witness in this case?

9 A Yes, sir.

10 Q Another one from Gregory Campbell. So, you have Michael
11 Brooks, Michael Brooks, Michael Brooks, Michael Brooks and
12 Michael Brooks. Is that correct?

13 A Yes, sir.

14 Q All right. Specifically, on March 17th, 2014...

15 MR. JEPERTINGER: I would like to have this marked as
16 State's #2. (Shows documents to the Defendant) I'd like to have
17 this marked as State's #2.

18 Q Could you tell the Court what you read to Mr. Brooks on
19 that statement..

20 A Yes, sir. It reads as follows: Florence Police Department
21 Waiver of Rights Form. Before we ask you any questions,
22 you must understand your rights. You have the right to
23 remain silent. Anything you say can and will be used
24 against you in a court of law. You have the right to talk
25 to a lawyer and have him present with you while you are

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

JACKSON/DENNO HEARING INVESTIGATOR JUSTIN HEAD EXAMINATION 23

1 being questioned. If you cannot afford to hire a lawyer,
2 one will be appointed to represent you before any
3 questioning, if you wish. You can decide at any time to
4 exercise these rights and not answer any questions or make
5 any statements. At the bottom it says: I, Michael Brooks,
6 voluntarily, without threats, duress, force, promise of
7 immunity or reward, agree to be questioned by the Florence
8 Police Department. And at the very bottom it says;
9 Important notice: If you do not understand any part of
10 this form, do not sign it until you do.

11 Q All right. And what -- did he indicate that he understood
12 those rights?

13 A Yes, sir.

14 Q And that statement was taped on March 17th. Is that
15 correct?

16 A Correct.

17 MR. JEPERTINGER: Your Honor, this disc is about one hour
18 in length. Would you like to hear it now?

19 THE COURT: Is there a transcript of it?

20 MR. JEPERTINGER: No, sir.

21 THE COURT: All right.

22 MR. BROOKS: Your Honor, I would like to request a
23 transcript of all the interviews, Your Honor.

24 MR. JEPERTINGER: Your Honor, I don't think we are required
25 to have a transcript.

1 THE COURT: You may proceed forward. How long do you
2 anticipate -- you know, we've got the jury coming back at 2:00
3 and we've got an hour of this. I didn't realize that it was
4 going to be that lengthy. It might be best to get the jury to
5 come back in the morning so we can proceed forward in a very
6 deliberate way on these motions. How long do you anticipate
7 that would take?

8 MR. JEPERTINGER: Obviously, this will take some time and
9 then the Jackson/Denno, I mean, the Neil versus Biggers will
10 take some time.

11 THE COURT: Okay. The jury is reporting back where?

12 CLERK OF COURT: Here, at 2:00.

13 THE COURT: Okay. What I'm going to ask -- I tell you what.
14 We are going to recess at this juncture right now and then we
15 will come back at 2:00. We're going to select the jury and then
16 we are going to proceed forward with these motions. We will
17 select the jury and ask the jury that is selected to come back
18 at 9:30 in the morning and then we will stay here until we get
19 all the pre-trial matters resolved. Any objection to that?

20 MR. JEPERTINGER: Not from the State.

21 MR. WILSON: No, sir.

22 THE COURT: Very good. We are going to stand at ease until
23 2:00.

24 MR. JEPERTINGER: Just don't talk to anyone about the case,
25 all right?

JACKSON/DENNO - CONT. PROFFERED EXAM - JUSTIN HEAD - MR. JEPERTINGER 60

1 time. Be here a little bit early. We are going to start at
2 9:30. Everyone remain seated as the jury exits the courtroom.

3 (Jury out at 3:21 PM)

4 THE COURT: We can re-call the investigator to the stand
5 and we will pick up where we left off.

6 MR. JEPERTINGER: Mr. JUSTIN HEAD, please.

7 THE COURT: I'll remind you that you are still under oath.
8 Have a seat in the witness chair. (Witness complies)

9 CONTINUED PROFFERED DIRECT EXAMINATION

10 BY MR. JEPERTINGER:

11 Q Prior to the break, I think the last thing I asked you was
12 about the Miranda warnings and you read them verbatim off
13 that sheet. Correct?

14 A Correct.

15 Q This would be State's Exhibit #2 for the purposes of this
16 hearing. Now, let me ask you this: on the 17th, who is
17 there in the room with you? Do you recall?

18 A I will have to refer back to my notes if you will give me
19 one moment.

20 THE COURT: This witness did testify that he was in custody
21 at this time?

22 MR. JEPERTINGER: Yes.

23 THE COURT: Very good.

24 MR. JEPERTINGER: He was under arrest at this time.

25 INVESTIGATOR HEAD: Yes, sir. He was.

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JACKSON/DENNO - CONT. PROFFERED EXAM - JUSTIN HEAD - MR. JEPERTINGER 61

1 Q Would it surprise you if it was Williamson and Wynn?

2 A That's correct. It was Investigator Williamson.

3 Q How about Wynn? Was Wynn there, as well?

4 A I don't believe on the 17th, he was. I believe it was just
5 myself and Investigator Williamson.

6 Q If his voice appears on it, would you be able to recognize
7 it?

8 A Yes, sir. I would.

9 Q Okay. Thank you. I might ask you that a little bit later.

10 Where did you talk to Mr. Brooks?

11 A On the 17th, I believe we went to the Florence County
12 Detention Center.

13 Q All right. Did you talk to him in a cell or an interview
14 room?

15 A He was brought to an interview room.

16 Q And he had already been arrested for these crimes. Right?

17 A That's correct.

18 Q All right. When you talked to him, did he seem
19 intoxicated?

20 A No, sir.

21 Q Did he seem to have an understanding of what you were
22 talking about at this point?

23 A Yes, sir.

24 Q Did -- apparently, when you went out there -- they feed
25 them at the jail. Correct?

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JACKSON/DENNO - CONT. PROFFERED EXAM - JUSTIN HEAD - MR. JEPERTINGER 62

1 A Yes, sir.

2 Q Okay. You didn't say you came in with any food or drink or
3 anything of that nature, did you?

4 A No, sir.

5 Q All right. And he seemed aware of that ---

6 A Yes, sir.

7 Q --- in terms of what was going on, why you were talking to
8 him?

9 A Yes, sir.

10 Q Do you know if he called you out there to talk on the 17th
11 or did you volunteer to talk to him?

12 A It wasn't him personally. It was a member of, I believe,
13 the booking staff at the jail who informed me that he had
14 requested for me to come out there, so they called me.

15 Q Okay. And so you went out there in response to what
16 booking had reported to you?

17 A Correct. Yes, sir.

18 Q Okay.

19 MR. JEPERTINGER: At this time, Your Honor, I would like to
20 publish State's Exhibit #1.

21 THE COURT: Very good.

22 (Whereupon, an audio, State's Exhibit #1, is played for
23 the Court)

24 Q Officer Head, I believe that's all I have for you. Please
25 answer any questions that Mr. Brooks may have for you.

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1 THE COURT: Do you have any questions?

2 MR. BROOKS: Excuse me, Your Honor. That's the only
3 interview that we will be hearing today or...

4 THE COURT: Well, I don't know. We need to talk about this
5 one now.

6 MR. BROOKS: As far as that interview goes, um...

7 THE COURT: Do you want to ask this gentleman any questions
8 about the interrogation?

9 MR. BROOKS: Just one.

10 THE COURT: Okay.

11 CROSS EXAMINATION

12 BY MR. BROOKS:

13 Q This right here is the report that, concerning that
14 interview, and you put in here that Brooks stated that
15 Campbell had informed me that they had just robbed someone
16 and they were looking to get rid of the stuff they had
17 stolen. You said that Brooks stated that Campbell had told
18 him that they had followed an old guy from the bank and
19 that they had robbed him while he was inside of his house.
20 We just listened to that and Brooks never stated that to
21 anybody. I didn't identify anyone and ---

22 THE COURT: Okay. You can't testify when -- that's one of
23 the problems I was talking about. What you are doing is
24 testifying. You aren't asking him a question. What is your
25 question? You are testifying. You are reading from a report. Do

JACKSON/DENNO - CONT. PROFFERED EXAM - WILLIAMSON - MR. JEPERTINGER 64

1 you have any questions about the interrogation? That's one of
2 the things I'm talking about.

3 MR. BROOKS: Do I have a question about it?

4 THE COURT: Yes. You can ask him a question about the
5 manner in which he questioned you.

6 MR. BROOKS: As far as the manner, I don't have any
7 questions to ask.

8 THE COURT: All right. Very good. You may sit down. Any
9 redirect?

10 MR. JEPERTINGER: No, sir.

11 THE COURT: All right. You may step down. Any further
12 witnesses?

13 MR. JEPERTINGER: Just very quickly. SCOTT WILLIAMSON.

14 THE COURT: Please come forward. I'm going to ask if you
15 could place your left hand on the Bible and raise your right
16 hand as the Clerk administers the oath.

17 (Judge Nettles administers the oath to Mr. Williamson)

18 THE COURT: Have a seat in the witness chair. Pull up real
19 close to that microphone, speak loudly, clearly, and slowly in
20 order that we can hear everything that you've got to say and
21 let's start with your full name.

22 MR. WILLIAMSON: Darrell Scott Williamson.

23 THE COURT: Mr. Jepertinger.

24 DIRECT EXAMINATION

25 BY MR. JEPERTINGER:

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JACKSON/DENNO - CONT. PROFFERED EXAM - WILLIAMSON - MR. JEPERTINGER 65

1 Q Okay. Just very quickly. Investigator Williamson, you were
2 present during that March 17th interrogation of the
3 Defendant. Correct?

4 A That's correct.

5 Q Did he ever ask before or after that interrogation for
6 food or water or anything of that nature?

7 A He did not.

8 Q Did you see anybody pull a gun on him or threaten him to
9 make this statement?

10 A No, sir.

11 Q Did you pull a gun on him or threaten him to make this
12 statement?

13 A No, sir.

14 Q Okay. Did it look like he understood what he was doing at
15 that point?

16 A He did. Yes.

17 Q That's all the questions I have. Thank you.

18 THE COURT: Do you have any questions of this witness about
19 the manner he questioned you?

20 MR. BROOKS: No, sir.

21 MR. JEPERTINGER: That's all the witnesses I have in terms
22 of Jackson v. Denno.

23 THE COURT: All right. And I'll be glad to hear any
24 comments from the State. I think I've got a good feel for what
25 you have established. Do you want to say anything, Mr. Brooks?

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NEIL V BIGGERS- PROFFERED EXAM - JUSTIN HEAD - MR. JEPERTINGER 66

1 MR. BROOKS: First -- about the interview or something?

2 THE COURT: Right.

3 MR. BROOKS: Oh, no, sir. Not the interview.

4 THE COURT: Very good. Well, thank you so much. I am going
5 to specifically find that Mr. Brooks was, indeed, in custody,
6 triggering the requirement of Miranda Rights. I find that
7 Miranda Rights were given as confirmed by the written document
8 that's denominated as State's Exhibit #2. The Miranda Warning,
9 not only do we have written confirmation that he waived his
10 Miranda Rights here in State's Exhibit #2, it's clear from the
11 testimony or the transcript or the tape of the interrogation
12 that he understood what he was doing, he voluntarily waived his
13 Miranda Rights. As far as the voluntariness of the confession,
14 I believe the Defendant is 33 years old, if that is not his
15 exact age, he's certainly not of tender years. He's testified
16 here today that he has a GED. I think from hearing him speak,
17 his lack of education did not pose any problem. It's clear that
18 he's not suffering from any mental deficiency, mental
19 retardation. The environment in which he was interrogated was
20 in an interview room. It was certainly not in a threatening
21 way. It's clear from listening to his statement that he might
22 have been upset, but he was not intoxicated, he was not drunk,
23 he understood what was going on. It's clear that the
24 interrogation, although it seems a long time sitting here
25 listening to it, it was only one hour long and I don't think

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1 that poses any problem as far as admissibility. In addition to
2 that, the general manner of the interrogation was not
3 threatening in any way. As a matter of fact, it was
4 accommodating to the Defendant. They were actually, whether
5 they were sincere or not, they were actually trying to help him
6 exonerate himself and it appears as though they were going to
7 legitimately try to verify his story and if they were, they
8 were going to try to work out a deal with him. There was no
9 threat of physical punishment, he was not deprived of any food.
10 There was no complaint in that regard. Therefore, I
11 specifically find that the statement given was freely and
12 voluntarily given with the knowledge of his Miranda Rights. The
13 statement is, indeed, admissible. Be glad to hear from the
14 State with regard to any other matters. I think there might be
15 a Biggers issue. Is that correct?

16 MR. JEPERTINGER: There is a Biggers issue, Your Honor.

17 THE COURT: Be glad to hear from you in that regard.

18 NEIL V. BIGGERS

19 MR. JEPERTINGER: I would call INVESTIGATOR HEAD quickly
20 back to the stand.

21 THE COURT: Investigator Head, I will remind you that you
22 are still under oath.

23 MR. HEAD: Yes, sir.

24 DIRECT EXAMINATION

25 BY MR. JEPERTINGER:

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NEIL V BIGGERS - PROFFERED EXAM - LARRY MURPHY - MR. JEPERTINGER 68

1 Q Investigator Head, did you have a crime scene prepare what
2 is known as a photo array in this matter?

3 A Yes, sir.

4 Q Okay. I will have this marked as State's Exhibit #6. Let
5 me ask you, what is this, State's Exhibit #6? Can you tell
6 us what that is an exhibit of?

7 A It's a photo lineup containing Mr. Brooks' photograph.

8 Q Okay. In which position?

9 A In the second position, number two.

10 Q Now, once you got that prepared, after crime scene
11 prepared that for you, who did you send out to talk to the
12 victims about this case?

13 A Investigator Jordan.

14 Q All right. Very good. Thank you very much.

15 MR. JEPERTINGER: That's all I have in terms of this
16 witness.

17 THE COURT: All right. Very good. Any questions of this
18 witness with regard to the photo lineup?

19 MR. BROOKS: No, I don't think so.

20 THE COURT: All right. You may step down.

21 MR. JEPERTINGER: I would call LARRY MURPHY to the stand.

22 THE COURT: Mr. Murphy, if you could, place your left hand
23 on the Bible and raise your right hand. (He complies)

24 (Judge Nettles administers the oath to Mr. Murphy)

25 THE COURT: Watch your step. Have a seat in the witness

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1 chair. Please speak slowly, clearly and loudly in order that we
2 can hear everything that you have to say and let's start with
3 your full name, please, sir.

4 MR. MURPHY: My name is Larry Murphy.

5 THE COURT: All right. Mr. Murphy, answer any questions
6 that the Solicitor has.

7 DIRECT EXAMINATION

8 BY MR. JEPERTINGER:

9 Q Mr. Murphy, have you ever testified before in court?

10 A No.

11 Q Have you ever been a witness or a victim of a crime
12 before?

13 A No, sir.

14 Q Okay. Well, let's -- what is your education level, sir?

15 A I'm a graduate of Clemson University and I have an
16 Associate's Degree in Accounting from Florence/Darlington
17 Tech.

18 Q What was your type of employment?

19 A I was plant manager with Stone Manufacturing and the plant
20 was in Fair Bluff, North Carolina.

21 Q And your current age, sir?

22 A I am 76.

23 Q At the time of the crime, back on March 3, 2014, would you
24 have been 75?

25 A I was 75.

NEIL V BIGGERS - PROFFERED EXAM - LARRY MURPHY - MR. JEPERTINGER 70

1 Q Do you recall the incident date of March 3, 2014?

2 A Yes. I do.

3 Q Can you tell the Court what you were doing that morning?

4 A Earlier in the day, I had gone to South Carolina Bank &
5 Trust and made a deposit for Masterworks Choir. I was the
6 treasurer of the Masterworks board and that was a part of
7 my duties, to make deposits. After that, I went by Anne
8 Marie Hanna's, who was custodian of the books. She's the
9 CPA that Masterworks used. And then I went home.

10 Q Okay. Anne Marie Hanna, where was her place of business?

11 A Her place of business is off Second Loop Road. There are
12 offices in there, with dentists, and I think there are
13 doctors in there, as well.

14 Q That's not too far from where you reside. Correct?

15 A That's correct.

16 Q Okay. I believe you reside in a house right on the corner
17 of Marsh and Berkley?

18 A Yeah, I'm at the corner of Marsh and Berkley.

19 Q When you went to the bank, was anybody with you?

20 A No, I was by myself.

21 Q And when you rode over to Ms. Anne Marie's to show her
22 what had been deposited for Masterworks Choir, was anybody
23 with you?

24 A No.

25 Q Then you went home, you say?

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- 1 A Yes. I went home.
- 2 Q Who was at home at that time when you went home?
- 3 A My wife was at home. There are only the two of us living
- 4 there.
- 5 Q And your wife is the nice lady dressed in green right
- 6 here? (indicating)
- 7 A Yes.
- 8 Q Okay. And when you got there, how long were you there
- 9 before anything or anyone came to your residence?
- 10 A It was, I would say about a quarter to twelve. I was
- 11 watching T.V. and my wife was in the kitchen getting lunch
- 12 ready. The doorbell to the house from the garage rang and
- 13 I went up to answer the doorbell.
- 14 Q Well, let me ask you this: Were the garage doors open?
- 15 A Yes. It's a double garage, two separate doors, and both
- 16 doors were open.
- 17 Q All right. And at a quarter to twelve it would have been
- 18 daylight hours. Correct?
- 19 A Oh, yes.
- 20 Q And was sunshine coming in from the garage doors at that
- 21 point?
- 22 A No. You really can't -- unless you are looking into that
- 23 garage when you pass, it's enclosed, really.
- 24 Q Okay. How about from your house? Were there lights on in
- 25 your house?

NEIL V BIGGERS - PROFFERED EXAM - LARRY MURPHY - MR. JEPERTINGER 72

1 A Yes. Several lights were on.

2 Q You said the doorbell rang, sir. What happened when the
3 doorbell rang?

4 A I got up and went to the door to answer the door and there
5 was a gentleman there who said he was in the neighborhood
6 painting.

7 Q This gentleman, was he Caucasian American, African
8 American?

9 A No, sir. African American.

10 Q And did he have any mask or hat on of any sort?

11 A No. No hat, no mask.

12 Q Okay. And in terms of his physical size, what can you tell
13 me about his physical size?

14 A He had a good build, a muscular build, fairly tall, I
15 thought.

16 Q By fairly tall, what ---

17 A He was over six feet.

18 Q Okay. And your height, sir?

19 A I'm five eleven.

20 Q Was he taller than you?

21 A Oh, yes.

22 Q And you spoke with him for a moment?

23 A Yes. He said he was painting in the neighborhood and
24 wanted to know if I needed my house painted and I said my
25 house is brick and vinyl and about that time, he pushed me

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1 back -- he drew the pistol and pushed me back into the
2 house by -- grabbed my shirt, pushed me back into the
3 house and started screaming, "Get on the floor." "Get on
4 the floor".

5 Q Okay. Let me ask you this: When that gentleman told you to
6 get on the floor, get on the floor, what kind of hair did
7 he have? Sometimes young males wear those dread locks. Was
8 it long hair or was it close-cropped hair?

9 A It was neat hair.

10 Q Would you say that Mr. Brooks has the same ---

11 MR. BROOKS: Objection.

12 THE COURT: All right. What is your objection?

13 MR. BROOKS: He was unable to state this. When questioned
14 about this crime, he was unable to state anything about hair or
15 whether the young man had a hat or didn't have a hat or
16 anything ---

17 THE COURT: You are going to be allowed to ask him
18 questions about that, but that is not a legitimate objection to
19 what he's testifying about now. You can question him about when
20 he saw what, later.

21 MR. BROOKS: All right.

22 THE COURT: Objection overruled.

23 Q What type of hair did this individual have?

24 A It was neatly cut. It was short.

25 Q All right. Was he wearing eyeglasses?

- 1 A No.
- 2 Q Did he have any facial hair that you recall?
- 3 A Not that I recall.
- 4 Q All right. At that point, after he got you on the ground,
- 5 what happened?
- 6 A My wife came in from the kitchen to see what was going on
- 7 and he also told her to get down on the floor. So, then he
- 8 called a second person into the house.
- 9 Q African American or Caucasian American?
- 10 A He was African American.
- 11 Q The second individual?
- 12 A The second one.
- 13 Q Okay.
- 14 A The second person taped my hands with duct tape and my
- 15 ankles, did the same to my wife. All along, while that was
- 16 going on, the first guy that came in was issuing threats,
- 17 "Where's the money?" "Where's your safe?" Just screaming
- 18 those questions time and time again and, very threatening.
- 19 Q All right. Did you happen to notice the timber of his
- 20 voice?
- 21 A It was a strong voice and loud.
- 22 Q All right. Approximately, how long were the two
- 23 individuals in there?
- 24 A At the most, ten minutes, I would say. Ten to fifteen.
- 25 Q Ten to fifteen minutes?

1 A Yes.

2 Q And then they left?

3 A Yes.

4 Q You were not blindfolded?

5 A I was not blindfolded.

6 Q Did you get to observe the first individual with the gun?

7 A Yes, I did.

8 Q And did you see him rifling through your property?

9 A He went, when he was there, he went to the table in the
10 kitchen and that's where my wallet was and he went -- well
11 they took my whole wallet and he was went rambling through
12 my wife's purse and kept asking, "Where's the money?"
13 "Where's the money?"

14 Q And were you observing this individual that whole time?

15 A Yes, I was. The first individual.

16 Q The first individual. At that point, what were the lights
17 like in the kitchen area?

18 A Well, the lights were on. There were two fluorescent
19 there, plus the sink light.

20 Q Okay. I notice you have on glasses. Do you always wear
21 glasses?

22 A Always.

23 Q Okay. Did you have your glasses on that day?

24 A Yes.

25 Q All right. Now. They were there ten or fifteen minutes and

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1 then they both left. Correct?

2 A (Nods head)

3 Q At that point, I take it you freed yourself and called the
4 police somehow. Correct?

5 A Yes.

6 Q And, eventually, multiple police officers came to your
7 house. Correct?

8 A In a very short time, the police were there.

9 Q All right. Subsequent to this, and I don't think it
10 happened the same day, but subsequent to this, did Officer
11 Jordan with the Florence County Police Department, Officer
12 Jordan with the blue shirt, if he'd raise his hand.

13 (Complies) That officer came to your house, did he not?

14 A Yes, he did.

15 Q And he showed you six separate photos, I guess, in this
16 photo array, did he not?

17 A Yes, he did.

18 Q Did he suggest that the individual that robbed you by
19 gunpoint was in this photographic lineup?

20 A No. He didn't point out anyone on there.

21 Q Okay. Did he ask you if you recognized anybody?

22 A Yes, he did.

23 Q Now, I'm going to show you State's Exhibit #6. Is this the
24 photo array that he showed you?

25 A Yes.

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1 Q And what did you say about individual #2?

2 A I said that that was the person, the first person that
3 came in and had the pistol.

4 Q Did you use the words that it resembled the individual?

5 A I may have done that.

6 Q All right. Now, let me ask you: This State's Exhibit #2 is
7 just a two-dimensional photo, is it not?

8 A It is.

9 Q Have you had an occasion since you saw State's Exhibit #2,
10 to see Michael Brooks here in court?

11 A Yes, I have.

12 Q Standing and speaking. Correct?

13 A Yes.

14 Q Okay. On the occasion that you have seen Michael Brooks
15 both stand and speak and seen his physical characteristics
16 and hearing his voice, what can you tell Your Honor about
17 the person that robbed you by gunpoint on March 3, 2014?

18 A He's in this courtroom.

19 Q And which individual would that be?

20 A The guy with the white shirt on sitting with his lawyer.

21 (Indicating)

22 THE COURT: Let the record reflect that he identified the
23 Defendant, Mr. Brooks.

24 Q All right. How sure are you that that is the individual
25 that robbed you?

1 A I'm positive. One hundred percent.

2 Q One hundred percent?

3 A Yes.

4 Q All right. Please answer any questions that the Defense
5 may have for you.

6 CROSS EXAMINATION

7 BY MR. BROOKS:

8 Q How are you doing today? You, on March 3rd, would you
9 please -- your statements that you gave the officers on
10 March 3rd, according to the description of the guy who did
11 it, were you able to give them to a sketch artist?

12 A I told them that the person was tall with a good build on
13 him ---

14 Q That's about as much as you could -- that's all you told
15 them.

16 THE COURT: Let him finish and then you can ask him a
17 question.

18 A That he was African American.

19 Q Yes, sir. Also, you just stated that you was one hundred
20 percent sure that Michael did this crime, but on March
21 14th, you told officers that you were not one hundred
22 percent sure, that you could not pick Michael out of the
23 picture lineup. Is that true?

24 A I did, because it's hard to tell just looking at a
25 picture. You don't see the whole body, but once you see

1 the whole body, then I definitely know who it was.

2 Q Okay. Can I ask you a question? Did you have a chance to
3 go over this case with anybody? Did you and Jepertinger
4 speak before you came into this courtroom today about this
5 case? Did you have a chance to talk about what was going
6 to be said in this courtroom today?

7 A We were told what was going to be happening in the
8 courtroom.

9 Q Was you told what was said?

10 A No one told me what to say.

11 Q No one told you what to say? I notice that you wear
12 glasses. Did you have your glasses on, on the date this
13 incident occurred?

14 A I always wear my glasses when I'm awake.

15 Q Okay. If you was given a sketch artist on the date of the
16 crime -- you said you were unable to give any details,
17 basically, or rather the guy that forced his way into your
18 house, on March 3rd, you were unable to tell officers
19 anything whether he had hair, didn't have hair or
20 anything. The only thing you could tell them was that he
21 was roughly 6'1" and African American. Is that correct?

22 A And that he did not have dread locks, he didn't have a cap
23 on, his hair was neat, no facial hair, no tattoos.

24 Q If we was to listen to the interview, would the interview
25 be that you said the guy had neat hair, didn't have dreads

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1 or would that be in the interview, from March 3rd, your
2 interview?

3 A From what I heard this morning?

4 Q No. On March 3rd.

5 A No, that's what I told them.

6 Q On March 3rd in the recording?

7 A When they came to the house when the incident happened.

8 That's what I told the investigators, what I just said;

9 that he was a tall black American, African American, a
10 good build, muscular build, no hat, no tattoos, neatly --
11 his hair was neatly groomed and cut.

12 Q Did they offer you a sketch? Did they offer to you a
13 sketch artist?

14 A No.

15 Q No, you didn't offer, didn't talk to a sketch artist and
16 give details so that when they went to arrest someone they
17 would be able to use this sketch artist's sketch to
18 compare to any suspects that they come across?

19 A They were taking notes, but no sketch artist.

20 Q But nobody offered to get you a sketch artist?

21 A No.

22 Q No? And the incident report that says nowhere in here
23 that---

24 MR. JEPERTINGER: I object, Your Honor. That would be
25 hearsay.

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- 1 THE COURT: It is. Sustained.
- 2 MR. BROOKS: Hearsay?
- 3 Q Is this the same picture lineup, the same that you have
- 4 right there? Could you show me how they were holding it?
- 5 Were they holding it like this? (Indicating)
- 6 A No. They laid it on the table.
- 7 Q Yes, sir.
- 8 A And said, can you identify.
- 9 Q Uh-huh.
- 10 A And so, that's when I picked #2.
- 11 Q Uh-huh. And when you picked #2, were you one hundred
- 12 percent sure then?
- 13 A Say that again?
- 14 Q When you picked him, did you tell them at that time that
- 15 you were one hundred percent sure?
- 16 A I said -- no, I did not say at that time I was one hundred
- 17 percent sure.
- 18 Q But today you are one hundred percent sure?
- 19 A Today, I'm one hundred percent sure of who it is.
- 20 Q Okay. And when did that change?
- 21 A Soon as I saw you.
- 22 Q Okay. I understand that.
- 23 A At the bond hearing.
- 24 Q Oh, okay. Did you have a chance to notice the suspect on
- 25 T.V. before the bond hearing?

- 1 A T.V.?
- 2 Q Yes, sir.
- 3 A I never saw anything on T.V. about ---
- 4 Q Were you looking for it on T.V. to keep up with the
- 5 situation?
- 6 A I read the article in the paper, in the Morning News, but
- 7 I never saw any pictures on T.V. I don't watch the local
- 8 news that much.
- 9 Q Okay. (Speaks to Mr. Wilson)
- 10 MR. BROOKS: Okay. I have no further questions.
- 11 THE COURT: Any redirect?
- 12 MR. JEPERTINGER: Nothing on this, Judge.
- 13 THE COURT: You may step down.
- 14 MR. JEPERTINGER: Investigator Cody Jordan.
- 15 (After being duly sworn by the Clerk of Court, CODY JORDAN
- 16 testified as follows:)
- 17 CLERK OF COURT: Have a seat and state your name for the
- 18 record.
- 19 INVESTIGATOR JORDAN: I'm Investigator Robert Cody Jordan
- 20 of the Florence Police Department.
- 21 DIRECT EXAMINATION
- 22 BY MR. JEPERTINGER:
- 23 Q Okay. Investigator Jordan, you had an opportunity to
- 24 present this photo laydown to Mr. Murphy?

1 A Yes, sir. I did.

2 Q Okay. In preparing -- I know you didn't prepare this
3 yourself, you had crime scene do it, but what are kind of
4 some of the characteristics that you want to have for each
5 of the individuals? Same race?

6 A Correct. The more you can make them all look the same, the
7 better the lineup is.

8 Q And do you remember when you showed this lineup to Mr.
9 Murphy?

10 A I do. I was assisting Investigator Head with the
11 investigation with whatever he needed and at this time, he
12 asked if I could take a lineup by the house and present it
13 to both victims.

14 Q Do you remember when it would have been after the crime?

15 A I believe it was a few days afterwards.

16 Q Would it have been more than a few days after?

17 A The 14th.

18 Q The 14th, so about a week-and-a-half later?

19 A Yes, sir.

20 Q And you showed it to Mr. Murphy?

21 A I did. In his kitchen.

22 Q Okay. Did you suggest to him that Mr. Brooks' photo or the
23 perpetrator's photo was in this photo array?

24 A No, sir. I did not.

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1 Q All right. And who was present besides yourself?

2 A I believe, Investigator Wynn.

3 Q All right. And did Investigator Wynn -- I know we can ask
4 him in just a minute, but did he suggest anything about
5 anybody being in there?

6 A No, sir.

7 Q Okay. Was Cara, his wife in the room at the time when he
8 made an identification?

9 A No. I showed it to them separately. I actually asked if
10 she could -- I showed it to her and then to him separately
11 and then I asked if she could step into another room.

12 Q What's the protocol in that?

13 A Just so that one couldn't influence another.

14 Q When you laid that down on the kitchen table at his
15 residence, what was his response as to one of those
16 individuals?

17 A He pointed to number two and said that closely resembled
18 the subject with the gun that was pointed to his head. I
19 asked if he could be one hundred percent sure. He said he
20 could not, but that was the one who closely resembled the
21 guy.

22 Q All right. After that, did you leave the residence?

23 A I did.

24 Q Very quickly, I understand that Mrs. Murphy could not

1 identify the perpetrator by visual?

2 A She could not.

3 Q All right. Thank you so much. I appreciate it.

4 THE COURT: Any questions from you, Mr. Brooks?

5 MR. BROOKS: Yes, sir.

6 CROSS EXAMINATION

7 BY MR. BROOKS:

8 Q One question ---

9 A Yes, sir.

10 Q --- Mr. Jordan. You said you were able to show Mr. Murphy
11 a picture lineup. Is that correct?

12 A A photo lineup. Yes, sir.

13 Q Was Mr. Murphy able to, one hundred percent, able to
14 identify, was he able to give a true I.D.?

15 A No. He did not.

16 Q Okay. Thank you.

17 THE COURT: You may step down.

18 MR. JEPERTINGER: Judge, very quickly, Investigator Wynn.

19 (After being duly sworn by the Clerk of Court, INVESTIGATOR
20 WYNN testified as follows:)

21 CLERK OF COURT: Please be seated and state your full name
22 for the record.

23 INVESTIGATOR WYNN: Howard Wynn.

24 DIRECT EXAMINATION

25 BY MR. JEPERTINGER:

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1 Q Okay. Investigator Wynn; were you present with
2 Investigator Jordan when you went over to the Murphy's
3 house?

4 A I don't recall that, no, sir.

5 Q You don't recall that, at all?

6 A No, sir.

7 Q All right. Then, I don't have any questions for you. You
8 may step down. I appreciate it.

9 THE COURT: Anything further with regards to the
10 identification, the Bigger's issues?

11 MR. JEPERTINGER: No, sir. That would do it, Judge.

12 THE COURT: All right. Mr. Brooks, do you have any
13 objections with regards to the photographic lineup?

14 MR. BROOKS: No, sir, Your Honor. Yes, Your Honor.

15 THE COURT: All right. What is your objection?

16 MR. BROOKS: (Speaks to Mr. Wilson) Your Honor, my
17 objection is based on Mr. Murphy was unable to make an I.D. of
18 me at the time, until after the bond hearing, until after my
19 face had been on the news for numerous days in a row and he had
20 seen that and then he came to the bond hearing and I was right
21 there and after talking to certain individuals concerning this
22 matter, it probably could have coached him towards making
23 identification, one hundred percent, when he wasn't. He was
24 unable to make a I.D. Now, he's changing that story after,
25 after the bond hearing, after I'd been on T.V. and I just have

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1 an objection to that, Your Honor.

2 THE COURT: Very good. Thank you. Well said. You may be
3 seated.

4 MR. JEPERTINGER: Your Honor, that was not the testimony of
5 Mr. Murphy.

6 THE COURT: I understand what his objection is.

7 MR. JEPERTINGER: All right.

8 THE COURT: The burden, Mr. Brooks, is upon you to show by
9 a preponderance of the evidence that the identification
10 procedure was impermissibly suggestive and that there was a
11 very substantial likelihood of mis-identification. Of course,
12 the burden shifts back to the State at this point to show by
13 clear and convincing evidence that the case is reliable, if,
14 indeed, it was suggestive to begin with.

15 First of all, I don't think it was unduly suggestive and
16 the Defendant has not met their burden of proof by a
17 preponderance of the evidence. I will note and make a finding
18 of fact that the victim, Mr. Murphy, had ten minutes or so to
19 observe him, he was in the light of his house, there were two
20 florescent lights in a kitchen and a sink light on. It was
21 clear from the testimony of Mr. Murphy that his attention was
22 focused on the Defendant. He was certainly being put in danger
23 of his life and his wife's life was endangered at the same
24 time.

25 I do note that prior to the photographic lineup he did,

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1 indeed, say that the individual was African American, that he
2 had closely cropped hair and that he was a strong build, all of
3 which are consistent with the Defendant's actual appearance.
4 The witness has testified very truthfully here today that in
5 the photographic lineup, #2 was the one who resembled him.

6 I had an opportunity to look at the photographic lineup
7 and I specifically find that the photographic lineup is
8 certainly an acceptable one. All of the people portrayed on the
9 photographic laydown all have fairly similar facial features,
10 they appear to have the same skin tone. All of them seem to
11 have similar facial features and it was clear from Mr. Murphy
12 that #2 resembled him, which is Mr. Brooks. That is not a one
13 hundred percent identification, however, it is admissible and
14 you can point out that he was not absolutely certain that #2 is
15 the individual and so, of course, obviously, his testimony here
16 today is admissible as in court identification and I find that
17 if, indeed, Mr. Murphy had seen a bond hearing or on T.V. or
18 any kind of T.V. appearance, I don't think that that
19 impermissibly invalidates or is unduly suggestive, even if he
20 did see it, but the burden is on you to show that it was unduly
21 suggestive. I don't find that that has taken place here today.
22 Mr. Murphy will be able to testify that #2 resembles the
23 Defendant. He's also going to be able to testify that Mr.
24 Brooks is, indeed, the one that came in and robbed him and his
25 wife. He says, and I think it's important to note that he

1 identified the Defendant with absolute, one hundred percent
2 certainty. I think there was nine days between the alleged
3 offense ---

4 MR. JEPERTINGER: Eleven days.

5 THE COURT: Eleven days? Eleven days between the offense
6 and the photographic lineup. That speaks for itself. The
7 photographic lineup is, indeed, permissible. I do not find that
8 it is in any way suggestive or prejudicial and we shall move
9 forward consistent with my ruling. Is there anything further
10 from the State?

11 MR. JEPERTINGER: No, not as far a pre-trial motions.

12 THE COURT: Very good. Anything from Defense?

13 MOTIONS BY MR. BROOKS:

14 Yes, Your Honor, there is. Your Honor, this is a motion
15 hearing for malicious prosecution, false affidavit, bad faith
16 warrants and obstruction of justice and that they had no
17 probable cause on March the 14th to arrest the Defendant,
18 Michael Brooks, that they had no duty, Your Honor. They stated
19 in the arrest warrant that the Defendant had possession of
20 stolen jewelry, but then within several hours of the crime
21 scene, they had tangible evidence that at the time ---

22 THE COURT: Well, don't you think the fact that you had
23 jewelry that belonged to the Murphy's at one point in time is
24 probable cause?

25 MR. BROOKS: Your Honor, that's, I never -- I didn't know

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1 at this time that they had gotten the jewelry from them, Your
2 Honor. What I'm saying is, the judicial, evidence ---

3 THE COURT: But just by virtue of the fact that you had
4 their jewelry, wouldn't you agree that's probable cause?

5 MR. BROOKS: Sir?

6 THE COURT: Probable cause is certainly not proof beyond a
7 reasonable doubt, but if you had in your possession jewelry
8 that belonged to the Murphys, don't you think that's some
9 evidence that you had something to do with it?

10 MR. BROOKS: But Your Honor, this is before they came to
11 arrest me. They said they had this tangible evidence before
12 they came to arrest me.

13 THE COURT: Okay. I hear what you are saying. You may
14 proceed.

15 MR. BROOKS: Your Honor, that these are not evidence, the
16 inventory sheets on this case. 2014001750, The State versus
17 Michael Brooks. This is an affidavit given by the Defendant,
18 Justin Head. It's The State of South Carolina, County of
19 Florence, Affiant. First, being duly sworn, this supposedly
20 said that on 3/3, 2014, at approximately 1145 hours, officers
21 of the city of Florence Police Department responded to 1235
22 Berkley Avenue in reference to a home invasion which had just
23 occurred. The victims claimed that two black males had forced
24 them into the residence with a gun and tied them up with duct
25 tape and stole several of their belongings from inside of the

1 residence. Crime scene investigators were able to discover
2 several items inside of this residence which the victims
3 claimed that the suspect had touched. The Affiant, Mr. Justin
4 Head, was later able to make an arrest on the Defendant,
5 Michael D. Brooks, Michael Donta Brooks. Date of birth
6 [REDACTED] Social Security Number 247-51-7483, due to him being
7 in possession of some items which had been stolen from the
8 robbery.

9 Your Honor, they cannot come and arrest you without having
10 the tangible evidence and then try to build a case afterwards.
11 That's fruits of the poisonous tree, Your Honor. What I mean by
12 malicious prosecution, Your Honor, I'm going to read this right
13 here to you: To the judge presiding over this case, 2014001750,
14 because documents that clearly show that there is no probable
15 cause on this case and because there is no probable cause, the
16 malicious prosecution is defective and the above Defendant,
17 Michael D. Brooks, was arrested in violation of the law. The
18 only conceivable remedy is to dismiss the case. This motion is
19 to ask the judge to order the case dismissed on the grounds of
20 malicious prosecution, which is upheld in the State of Supreme
21 Court, because malicious prosecution is determined as
22 information in the warrants demand appropriate remedy of the
23 magistrate judge that issued the warrants was misled by
24 information in the affidavit that the Defendant knew was false
25 or would have known was false and is in direct disregard of the

1 truth.

2 Your Honor, I feel that the investigator lied about having
3 this tangible evidence in order to arrest Brooks on this. If he
4 did have this tangible evidence, by him not logging it onto the
5 case, that is an obstruction of justice because he tampered
6 with the evidence to stop this availability for being present
7 at this trial. It's, you know, a ongoing investigation. To
8 tamper with something from that is supposed to be available for
9 trial is obstruction of justice which under the common law is a
10 criminal offense, Your Honor, which can be applied to this
11 case. Not only is it illegal to arrest someone without probable
12 cause, it's also a violation of their constitutional rights.

13 The Fourth Amendment states that the people have the right
14 to be secure in their personal houses and effects safe against
15 unreasonable search and seizure and should not be violated and
16 no warrant issued but upon probable cause. Also evidence stays
17 open on the case and until the case is over in a ongoing
18 official proceeding. If there ever was evidence, it had to be
19 logged onto this case, established as evidence and also
20 formerly as a chain of physical custody. If he had this
21 evidence, he should have logged it onto this case to establish
22 it as a chain of physical custody.

23 I never seen, I don't know if the jewelry that I got was
24 actually the jewelry that had, was got. As a matter of fact, in
25 this evidence, Your Honor, my statements that I gave came after

1 my false arrest, after -- not my false arrest, but my malicious
2 prosecution, because he never had this tangible evidence.
3 That's fruit of the poisonous tree. Everything from March 14th
4 on back don't matter. Me saying I got this jewelry and all
5 that, came after the fact that you arrested me after you
6 violated the law by tampering with this evidence and not
7 logging it onto this case to establish it as a physical
8 custody.

9 Your Honor, also, the Defendant was arrested because it
10 was said he had possession of stolen jewelry from the robbery.
11 This tangible evidence does not exist on this case. As it is,
12 it does not exist. There was not probable cause to arrest the
13 Defendant. I ask that the case, 2014001750, The State against
14 Michael Donta Brooks, be dismissed, Your Honor.

15 Also, where it's in this statement, it states right here
16 that the above Defendant, that but for the issue that he was
17 arrested on March 14th, 2014 without probable cause, he swears
18 that the affidavit that Judge Debra Jackson signed for the
19 arrest warrant presented to her by sworn affidavit and given by
20 Justin Head was in bad faith. The Defendant states that the
21 Investigator Justin Head did not have tangible evidence. He
22 swore to this affidavit to Judge Debra Jackson for an arrest
23 warrant. No evidence sheet or inventory exists for warrant 2014
24 to show possession of the chain of physical custody other than
25 that was supposed to be possessed by Investigator Justin Head

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1 and there was no stolen jewelry from the crime scene or robbery
2 or logged onto the case 2014001750, and the State's exhibits
3 for 2014 March 14th, nor can the State bring any such evidence
4 from that date onto this case without evidence of inventory log
5 sheets, Your Honor. Nor was there any pictures. There never was
6 any pictures. You can't, you don't lock somebody up and say,
7 okay, we got drugs off of you or we got guns from somebody and
8 then when it's time to go to trial, you don't have it or you
9 are going to come marching in here with a picture and say,
10 okay, this is the gun you had or this is the drugs that you
11 had. They did not establish the jewelry on this case. Your
12 Honor, I never seen, I just want you to know that what I got
13 from them I had told them but that was after the fact. That's
14 fruit of the poisonous tree. You violated my rights, you broke
15 the law. My Fourth Amendment to not be arrested but for
16 probable cause and the right to due process.

17 THE COURT: All right. One of the things -- Well, I don't
18 exactly understand what your point is and what all you are
19 saying, but it's kind of premature, because I don't know what
20 the evidence is going to be. All I know is, I've heard that
21 statement that was given here today.

22 MR. BROOKS: Yes, sir.

23 THE COURT: I know on pre-trial conferences that I believe
24 and I'm not real sure about this, but I believe there was your
25 DNA found on the duct tape and I know that at some point in

1 time that you had custody of their jewelry. I have not seen the
2 arrest warrant. You haven't provided it to me. I'm going to ask
3 the Solicitor, number one, what was the probable cause for the
4 arrest. Do we know?

5 MR. JEPERTINGER: Yes, sir. You said you need the arrest
6 warrant?

7 THE COURT: You can tell me as an officer of the Court.
8 What was the probable cause of the arrest?

9 MR. JEPERTINGER: According to the arrest warrants, I think
10 they all read the same, Judge. The Defendant and a co-defendant
11 forced their way into the victim's residence that is located at
12 [REDACTED] Avenue, which is in the City of Florence. The
13 Defendant and co-Defendant were armed with a handgun. They
14 forced the victims on the ground and the co-Defendant then tied
15 the victims up and proceeded to steal multiple pieces of
16 jewelry from the residence. The Defendant was identified as
17 being in possession of some of the stolen jewelry several hours
18 after the incident took place. The Defendant matched the
19 description of the suspect which was given by the victims. The
20 Defendant is known to ride in a Chevy Suburban which is the
21 type of vehicle seen at the crime moments before the incident.

22 THE COURT: Okay. That appears to be ample probable cause,
23 if not proof beyond a reasonable doubt, but go ahead.

24 MR. BROOKS: Your Honor, at this time -- he said a
25 description saying that I was, well, he said the person was

1 6'1" and in the report saying that I was 6'3" and that I was
2 the one that robbed them, did the robbery, is not probable
3 cause. Saying that I was riding in a Suburban and they know
4 they were looking for a Tahoe is not probable cause. Probable
5 cause came from saying that you have tangible evidence that
6 does not exist. Saying that I had items, tangible items that
7 were stolen from this robbery that does not exist on the
8 statement, Your Honor. There is no probable cause. They
9 arrested me without it and built the case afterwards. You know
10 what I'm saying? And I feel like that that that's -- without
11 this evidence being present on this case ---

12 THE COURT: First of all, you are operating under the false
13 supposition that you have to have physical evidence to convict
14 somebody. You don't.

15 MR. BROOKS: But the tangible evidence that is supposed to
16 be on this case is no longer here. They are saying that they
17 had it, but ---

18 THE COURT: You can point all that out to the jury at the
19 conclusion of the case, but if these witnesses say you are the
20 one who did it and the jury believes them, they can convict
21 you.

22 MR. BROOKS: That's -- this is after. All this is after the
23 fact that I was arrested without probable cause.

24 THE COURT: Very good. Well, I tell you what we are going
25 to do is, at the conclusion of the State's case, you are going

1 to have an opportunity to renew all these motions and say that
2 they don't have enough evidence for the case to go forward and
3 we will revisit this issue before the conclusion of the case.

4 Anything further?

5 MR. BROOKS: Yes, sir. I have---

6 THE COURT: At the conclusion of the State's case.

7 MR. BROOKS: Yes, sir. Your Honor. I would also like to
8 offer during the motion of my DNA on this case, Your Honor.
9 That my DNA was inappropriately handled.

10 THE COURT: All right. That is a very valid motion and when
11 they attempt, when and if they attempt to introduce it, I will
12 be glad to hear from you.

13 MR. BROOKS: Would I have to do this in front of the jury?

14 THE COURT: Not in front of the jury. When and if they do
15 it, we will address that issue.

16 MR. BROOKS: Yes, sir. Your Honor, I would also like to ask
17 that the violation of the Defendant's privilege against self-
18 incrimination, that on March 14th, the Defendant had to do the
19 very form that the right, his constitutional right to speak at
20 his bond hearing and that the Murphy's could have had a
21 recording so that they could have recognized his voice or
22 anything before that, they could have had the proper
23 authorities and recordings done of his voice and played to them
24 and established at that time and, basically, I had the right to
25 speak at my bond hearing and that speaking at my bond hearing,

1 I was under the act of self-incrimination, Your Honor, by at
2 that point I could have spoke and I would like to have the ---

3 THE COURT: Did you speak?

4 MR. BROOKS: Yes. I had spoke to the Judge on my behalf,
5 Your Honor, at the bond hearing and I felt like, not that they
6 could try to use that, so okay, we could recognize his voice,
7 because at the bond hearing, using it at trial against me, you
8 know, just is a violation of my self-incrimination act Your
9 Honor, in the very form that I was, that I could have spoke at
10 my bond hearing.

11 THE COURT: Very good. Let's hear what the Solicitor has to
12 say about that.

13 MR. JEPERTINGER: Judge, obviously, I think a witness can
14 use physical characteristics, can identify physical
15 characteristics whether it's the voice, the physical
16 description of the individual.

17 THE COURT: I think what he's objecting to is he's saying
18 that he thinks it's improper for the victims to hear his voice
19 at the bond hearing. I don't know, exactly, the basis for that
20 argument nor is there any ---

21 MR. JEPERTINGER: He has control over that. He did speak..
22 He chose to speak.

23 THE COURT: All right.

24 MR. BROOKS: Your Honor, yes, I chose to speak, but if I
25 knew that I was going to be self-incriminated, I would have

1 refrained from speaking at my bond hearing. That's why I'm
2 protected by self-incrimination. I mean, you can't just -- how
3 many cases would there be if somebody sits back and is at the
4 bond hearing where you have the right to speak, which it is
5 your constitutional right and then they step forward and say,
6 okay, we recognize your voice. That's not allowed. If they felt
7 they could have recognized my voice, they should have got with
8 officers way beforehand and they should have recorded my voice
9 along with others or they could get me in a physical lineup and
10 have me speak whatever words they say they could have
11 recognized and then they could have recognized my voice like
12 that.

13 THE COURT: All right. Your motion is noted, but denied.
14 Very good. Anything further, Mr. Brooks?

15 MR. BROOKS: Yes, Your Honor. I would like to subpoena the
16 tapes from Franklin Jones from March 14th, when the
17 investigator came to the pawn shop to see the jewelry.

18 THE COURT: Well, I don't issue subpoenas. You are
19 representing yourself. You know how to do it, or you can get
20 your lawyer to assist you in that regard. I don't do subpoenas.

21 MR. BROOKS: Yes, sir. Your Honor, I would like, if and at
22 due time, if they offer to offer a phone conversation, Your
23 Honor, of a unknown caller. I would like to make a motion to
24 suppress that phone conversation. I would like to reserve the
25 motion to suppress that phone conversation at that time.

1 THE COURT: We will hear you when and if they offer it.

2 MR. BROOKS: Yes, sir. Your Honor, I want to offer on the
3 statements, on the thing with my Miranda, the statements from
4 3/17/2014, I want to know if that is the only statement they
5 are going to offer at this trial.

6 THE COURT: That's a very good question. Mr. Jepertinger?

7 MR. JEPERTINGER: Yes, sir.

8 THE COURT: That's the only statement they are going to
9 offer. Of course, you have the right to introduce any other
10 statements that might have been taken. You have the right to
11 introduce them if you want to.

12 MR. BROOKS: That's it at this time, Your Honor.

13 THE COURT: All right. Mr. Brooks, I want you to talk with
14 your lawyer in great detail about that and, of course, my job
15 is to make sure you get a fair trial. I'm going to try my very
16 best to do that, but listening to you and your motions, they
17 are not very linear in form. They are very difficult to
18 understand. Your lawyer is a very eloquent speaker. You know,
19 you've got a constitutional right to do this on your own. I
20 can't take that away from you. That's your absolute right. But
21 what you are doing is, you are doing the talking and your
22 lawyer is trying to give you good ideas and make suggestions.
23 It seems to me the better way if it is done the other way and
24 you let him do the talking and you give suggestions to him, but
25 that's your call. Do you understand that you have an absolute

1 constitutional right to represent yourself?

2 MR. BROOKS: Yes, sir.

3 THE COURT: And you know it's not a good idea to do that?

4 MR. BROOKS: Yes, sir.

5 THE COURT: Good luck to you. I want you to talk to your
6 lawyer about it. Very good.

7 MR. JEPERTINGER: Thank you, Your Honor. Are we in recess?

8 THE COURT: We will stand at ease until 9:30 in the
9 morning.

10 MORNING - JUNE 16, 2015

11 THE COURT: Please be seated. If you could tell them we've
12 got one quick legal matter and we'll be starting momentarily.
13 Let them know that we're here, ready to go.

14 THE BAILIFF: Yes, sir.

15 (Bench conference held in chambers at Mr. Wilson's
16 request)

17 THE COURT: Anything from the State before we proceed?

18 MR. JEPERTINGER: No, Your Honor. Mr. Richardson's going to
19 be doing the opening statement for the State.

20 THE COURT: Mr. Wilson? Mr. Brooks?

21 MR. BROOKS: Yes, sir. I want Mr. Wilson to represent me.

22 THE COURT: You mean you want him to do the opening
23 statement?

24 MR. BROOKS: Yes, sir.

25 THE COURT: Is that your decision?

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1 MR. BROOKS: Yes, sir.

2 THE COURT: Has anybody put any pressure on you, threatened
3 you, promised you anything in an effort to get him to represent
4 you?

5 MR. BROOKS: No, sir.

6 THE COURT: All right. Is that your decision?

7 MR. BROOKS: Yes, sir.

8 THE COURT: I happen to think it's a very fine decision.

9 All right. Very good. Are we ready for the jury?

10 (Jury in at 9:42 AM)

11 INTRODUCTORY REMARKS TO THE JURY:

12 THE COURT: Mr. Foreman, ladies and gentlemen of the jury,
13 thank you for being here and thank you for being here on time.
14 We're about to begin the trial of the State of South Carolina
15 versus Michael Brooks, indictment number; 2014-GS-21-00813. I
16 want to talk to you a little bit before we start about how this
17 is going to proceed. Many of you have probably served on a jury
18 before and we all know from our civics classes, from watching
19 TV and movies, essentially, how it works. I want to review that
20 a little bit so you'll know a little bit about what to expect.

21 The first thing is that in criminal prosecution in the
22 United States of America, it starts with an indictment and this
23 is the paper that starts the criminal prosecution. (Holds up
24 document) It makes these various allegations and at this point,
25 they're just accusations. They're allegations of absolutely no

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1 you. That will be very similar to the opening statements that
2 you're about to hear, but the arguments are different in that
3 they're truly argumentative in nature because at that point in
4 time, all of the evidence will have been presented in this
5 trial and they can point to the particular points of evidence
6 that support their relative theory of the case. What they have
7 to say is not evidence, however, it will aid immensely in your
8 deliberation process because these lawyers have been dealing
9 with this case for a long time and their observations will be
10 very helpful in your deliberation process. So, I'm going to ask
11 that you pay very close attention.

12 I'm also going to ask that you not take notes. Given the
13 nature of this case, the subject matter of the case, and the
14 length of the case, no one will take notes. So, I implore you
15 to pay very close attention as the witnesses testify. These are
16 important matters. I'm going to ask that you pay very close
17 attention. You've taken a solemn oath to listen to the
18 evidence, determine what the truth is and apply it to the law.
19 I'm convinced that you will do so. Mr. Richardson, your
20 opening.

21 MR. RICHARDSON: Thank you, Your Honor.

22 OPENING STATEMENT

23 BY MR. RICHARDSON:

24 I don't think I've ever been as excited to talk to a jury
25 as I am to talk to you today, because today has been a long

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1 time coming for a lot of people in this courtroom, but for
2 different reasons. I'm with the Solicitor's office. Mr.
3 Jepertinger is with the Solicitor's office. We handle a lot, a
4 lot of cases, criminal cases, here in this county and a lot of
5 those cases, you know, they're all important or else we all
6 wouldn't have to be here, but a lot of them have to do with,
7 you know, with property crimes where there's no victim present
8 or with disputes between individuals like fights, where, you
9 know, maybe both sides are a little bit at fault, but maybe one
10 more than the other and that sort of thing and that they aren't
11 what we would consider major situations, but once in a blue
12 moon you get one like this and it reminds me why I wanted to do
13 this job.

14 The facts of this case are something like Hollywood script
15 writers would struggle to come up with. It's crazy, but at the
16 end of the day, it frighteningly makes sense and it happened
17 right here in Florence and the following information is what we
18 are going to prove to you in this trial.

19 Larry and Cara Murphy are seated right there, a married
20 couple. They're in their mid-seventies. They've both worked all
21 their lives. They're both retired. They've got a couple of kids
22 grown and gone and these two folks are one hundred percent
23 innocent people. As I said, they're empty nesters and they
24 live, just the two of them, on the corner of Marsh Avenue and
25 Berkley Avenue in Florence. It's right off Second Loop Road,

1 kind of behind the Highland Park Church if any of you are
2 familiar with that area. They live right in the corner house
3 and we'll show you some maps of evidence of that shortly in the
4 trial and as I mentioned, they're both retired.

5 So, one of the things that Larry does to keep himself busy
6 is, he is a member of the Masterworks Choir here in Florence
7 and not only is he a member of it, but he is the treasurer. So,
8 when they have concerts they collect proceeds from it and he is
9 sort of the custodian of the proceeds. So, one of his
10 responsibilities is to take money from the concerts and take
11 them to the bank to deposit into the choir's bank account.

12 Well, on Sunday, March 2nd, 2014, Masterworks Choir had a
13 concert. He collected the money and then the next morning, on
14 March the 3rd, he went to South Carolina Bank and Trust, a bank
15 which is now South State Bank on Palmetto Street in Florence.
16 The bank is kind of near the Sundae House on Palmetto Street,
17 kind of diagonally across the street from it if you're familiar
18 with that.

19 So, Larry walks into the bank and he's got a pretty
20 sizable stack of cash. It's a little over a thousand dollars, I
21 think, and he walks up to a teller window and he plops that
22 money down to deposit it into the church account and right
23 after he got there one of three predators involved in this
24 case, just by pure stupid chance -- and this will terrify you
25 when you put this all together, a guy named Gregory Campbell --

1 by pure dumb luck, just happened to walk into that bank at the
2 same time Larry Murphy was standing there with this stack of
3 money. Gregory Campbell came in the bank and did whatever
4 business he had to do nearby, near Mr. Murphy, and he left
5 while Mr. Murphy was still standing there doing his transaction
6 with that money still on the counter.

7 So, I mean, it was readily apparent to anybody who walked
8 in after Mr. Murphy and left before him, that they wouldn't
9 know whether he was putting money in the bank or taking money
10 out of the bank. That was about 9:15 AM on March the 3rd and
11 that was a Monday morning.

12 About two-and-a-half hours later, Michael Brooks, seated
13 right over here, knocks, or excuse me, he rings the doorbell at
14 the Murphy's home on the other side of town. He had walked in
15 through an open garage door and rang the doorbell on the door
16 leading into the house from the garage. Larry Murphy and Cara
17 Murphy are both home. Larry Murphy gets up to answer the door.
18 There stands Michael Brooks. Of course, Larry Murphy has no
19 clue who Michael Brooks is at that time, but Michael Brooks
20 stands there and says something to the effect about, you know,
21 painting houses in the neighborhood, wanted to see if you
22 wanted your house painted. Mr. Murphy begins to explain to him
23 that his house is made of vinyl and doesn't need to be painted,
24 but as he's trying to explain that, Michael Brooks pulls out a
25 handgun, puts it to Larry Murphy and pushes him inside his

1 house holding the gun right up against him with one hand and a
2 handful of Mr. Larry Murphy's shirt in the other hand. Cara
3 Murphy is in the kitchen at the time and she has the terrifying
4 sight of seeing her husband led into the living room by some
5 stranger at gunpoint.

6 Michael Brooks orders them both to get on the ground in
7 the living room, face down. He then calls in a guy named
8 Terrance Baker, who is the third predator. Terrance Baker is
9 ordered by Michael Brooks to tie them up. Terrance Baker enters
10 with a roll of duct tape and he duct tapes the wrists of both
11 Larry and Cara Murphy and he duct tapes their ankles together
12 while they're face down on the floor and, curiously enough,
13 Michael Brooks keeps asking or yelling to Larry and Cara:
14 Where's the money? Where's the money? Where's the safe? They
15 have no clue what he's talking about.

16 Brooks was kind of particular. He picks up a towel and
17 goes and uses that to rummage through the house trying not to
18 leave any evidence of himself behind. Meanwhile, the minutes
19 are ticking by like hours for the Murphys. They're laying
20 there, face down on their living room floor, thoughts going
21 through their head. Michael Brooks is not wearing a mask, but
22 Larry Murphy has stood there talking with the guy. Why would he
23 leave them alive? Why would he leave witnesses? What are their
24 kids going to think when they find their bodies? But luckily,
25 they lived and they're here today.

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1 Michael Brooks did not find the money he was looking for
2 because, as I told you a minute ago, Larry Murphy was
3 depositing money into that bank and not taking it out. So,
4 Michael Brooks rushes down, gets Terrance Baker. They run
5 outside and they hop into a green Tahoe driven by Gregory
6 Campbell and the three of them leave the scene.

7 Of course, the police didn't know this information at
8 first. In fact, they had very little to go on. There were some
9 items stolen from the Murphy's house; a little bit of cash in
10 their wallets and some jewelry that belonged to Ms. Murphy and
11 the descriptions of that jewelry and descriptions that were
12 given by the Murphys to the police was about all they had to go
13 on.

14 They ended up finding a neighbor that had a surveillance
15 camera that showed some pictures of what looked to be a green
16 Tahoe. They found a witness who happened to drive by who saw a
17 green Tahoe with some guys standing nearby, but that's kind of
18 what they had to go on.

19 So, they get on the trail of this jewelry and one of the
20 pieces in particular is very important. There's a piece of
21 jewelry and you're going to see a picture of it. It's a
22 customized piece, a custom piece. Larry Murphy had a class ring
23 that was melted down and he made as a gift for his wife or had
24 it made as a gift for his wife and it's a pendant, kind of
25 oddly shaped with the letter "C" on it. Only one like it in the

1 world:

2 So, the police put that information out to jewelry stores,
3 pawn shops, you know, whoever buys jewelry from people and they
4 struck gold, no pun intended. They got a call from a guy who
5 runs a jewelry store who saw that piece of jewelry, somebody
6 had it on. So, they traced that piece of jewelry through two
7 more individuals and that's the first time they got Michael
8 Brook's name and Michael Brooks just so happened to match the
9 description of the gunman that was given by the Murphys.

10 So, they go to find Michael Brooks. When they approach
11 him, he runs. They have to catch him. They confront him with
12 the information that they know he had the jewelry. So, he gave
13 them a statement. He was, you know, read his Miranda rights and
14 all the things the police had to do beforehand. He gave them a
15 statement. He distanced himself from the crime. He said that
16 Gregory Campbell and Terrance, also known as Boogie, did this
17 thing. Gregory's his cousin. They came out to Michael's house
18 trying to get rid of this jewelry and Michael took the jewelry
19 from them and that's all he knows, but he knows that they told,
20 you know, they told him about this lick that they hit and how
21 it happened and you'll hear that statement and when you hear
22 that statement, you're going to hear Michael Brooks cry like a
23 child and deny any wrongdoing and he's trying to put it on
24 these other two guys.

25 But what Michael Brooks does not know at that point is

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1 that the greatest witness against him in this trial would be
2 his own body. I mentioned to you the Murphys were duct taped.
3 When that duct tape got cut off of them, the police collected
4 it and they sent it to SLED, the State Law Enforcement
5 Division, for DNA analysis and whose DNA was on the duct tape
6 that came off Larry Murphy's wrists? Larry Murphy was the
7 first one matched. Two individual's DNA came off, came on that
8 duct tape, Terrance Baker's and Michael Brooks'. His DNA is on
9 the duct tape used to bind Larry Murphy. So, Michael Brooks'
10 body is the greatest witness against him.

11 Of course, Larry Murphy is able to identify Michael Brooks
12 and he'll do that in this trial. So, after Michael Brooks gives
13 this statement to the police, later on, I believe the same day
14 after he's thrown Gregory Campbell and Terrance Baker to the
15 wolves to try to save himself, he makes a phone call that's
16 recorded from the detention center to somebody and says, tell
17 Greg if they come looking for him, to keep his effing mouth
18 shut, which probably serves a couple of purposes, which we'll
19 get to and you'll see later on in this trial.

20 The police, after speaking with Brooks, they got the name
21 Gregory Campbell. They went looking for him. They found the
22 bank video from SCB&T that puts Gregory Campbell in the bank
23 with Mr. Murphy. They found Gregory Campbell. They found a roll
24 of duct tape in his house on top of some kitchen cabinets,
25 hidden behind bottles and underneath a ski mask. They found a

1 green Tahoe in the yard.

2 Now, I told you at the beginning I was excited to talk to
3 you about this thing, but I'm also excited about this; the
4 Murphys are sitting in here and they lived through this god-
5 awful ordeal and they lived to be here today to see justice
6 done for them in this case.

7 You know, Michael Brooks is one of three predators who
8 chose prey that he perceived to be weak, picking on a couple in
9 their mid-seventies, but Larry and Cara Murphy are here today
10 to talk to you and they're going to show Michael Brooks that
11 they don't go down so easy.

12 So, this case, as god-awful as it is and god-awful as the
13 things are that happened to the Murphys, it can have a happy
14 ending for them and you can give them that. And at the end of
15 this trial, after you've heard all the evidence in this case,
16 I'm going to tell you what, Mr. Jepertinger and I are going to
17 put witnesses on that stand and not only are we going to give
18 y'all the evidence you need to convict this guy, we're going to
19 give you more than enough evidence you need to convict this
20 guy.

21 At the end of this trial, Mr. Jepertinger is going to ask
22 you to convict Michael Brooks of the following charges:
23 Burglary in the first degree, that's going into somebody's
24 house with a weapon; kidnaping, that's kind of self-
25 explanatory, duct taping people and putting them on the floor;

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1 armed robbery, stealing peoples' property at gun point;
2 possession of a weapon during a violent crime. The judge will
3 explain to you in his remarks what a violent crime is as we go
4 forward, and finally; possession of a weapon or a firearm by a
5 person previously convicted of a violent crime.

6 So, I ask you to pay careful attention because this is
7 big. At the end of the day we're going to ask you to do what
8 justice requires in this case and convict Michael Brooks of
9 these crimes. Thank you.

10 THE COURT: Thank you, Mr. Richardson. Mr. Wilson, you're
11 recognized.

12 OPENING STATEMENT

13 BY MR. WILSON:

14 Ladies and gentlemen, I am not excited. I'm not excited to
15 be here and I submit neither should you be. What happened to
16 Mr. and Ms. Murphy is a tragedy, but to convict an innocent
17 person is equally a tragedy. I'm always amazed when I listen to
18 prosecutors when they get up and they talk about what they say
19 happened and what they say that they can prove. We haven't
20 heard the first witness yet and Mr. Richardson gives you a
21 scenario, a version of what he says the facts are.

22 Well, you'll have the opportunity first-hand to listen to
23 those witnesses who take the stand and who will testify in this
24 case and you will be able to decide for yourself what they're
25 saying. You don't have to take Mr. Richardson's word for it

1 because he wasn't there. He wasn't there on March 3rd. He has
2 absolutely no idea what happened, other than what somebody else
3 has said to him. Just like at this point, you have no idea or I
4 have no idea, because we haven't heard the first bit of
5 testimony, you know.

6 And the other thing that troubles me is a prosecutor's job
7 is not to convict people wrongfully. Their job is to do justice
8 and when they get personal and they leave out justice so that
9 they can get a conviction, there's a problem and that's
10 troubling for me. And so, no, I am not excited about being here
11 for those reasons.

12 Every defendant who's charged with a crime in these United
13 States is presumed innocent until and unless there is evidence
14 coming from this witness stand, under oath, which you find
15 credible enough to find that person guilty beyond a reasonable
16 doubt. You have no friends to reward and I'm not saying that
17 the Murphys aren't great people. I'm sure they are and I have
18 no doubt that somebody robbed them. I have absolutely no doubt
19 about that in my mind. The issue is; not whether they were
20 robbed, not whether somebody made them lie on the floor, not
21 whether somebody held a gun at them. The issue is whether or
22 not Michael Brooks was that person. That's the only issue we're
23 here about; is Michael Brooks that person or one of those
24 persons.

25 You know, the amazing thing is the Solicitor told you

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1 about a statement that Michael Brooks gave and they're going to
2 play it for you and I want you to listen to it. There is not
3 one thing in that statement that says that Michael Brooks was
4 present when this robbery occurred. Michael Brooks simply had a
5 medallion that he had sold to somebody, which is what they're
6 referring to, and they traced it back and said, "Oh, well, you
7 sold it to them so you must be involved." Well, they didn't
8 charge the other two people who had it, because he sold it and
9 the person who he sold it to sold it to somebody else and then
10 that person tried to pawn it. None of those people have been
11 arrested that I know of. Michael Brooks actually tells them who
12 the robbers are.

13 And the other thing that I will tell you, ladies and
14 gentlemen, when you listen to this evidence and he says, "Oh,
15 well, you know, we've got some DNA evidence." What I want you
16 to remember is, when did they get this DNA evidence. Was it
17 after they got blood samples and swabs from this Defendant?
18 The other thing they say is "Oh, well, Mr. Murphy can identify
19 him." Well, that ain't really true, because what you will find
20 is, is that when they went to Mr. Murphy in the very beginning
21 to talk to him about this case, he said, "I can't tell you who
22 it was. I can't be a hundred percent sure who it was." Well,
23 he's a hundred percent sure now because they've got somebody in
24 custody. It's easy to be a hundred percent sure once that
25 person's arrested and in jail. Of course, it is. That's him

1 sitting right there. There's nobody else sitting there, so he's
2 got to be the one.

3 My point, ladies and gentlemen is, until you hear the
4 evidence, until you hear the facts, until you hear the
5 witnesses, don't be persuaded by rhetoric from the prosecutor
6 about what he says occurred. As I said, he wasn't there anymore
7 than I was.

8 And I'll tell you the other thing; had it not been for Mr.
9 Brooks, they would have never gotten an arrest, ever. On
10 anybody, probably. He gave it to them because he told them
11 where he got the medallion from.

12 The other thing that's important in this case, it's not so
13 much sometimes what a witness says, it's what they don't say or
14 how they say whatever it is that they say. We call it
15 credibility. Big word. Simply means believability. Their
16 demeanor. When that witness is testifying, has the witness said
17 something different at a different time? Is the witness' memory
18 now more convenient than it was at a closer time to when this
19 event happened? Is their memory better now a year later than it
20 was three or four days after the incident occurred? Those are
21 the kinds of things that you would want to know if you're
22 trying to decide whether or not a witness is being completely
23 candid with you. Does the witness have something to gain by
24 giving, by telling you something that's not true? So, no, I am
25 not excited about being here because our sole purpose here

1 today is not to be excited, it is to do justice.

2 And I know, ladies and gentlemen, we've only been here now
3 a day-and-a-half, almost a day-and-a-half, and I know that when
4 each of you got your summons in the mail to appear in this
5 court you probably thought of a hundred other things that you
6 would much rather do than to be sitting here, you know, all
7 week long listening to a bunch of lawyers go at it. Well, but
8 let me tell you this. There is absolutely nothing that you
9 could be doing today that's more important than what you're
10 doing. Not just for Mr. and Ms. Murphy or for the State of
11 South Carolina, but there is absolutely nothing more important
12 that you could be doing than for Michael Brooks, because all of
13 these folks are entitled to justice. Nothing more, but nothing
14 less. And the same justice that works for Mr. and Ms. Murphy or
15 for the State of South Carolina, it's that same justice that
16 works for Michael Brooks.

17 You see, that's the problem or that's the good part, if
18 you will, about justice. It's fair, it's unbiased, it's
19 impartial. It's not irrespective to a person or their means at
20 all and that's the only thing anybody has a right to ask you
21 for is justice, is fairness and an impartial decision based on
22 your view of the facts and the evidence in this case as you
23 understand it to be. Nobody has a right to ask any more of you
24 than that.

25 In fact, I tell people all the time that when we come to a

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1 criminal trial, actually the State is who's on trial. The
2 reason that I say that is because they have the burden of
3 proof. So, they're the ones who have to come in and convince
4 you beyond a reasonable doubt as to the guilt of the person
5 that they have charged. You see, a Defendant has no say-so in
6 whether a warrant is taken out for him. He has no say-so in
7 whether or not he's going to get arrested. He has no say-so in
8 whether he's going to get a bond or how much that bond's going
9 to be. The State has control of that. The first time that the
10 Defendant has any rights is when he comes here with you.

11 You, the twelve of you, and now the fourteen of you, but
12 the twelve of you will decide this case. You are the finders of
13 fact. You are, in fact, the judges of the facts. His Honor is
14 the judge of the law and he will tell us, the lawyers, what we
15 are supposed to do and what we're not supposed to do and how
16 we're to do it and he will tell you what the law is. But you
17 are the sole judges of the facts. You decide what the facts are
18 in this case, not the Solicitor, not me. And the only thing I
19 ask of you at this point, is that you listen attentively and I
20 know you will, to the witnesses who will testify in this case
21 and listen to His Honor as he instructs you as to the law and
22 you will render a verdict that speaks the truth and nobody, not
23 State of South Carolina, not the Defendant, not the public,
24 nobody has a right to ask anymore of you than that. Thank you.

25 THE COURT: Thank you, Mr. Wilson. Mr. Jepertinger, you're

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1 recognized. You may call your first witness.

2 MR. JEPERTINGER: Thank you, Your Honor. The State would
3 call LARRY MURPHY to the stand.

4 THE COURT: Mr. Murphy, please, come forward. I'm going to
5 ask you if you could to place your left hand on the Bible and
6 raise your right as the clerk administers the oath.

7 (After being duly sworn by the Clerk of Court, LARRY
8 MURPHY testified as follows:)

9 THE COURT: Watch your step, Mr. Murphy. Have a seat in the
10 witness chair, pull up real close to that microphone. I want
11 you to speak loudly, clearly and slowly in order that we can
12 hear everything that you have to say and let's start with your
13 name, please, sir.

14 MR. MURPHY: My name is Larry Murphy.

15 THE COURT: Okay. Mr. Jepertinger.

16 DIRECT EXAMINATION

17 BY MR. JEPERTINGER:

18 Q Mr. Murphy, how old are you?

19 A I'm seventy-six.

20 Q Back on March 3rd, 2014, how old would you have been?

21 A Seventy-five.

22 Q All right. And are you married?

23 A Yes, I am.

24 Q Okay. And is your bride here?

25 A Yes, she is.

1 Q And who is she?

2 A She's sitting right there.

3 Q How long have you been married?

4 A Monday will be forty-seven years.

5 Q And do you have any children?

6 A We have two married daughters.

7 Q Okay. And is one of them in the courtroom here today with
8 you?

9 A Yes, she is, with her husband.

10 Q All right. And the other daughter, does she live in
11 Florence?

12 A She lives in Lexington.

13 Q Now, Mr. Murphy, what is your employment status right now?

14 A I'm retired.

15 Q What did you retire from?

16 A I was a plant manager at a sewing plant that made Umbro
17 soccer uniforms.

18 Q And where was that plant located?

19 A That plant was in Fair Bluff, North Carolina. Our home
20 office was in Greenville, South Carolina.

21 Q And did you live in Florence during your time of
22 employment there?

23 A I lived in Florence and commuted.

24 Q How far was that?

25 A Fifty-two miles one way.

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1 Q And you did that every day?

2 A For a little over twelve years.

3 Q All right. Okay, prior to working there, where did you
4 work?

5 A Prior to that I worked in Tennessee, again for a sewing
6 plant. It was J.H. Kellman. It was privately owned and we
7 made outerwear. Our main customer was outerwear for Sears
8 & Roebuck.

9 Q Okay. How long have you lived in Florence?

10 A Since 1986.

11 Q I'm going to take you back to March the 2nd, the day
12 before this incident. What did March the 2nd fall on?

13 A March 2nd is a Sunday.

14 Q All right. And are you involved in any community activity
15 that would have taken place on March the 2nd, 2014?

16 A I was a member of the Masterworks Choir. We rehearsed and
17 performed at Central United Methodist and we had a concert
18 that Sunday. I'm also, at that time, was treasurer of the
19 Masterworks Board of Directors.

20 Q Okay. Now, the Masterworks Choir, do they, I guess, charge
21 an admission? Or is there money involved?

22 A The concerts, our programs are free. We do pass the plate
23 to help defer some of the expense.

24 Q And was there money collected on that Sunday?

25 A Yes, there was.

1 Q Do you know, approximately, how much?

2 A About twenty-one hundred dollars.

3 Q Okay. All right. And since it was a Sunday, what were your
4 responsibilities and as the treasurer, what would you do?

5 A The ushers would take up the money and I would see them
6 after the concert and collect the money, take it home and
7 my wife and I would count that money that night and then I
8 would deposit it early the next morning, on Monday, when
9 the banks opened.

10 Q Okay. Did Masterworks have a particular bank that they
11 banked with?

12 A We banked with SB&T, which is now South Bank.

13 Q All right.

14 A On Palmetto Street.

15 Q All right. I'm going to...

16 MR. JEPERTINGER: Your Honor, the Defense says they have no
17 objection to State's Exhibit #7 and we'd move this into
18 evidence at this time.

19 MR. WILSON: Without objection, Your Honor.

20 THE COURT: State's Exhibit #7 is into evidence without
21 objection from Defense.

22 (Whereupon, a map of Florence is entered into evidence
23 as State's Exhibit #7, without objection)

24 Q Mr. Murphy...

25 MR. JEPERTINGER: May I ask the witness if he could get off

1 the stand one second?

2 THE COURT: Sure. (Witness complies)

3 Q I'm going to ask you to stand over here so your voice can
4 carry to the court reporter who's taking all the words
5 down and I'm just going to ask you if you could show the
6 ladies and gentlemen of the jury what State's Exhibit #7
7 is. What is State's Exhibit #7?

8 A This is a photo of the City of Florence.

9 Q All right. We have Palmetto Street up here on there and
10 Greenway. Do you see where SCB&T would be?

11 A SCB&T is on the corner of Palmetto and Greenway.

12 Q And I notice that there's like a blue outline of that
13 facility. Is that correct?

14 A That's correct.

15 Q Okay. And where would you live in regards to where the
16 SCB&T would be?

17 A I'm off Second Loop. Here's Marsh. And at the corner of
18 Berkley and Marsh Avenue.

19 Q All right. So, while you're still up there you make a, you
20 go into that SCB&T. Is that correct?

21 A That's correct.

22 Q Okay. And you are there shortly after -- what time did you
23 get there, if you recall?

24 A About nine fifteen.

25 Q All right. And what do you do at SCB&T now you're there?

1 A I make a deposit.

2 Q Okay. Afterwards, where do you go?

3 A I went to Anne Marie Hanna's office. She's custodian of
4 the Masterworks books, which means she writes all the
5 checks, and I gave her the deposit slip from the deposit
6 I'd just made and then I went home.

7 Q All right. And Anne Marie is located about where?

8 A She's, again, off Second Loop around, off Heritage Lane in
9 those -- there's doctor, lawyer, and physician offices
10 there.

11 Q All right. And after you left there, you say you went
12 home?

13 A Went home.

14 Q And you come up Second Loop ---

15 A Yes.

16 Q --- and you turn on Marsh?

17 A Yes.

18 Q All right. Thank you so much. You may have a seat.

19 A (Witness complies)

20 Q Now, you say you went to the bank at about nine fifteen.

21 Is that correct?

22 A Yes.

23 Q All right. I'm going to show you what's been marked as
24 State's Exhibit #4. Can you tell me what this is?

25 A It's a video from SCB&T.

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1 Q And have you had a chance to review that video from SCB&T?

2 A Yes, I have.

3 Q And does that video fairly and accurately portray your
4 going to the bank that day?

5 A Yes, it does.

6 MR. JEPERTINGER: At this time, I would move State's
7 Exhibit #4 into evidence and ask if I could publish it.

8 THE COURT: Any objection from Defense?

9 MR. WILSON: Yes, sir.

10 THE COURT: All right. Might you approach the bench?

11 (Brief bench conference off the record)

12 MR. JEPERTINGER: I move State's Exhibit #4 into evidence,
13 Your Honor.

14 THE COURT: Over Defense's objection.

15 MR. WILSON: Thank you very much, Your Honor.

16 (Whereupon, a video cd is admitted into evidence as
17 State's Exhibit #4, over objection.)

18 MR. WILSON: Your Honor, may I move so I can see?

19 THE COURT: Certainly.

20 Q Larry, if you would step down here, as well.

21 A (Witness complies)

22 Q And if you could come around to the other side there
23 and...

24 (Video is published to the jury)

25 Q Let me ask you, if we go back to this frame here. Who's

1 that individual?

2 A That's me.

3 Q On the date of March the 3rd, 2014?

4 A Yes.

5 Q And what are you doing in this video?

6 A Depositing Masterworks monies. That's me.

7 MR. JEPERTINGER: Right. Can you minimize it again? Now,
8 keep going.

9 Q Now, you're looking at an individual's white sneakers and
10 a plaid shirt there. Who is that? Do you know?

11 A No.

12 Q Did you know that individual at that point?

13 A No.

14 Q Did that individual come into your house on March the 3rd,
15 2014?

16 A I don't know.

17 Q Was this the individual that held the gun to you on March
18 the 3rd, 2014?

19 A No, that's not him.

20 Q All right. Okay.

21 MR. JEPERTINGER: All right. You can go to a small screen.
22 That's all we need to see.

23 A (Witness returns to stand)

24 Q Now, you were telling the jury that you got home after you
25 dropped the stuff off at Anne Marie's right here at

- 1 Heritage. Is that correct?
- 2 A Yes.
- 3 Q When you go home, who was home already?
- 4 A My wife was there.
- 5 Q All right. Did you pull into your driveway or to your
- 6 garage or how did you park your car?
- 7 A I pulled into the driveway and into the garage.
- 8 Q Okay. Did you have one vehicle already in the garage or
- 9 did you just, or was it just your vehicle?
- 10 A We have a two-car garage and both cars, after I parked,
- 11 were in the garage.
- 12 Q Okay. Did you leave your garage doors open or closed?
- 13 A They were open.
- 14 Q Was that your practice?
- 15 A Yes.
- 16 Q Did anybody, did any neighbors show up at your house or
- 17 anybody else visit or a relative or anybody else appear at
- 18 your home?
- 19 A No, they did not.
- 20 Q What were you doing during the interim of, I guess, before
- 21 this incident happened? What were you doing at your house?
- 22 A I was probably watching TV, just piddling around the
- 23 house.
- 24 Q Okay. Did anything unusual happen then while you were
- 25 piddling around the house or watching television?

1 A Before the incident?

2 Q No. Let's lead up to the incident. What happened?

3 A It was around lunchtime.

4 Q About, approximately, what time was it?

5 A About a quarter 'till twelve.

6 Q All right.

7 A The doorbell rang in the garage, the door at the garage
8 leading into the den. I got up to answer the door and
9 Michael was at the door. He asked if -- well, he said
10 first, that he was painting in the neighborhood and
11 wondered if I wanted my house painted.

12 Q And what did you tell him in respect to that?

13 A I told him that my house was brick and vinyl and I didn't
14 need it painted and about that time he pulled the weapon,
15 held it to my body and pushed me back inside the house and
16 started screaming and yelling, "Get on the floor." "Get on
17 the floor."

18 Q Now, you said Michael did that. What was the original
19 description that you gave to the police about Mr. Brooks?

20 A Over six feet.

21 Q How tall are you?

22 A I'm five eleven.

23 Q Was this individual taller than you?

24 A Oh, yes.

25 Q Okay. African American?

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1 A Yes.

2 Q What was his hairstyle? Did he have it in dreads, a short
3 cropped top, how was his hair?

4 A No dreads, but it was a short hair cut.

5 Q Okay. Was the individual wearing a mask?

6 A No. No mask.

7 Q All right. And tell me, when he came into the house,
8 approximately -- I'm going to walk up to you and you tell
9 me how close he got to you.

10 A Right there.

11 Q And were you looking at his face at that time?

12 A Yes. Yes.

13 Q All right. And when he got into the house, you said he was
14 holding a gun?

15 A Yes, sir. A pistol.

16 Q Okay. Which hand?

17 A He was holding it in his right hand, I think.

18 Q Okay. What was he doing with his left hand?

19 A He was holding onto my shirt, pushing me into the house.

20 Q Did you notice if he was wearing any sort of gloves or
21 anything like that?

22 A I did not see any gloves.

23 Q All right. At that point, what happened?

24 A My wife came in from the kitchen and he immediately told
25 her -- he started screaming and hollering and threatening

- 1 for her to get onto the floor. Then he called a second
2 person into the house and said to bind them or tie them up
3 and that's when he taped our -- taped me first.
- 4 Q What did he tape you with?
- 5 A Duct tape.
- 6 Q Silver?
- 7 A Silver duct tape.
- 8 Q All right. Now, was that the second guy that was doing the
9 duct taping?
- 10 A The second guy did the duct taping.
- 11 Q Now, what did this second guy -- was he tall, short? What
12 was he like?
- 13 A He was shorter, about -- a little shorter than the first
14 guy. And ---
- 15 Q Where you on the ground when you ---
- 16 A I was on the ground when he came in.
- 17 Q So, you could not compare heights?
- 18 A No.
- 19 Q Okay, but he was shorter than ---
- 20 A He was -- I saw him later from the back and he appeared to
21 be shorter than Michael.
- 22 Q African American male?
- 23 A Yes, sir.
- 24 Q What was his hairstyle?
- 25 A No hat -- no, wait a minute. He had a toboggan or

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1 something like that on.

2 Q Did you notice any dreads hanging out?

3 A I didn't see any dreads.

4 Q Okay. And how about clothing? What was he wearing?

5 A He had on a black dark-colored jacket and it had red or a
6 pink color across, a stripe across the jacket.

7 Q Now the individual, the first guy that you identified as
8 Michael, do you recall what type of clothing he was
9 wearing?

10 A No. It was something dark.

11 Q At that point, you say Michael told the second guy to duct
12 tape you?

13 A Yes.

14 Q Okay. And did he duct tape you first?

15 A Yes.

16 Q Where did he duct tape you?

17 A He duct-taped my wrists behind my back and my ankles.

18 Q All right. And ---

19 A And I was face down on the floor.

20 Q All right. And then what happened?

21 A After that, the second guy bound my wife the same way,
22 her wrists and around her ankles. All the time Michael was
23 screaming and hollering, "Where's the money?" "Where's the
24 money?" "Where's your safe?" And I said the only money we
25 have is what's in our wallets and he was rambling around

1 in the kitchen and I keep my wallet on the kitchen table.

2 Q Were the lights on in the kitchen?

3 A Yes, they were.

4 Q Were the lights on in your den or living room area?

5 A The lamp was on. I know one lamp was on, by the sofa.

6 Q And this was also towards noontime. Correct?

7 A Yes.

8 Q You were wearing your glasses?

9 A I always wear my glasses.

10 Q And were you observing the individuals?

11 A Yes.

12 Q Okay. And what did you say Michael did?

13 A Rambling around and found my wallet on the table and he
14 took my wallet and then he rambled around in my wife's
15 purse and then went upstairs where the bedrooms are.

16 Q Okay. Let me ask you this: while he was rambling around in
17 the kitchen area, was he using his hands to pick up
18 objects or was he using an object to pick up objects?

19 A He had picked up a towel and that's what he was using, you
20 know, to pick stuff up, ramble through our stuff.

21 Q Right. While he was doing this, what was the second guy
22 doing? Was he saying anything?

23 A He said nothing. I didn't hear him say anything.

24 Q Was he just standing by you?

25 A Yes. And he was walking around. He walked and looked into

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- 1 a bath that's right off the den, but I didn't hear him say
2 anything.
- 3 Q All right. Okay. Michael did what, after he left your
4 kitchen?
- 5 A He went upstairs and ---
- 6 Q How long was he upstairs?
- 7 A Five minutes maybe, ten minutes. No more than about ten
8 minutes.
- 9 Q All right. And what happened when -- I take it he got back
10 down, he came back down?
- 11 A Yes, he came back down.
- 12 Q And what happened when he came back down?
- 13 A He and the second guy, Michael and the second guy left,
14 closed the door as they were leaving.
- 15 Q The door that he came in?
- 16 A Yes.
- 17 Q And that would have lead to the garage. Correct?
- 18 A That is correct.
- 19 Q All right. And what did you do when they left?
- 20 A (No verbal response)
- 21 Q What did you do when they left?
- 22 A Oh, I was able to get my hands free from the duct tape and
23 I crawled into the kitchen and we have a place ---
- 24 Q You crawled into the kitchen?
- 25 A Yes.

1 Q Okay. Go ahead.

2 A And then I got myself up to the kitchen counter. And we
3 have a jar or a can where we keep pens and pencils and
4 scissors and I cut my ankles free, went back and cut my
5 wife's hands for her wrists free and gave her the scissors
6 to cut her ankles free and then I went and called 9-1-1.

7 Q All right. And did the police get there?

8 A They got there very shortly after I called.

9 Q All right.

10 THE COURT: Madam Forelady, ladies and gentlemen of the
11 jury, we're going to take a mid-morning break. I'm going to ask
12 that you retire to the jury room. Mr. Foreman, there'll be no
13 discussion about the case, whatsoever. Everyone remain seated
14 as the jury exist the court room.

15 (Jury out at 10:54 AM)

16 THE COURT: We're going to take about a five-minute recess.
17 Mr. Murphy, under these circumstances you can't discuss the
18 case with any of the lawyers. The bailiff will assist you if
19 you need to use the restroom.

20 MR. MURPHY: Okay.

21 THE COURT: We'll stand at ease for five minutes.

22 (Brief break)

23 THE COURT: We're ready for the jury.

24 (Jury in at 11:04 AM)

25 THE COURT: Mr. Jepertinger, you're recognized.

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1 MR. JEPERTINGER: Thank you. Your Honor. I believe right
2 before the break Mr. Wilson had no objections to #3C through
3 #3Z being entered into evidence. And #3AAA through #3TT being
4 entered into evidence.

5 THE COURT: Those are into evidence without objection from
6 the Defense?

7 MR. WILSON: There's no objection, Your Honor.

8 (Whereupon, 8x10 photocopies marked as State's Exhibits
9 #3C -#3Z and 3AAA - #3TTT were admitted into evidence, without
10 objection.)

11 MR. JEPERTINGER: Thank you, Your Honor. May I ask Mr.
12 Murphy if he could step off the witness stand?

13 A (Witness complies)

14 Q Now, I know this thing's kind of in the way here so if
15 you'll just move back a little bit so we can stand over
16 here and I want to have you stand right here. I want to
17 see if you can -- let's start of with #3AA. Can you tell
18 us what this is a picture of?

19 A That's a picture of my car in the garage.

20 Q Okay. And #3BB?

21 A That's my car and it's still my car in the garage.

22 Q All right and #3CC?

23 A Yeah. That's still the garage showing the door into the
24 house from the garage.

25 Q Is that the door that the individuals came through?

1 A Yes.

2 Q #3DD?

3 A Yeah, that's the same door.

4 Q And #3EE?

5 A Yes, that's the door.

6 Q All right. I'm going to show you #3JJ and #3KK. Can you
7 tell the ladies and gentlemen of the jury what these are
8 pictures of?

9 A This is a picture of our den. That's a picture of the door
10 going into the laundry room and the half bath and off the
11 den. That's our den and that's our den.

12 Q Okay. When you were placed on the floor and your wife was
13 placed on the floor, can you tell us on maybe #3KK here,
14 at the bottom of the photograph, where you were sprawled
15 out?

16 A I was sprawled out on the floor, behind the couch. Faced
17 the doors this way. Facing the door. I mean, my head was
18 towards the door and my wife was at the side, between the
19 sofa and the fireplace, laying face -- her head toward the
20 kitchen.

21 Q All right. So, were you kind of facing this way?

22 A Yes.

23 Q With your heads facing each other?

24 A Yeah. Like this.

25 Q Okay. And also, is that a picture of the kitchen?

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- 1 A Yes.
- 2 Q Leading into the kitchen?
- 3 A Leading into the kitchen.
- 4 Q Okay. All right. Now, on #3JJ, the bottom photograph, you
- 5 said the second fellow that came into the house went to a
- 6 bathroom?
- 7 A Yes.
- 8 Q Is that the bathroom he went into?
- 9 A Yes.
- 10 Q Okay. Okay. #3LL?
- 11 A That's the kitchen. The bottom is the kitchen and that
- 12 shows going into the kitchen.
- 13 Q And was that the lighting in the kitchen at the time?
- 14 A Yes.
- 15 Q Okay. You didn't turn off any lights at that time?
- 16 A No.
- 17 Q Okay. And I believe the police took these photographs.
- 18 Correct?
- 19 A Yes.
- 20 Q Okay. #3MM, can you tell us what that is?
- 21 A That's duct tape on the counter in our kitchen.
- 22 Q Now, where did that duct tape come from?
- 23 A It came from me.
- 24 Q Your legs or your arms or what?
- 25 A It looks like it came from the one on my arms, on my

1 wrists.

2 Q Okay. And did you slide that duct tape off, sir?

3 A Yes, I did.

4 Q All right. #3NN?

5 A That's the table in the kitchen and that's the sink and
6 everything in the kitchen.

7 Q Okay. I'm going to show you #300.

8 A That's the freezer in the kitchen and fridge and part of
9 the table and the clutter on the floor.

10 Q Well, let me ask you. Was the clutter on the floor before
11 the two ---

12 A No, no.

13 Q How did that clutter get on the floor?

14 A That clutter came when he rambled through the wallets and
15 purse, my wife's purse, both.

16 Q Okay. #3PP?

17 A That's my wife's purse and that litter on the floor came
18 out of her purse. And that's the same there.

19 Q All right. #3QQ?

20 A That is a pie safe in the dining room, which is adjacent
21 to the kitchen and the drawer is ajar where Brooks rambled
22 through that and that is that same pie safe and that's the
23 dining room table.

24 Q All right. Okay #3TT, can you tell us what this is?

25 A Those are the scissors that I used to cut my duct tape on

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1 my ankle and that's where Brooks rambled through the stuff
2 on the table, the kitchen table.

3 Q I'm going to show you #3C. What is that, if you can tell
4 us?

5 A It's a strong box that was in my closet in our bedroom
6 upstairs.

7 Q All right. Was it open like that?

8 A No, it was closed.

9 Q And I'm going to show you #3RR, is that a -- what is in
10 #3RR?

11 A That's still the strong box, both pictures of that is the
12 strong box.

13 Q And #3SS?

14 A That's the jewelry, where my wife keeps her jewelry and
15 the strong box, again.

16 Q All right. Now, I notice there was some damage on that
17 strong box. Was that box in that shape before the
18 perpetrators got there?

19 A Yes, it was.

20 Q So, that damage was created by you?

21 A By me. I forgot the combination one day.

22 Q All right. Now, I'm going to going to show you #3D. Can
23 you tell us what this is, please?

24 A I can't see it.

25 Q Oh, you can't see? I'm sorry.

1 A This is the closet in our bedroom. That's my wife's closet
2 and that's closet doors showing some coins.

3 Q Okay. Were those coins placed there?

4 A No. They were -- Brooks threw them down, I guess.

5 Q I'm going to show you #3E. Can you tell the jury what that
6 is?

7 A That's one of the spare bedrooms and Brooks went through
8 some drawers in that bedroom and that's where he put it on
9 the bed.

10 Q Number #3I. I'll let you look at it first.

11 A That's the chest of drawers in our bedroom. That's where
12 Brooks rambled through those drawers and that's where he
13 threw the stuff from the chest of drawers.

14 Q All right. #3J?

15 A That is a, something like a jewelry box on top of the
16 chest of drawers in our bedroom, where Brooks had opened
17 it up.

18 Q #3K?

19 A That's the dresser -- no, that's the chest of drawers in
20 the same picture. And then that's more clutter that Brooks
21 ended up throwing on the floor.

22 Q #3L?

23 A That's drawers on, open drawers. It looks -- yeah. It's
24 from the chest of drawers in our bedroom.

25 Q Okay. #3M?

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- 1 A That's a wider view of our bedroom after they'd left.
2 That's the dirty clothes hamper.
3 Q Okay. Were any of these things open prior to Brooks
4 getting there?
5 A No.
6 Q #3M?
7 A Again, that's where Cara keeps her jewelry, my wife. And
8 that's what's -- the door is open.
9 Q #3O?
10 A That's the inside of where Cara keeps her jewelry where
11 the necklace hangs. That's in our bedroom.
12 Q All right. #3P?
13 A That's the same thing.
14 Q All right. #3Q?
15 A That's showing the bottom part of where Cara keeps her,
16 some of her jewelry. And that's some jewelry on the floor.
17 Q What is that blue thing there on top of your blue carpet?
18 A That's the towel that Brooks used to -- when he was
19 rambling around in the house.
20 Q Okay. And where was that towel originally?
21 A In the kitchen, hanging on the back of a chair.
22 Q #3R? I'm sorry. (Shows witness photo)
23 A Again, that's the jewelry chest and storage in those
24 drawers on the jewelry chest.
25 Q #3S?

1 A Same thing. Storage drawers.

2 Q #3T?

3 A Same thing.

4 Q #3U?

5 A That's another chest of drawers in our bedroom and that's
6 the dresser.

7 Q #3V?

8 A The same chest of drawers where Brooks rambled through the
9 chest of drawers.

10 Q #3W?

11 A That's a night stand by the bed where Brooks rambled
12 through the drawers.

13 Q #3X?

14 A That is in one of our spare bedrooms showing where Brooks
15 had gone through the chest of drawers.

16 Q Speaking of that, how many bedrooms do you have upstairs?

17 A Four.

18 Q All right. And out of these photographs that we've seen,
19 how many bedrooms were rummaged through?

20 A Well, there's two. You've shown me pictures of two of the
21 bedrooms.

22 Q Okay.

23 A Our bedroom and one of the guest, spare bedrooms.

24 Q Okay. How many were rummaged through? I know I've shown
25 you photographs, but how many were rummaged through?

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- 1 A There were three of them, but these were the worst.
- 2 Q #3Y?
- 3 A That's in the third bedroom, which is a spare room where
- 4 he'd rambled through. That's some of my daughter's stuff.
- 5 Q Okay. And #3Z?
- 6 A That's more clutter on the floor after Brooks had gone
- 7 through some stuff.
- 8 Q Was that upstairs?
- 9 A Yes. That looks like it's in the dining room. Yeah.
- 10 Q That's in your dining room?
- 11 A That's what it appears to be.
- 12 Q And can you tell that by the color of the carpet or how
- 13 can you tell?
- 14 A By the ---
- 15 Q Furniture?
- 16 A No, wait a minute. This is upstairs. Yeah, by the
- 17 furniture and the carpeting is brown. That's in the dining
- 18 room.
- 19 Q All right. Now, I'm going to show you #3F, #3G, and #3H.
- 20 Can you tell us what those pictures are?
- 21 A #3H is showing our house from the corner, across the
- 22 street from our house.
- 23 Q All right. #3G?
- 24 A #3G is showing the front of our house, looking at it from
- 25 Berkley.

1 Q All right. And #3F?

2 A #3F, the bottom shows the garage and this is a storage
3 room on the back of the house.

4 Q Was anything messed with, with the storage room in the
5 back of the house?

6 A No.

7 Q Okay. You can have a -- take a seat and we'll just go
8 through these. I want to go through these. Can you tell us
9 what #3FF is?

10 A That's the inside of our den. That's the umbrella stand
11 and that's the door going into the garage from the den.

12 Q And the other picture?

13 A That's my wife who doesn't look very happy in that
14 picture.

15 Q Okay. And does she have anything around her, on her arms
16 that normally wouldn't be there?

17 A Yes, she still has -- she's cut the duct tape apart, but
18 the tape is still around her wrist.

19 Q And I'll show you #3GG.

20 A That shows, again, my wife with the tape on her wrist.

21 Q #3HH?

22 A The same thing, tape on her wrist.

23 Q And #3II?

24 A Yes. Tape on her wrist.

25 Q Thank you. You can have a seat again. (Witness complies)

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1 Now, Mr. Murphy, when the two perpetrators left your
2 house, you testified that you cut your wrists and ankles
3 loose and cut your wife loose and you called 9-1-1. Is
4 that correct?

5 A That's correct.

6 Q Did you do anything in regards to your garage doors being
7 opened or closed or what did you do?

8 A The person that answered at 9-1-1, one thing that was
9 said was close and lock all doors. So we -- we closed and
10 locked all the doors and lowered the garage door.

11 Q All right. And did it take a while for the police to get
12 there or were they ---

13 A The police were -- they were there in under five minutes.

14 Q All right. And did you let them in through the -- which
15 door did you allow them entrance to?

16 A The first police came in through the front door. I looked
17 out the door through the top window and saw the police
18 there. So, that's when I opened the door and they came in.

19 Q That would be the entrance facing Berkley Street?

20 A Yes.

21 Q Okay. The front of your house. Correct?

22 A At the front.

23 Q All right. Okay. Now, at -- and you had a chance to talk
24 to the uniformed officers that got there. Correct?

25 A That's right.

1 Q And then there were other officers that came?

2 A Yes.

3 Q All right. Did they ask you questions about the
4 perpetrators?

5 A Yes, they did.

6 Q And did they also ask you what those perpetrators looked
7 like?

8 A Yes, they did.

9 Q Had you ever seen Michael Brooks before?

10 A No, I had not.

11 Q Did you know Michael Brooks at all?

12 A No, I did not.

13 Q Were you able to give a general physical description of
14 the individuals that robbed you?

15 A Yes, I did.

16 Q And do you remember the general physical description that
17 you gave to the police?

18 A I told them that he was tall, probably over six feet, a
19 muscular build, African American, let's see. No physical
20 markings like tattoos or something that I could see,
21 nothing like that. No facial hair at the time.

22 Q Had the individual had dread locks, would you have
23 noticed?

24 A Oh, yes.

25 Q And as to the second individual?

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- 1 A I could not describe him. I only saw him from the back.
- 2 Q So, the general description of what, shorter or ---
- 3 A He was shorter and not as heavy a build.
- 4 Q All right. And the clothing description, you've given the
- 5 jury already.
- 6 A Yes.
- 7 Q The black with a red or pink, I think you said?
- 8 A Yeah. Right.
- 9 Q All right. Now, did the police also ask you if anything
- 10 was missing from the house?
- 11 A Yes, they asked me and my wife.
- 12 Q Okay. Did you have a chance to check your belongings to
- 13 see if anything was missing?
- 14 A Yes. We went upstairs and my wife could tell, you know,
- 15 more of about what of her jewelry was missing.
- 16 Q Okay. How about downstairs, did you notice anything
- 17 missing in terms of your wallet or anything?
- 18 A My wallet was missing. And her purse had been ransacked
- 19 and gone through.
- 20 Q Did you have any money in your wallet?
- 21 A I had sixty or seventy dollars in my wallet.
- 22 Q Any credit cards, any of that type of stuff in your
- 23 wallet?
- 24 A Credit cards. There was a blank check for my checking --
- 25 no, they were deposit slips for my checking account,

1 driver's license, credit cards.

2 Q Now, I'm going to ask you about a -- did you own a class
3 ring at one time?

4 A Yes, I did.

5 Q Can you tell the ladies and gentlemen of the jury what you
6 did with your class ring?

7 A The ring is my old high school ring and several years ago,
8 I took that ring to a jeweler and he sent it off and had a
9 medallion or a splash made from that ring and I gave it to
10 my wife and on it, the person that made the medallion, put
11 a fancy "C" on that medallion.

12 Q I'm going to show you something that's been marked as
13 State's Exhibit #3B. Do you recognize this object?

14 A Yes, that is a picture of the medallion that I gave my
15 wife.

16 Q Okay.

17 MR. JEPERTINGER: At this time, I'd like to move State's
18 #3B into evidence.

19 THE COURT: Any objection?

20 MR. WILSON: I don't have any objection.

21 THE COURT: #3B is into evidence without objection from
22 Defense.

23 (Whereupon, a medallion is entered into evidence as
24 State's Exhibit #3B, without objection)

25 MR. JEPERTINGER: And may I publish it to the jury?

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1 THE COURT: You may.

2 (Whereupon, State's Exhibit #3B was published to the
3 jury.)

4 Q All right. Now, did you have an opportunity to speak with
5 the police about a week-and-a-half after this incident?

6 A Yes.

7 Q And did Investigator Cody Jordan come out to your
8 residence?

9 A Yes, he did.

10 Q And did he show you a photo array of six individuals?

11 A Yes, he did.

12 Q Okay. I'm going to show you what's marked as State's
13 Exhibit #6. Have you seen this?

14 A Yes, I have.

15 Q All right. And is this the photo array that Cody Jordan
16 showed you on March the 14th, 2014, eleven days after the
17 incident?

18 A Yes, it is.

19 Q Okay. Did he tell you that the individual that pulled a
20 gun on you was in this photo array?

21 A No.

22 Q When he asked you if you recognized anyone, what did you
23 say in regards to any individual on this photo array?

24 A I told him that number two was the guy that had pulled the
25 gun and pushed me back into the house.

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1 Q Did you say -- did you use other language at that point?

2 A He asked if I was a hundred percent and I said, no, but
3 that's the guy, but I was not a hundred percent sure.

4 Q And why weren't you a hundred percent sure at that point
5 when you chose number two?

6 A That only shows his face and I needed -- and it's just two
7 dimensional so I needed to see more than that to a hundred
8 percent be sure.

9 Q Okay. Subsequent to that event where you said number two,
10 I guess resembled the gentleman that came in the house and
11 you couldn't be a hundred percent sure -- and by the way,
12 who was number two in this photo array?

13 A It's the gentleman sitting over there. Mr. Brooks.

14 Q Mr. Brooks.

15 MR. JEPERTINGER: At this time, I would move the photo
16 array into evidence, Your Honor.

17 THE COURT: Any objection?

18 MR. WILSON: Subject to the objections that we previously
19 made.

20 THE COURT: Very good. They're into evidence over Defense's
21 objection.

22 MR. JEPERTINGER: Okay.

23 THE COURT: And that is known as State's Exhibit...

24 MR. JEPERTINGER: #6.

25 THE COURT: #6 is into evidence.

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1 (Whereupon, a photo lineup is entered into evidence
2 as State's Exhibit #6, over objection.)

3 MR. JEPERTINGER: And I'd ask to publish it to the jury.

4 (Whereupon, State's Exhibit #6 was published to the
5 jury.)

6 Q Okay. After March 14th, 2014, did you have an opportunity
7 to see Mr. Brooks in a court setting?

8 A Yes, I did.

9 Q Okay. And when you saw Mr. Brooks in a court setting, did
10 you hear him speak?

11 A Yes, I did.

12 Q Did you get to observe his physical characteristics?

13 A Yes.

14 Q Based on that and your previous identification of him
15 resembling #2 in the photo array, is there any doubt in
16 your mind of who held the gun on you?

17 MR. WILSON: Objection. He's leading his witness and he's
18 suggesting things to him.

19 THE COURT: I'll ask that you re-phrase the question.

20 Q Did you have a chance to see him at a subsequent hearing?

21 A Yes, I did.

22 Q How sure are you of the individual that robbed you?

23 A I'm positive of the man that held the gun and robbed me.

24 Q And can you point that individual out to the Court and to
25 the jury today?

1 A Yes. He's in the white shirt there, next to his lawyer..

2 Brooks.

3 Q Did you hear his voice at the hearing?

4 A Yes, it was the bond hearing.

5 Q Was it the same voice?

6 A The same voice.

7 Q The same man?

8 A Same man.

9 MR. JEPERTINGER: I beg the Court's indulgence.

10 Q Thank you, Mr. Murphy. Please answer any questions Mr.

11 Wilson may have for you.

12 THE COURT: Mr. Wilson, cross examination.

13 MR. WILSON: Thank you very much, Your Honor.

14 CROSS EXAMINATION

15 BY MR. WILSON:

16 Q Mr. Murphy, I'm sure that this was quite an ordeal for you
17 and for your wife and you'd never been through anything
18 like this before, had you?

19 A Never.

20 Q And you're home in the middle of the day and a man comes
21 to your home and puts a gun in your face and pushes you
22 back into your house?

23 A That's correct..

24 Q And that was, at least, upsetting to you. Would you agree?

25 A Very upsetting.

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1 Q And were you afraid?

2 A Yes, I was.

3 Q And especially when your wife came into the room and then
4 they put a gun to her and forced her down?

5 A And threatened her.

6 Q And threatened her. And that would make you even more
7 afraid.

8 A That's right.

9 Q Not just for yourself, but for her, as well. And that's
10 understandable. Now, let's talk a little bit, though,
11 about how all of this unfolded and what transpired from
12 that point. As I understand it, you told the Solicitor
13 that you did not know Michael Brooks before this event
14 occurred. Is that correct?

15 A That's correct.

16 Q All right. And you didn't know this Mr. Campbell either.
17 Right?

18 A That's correct.

19 Q Now, earlier you said, when we had a hearing, that you
20 wear glasses and that you always wear them. Is that
21 correct?

22 A That's correct.

23 Q And why is that? Why do you need glasses? I mean, what is
24 your eyes -- what is the problem with your eyes?

25 A My main problem is seeing up close. I ---

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1 Q So, the closer a person -- I'm sorry.

2 A If I'm reading or something, I need my glasses. I've had
3 cataract surgery so my distant vision is fine, but it's
4 still a problem with reading up close.

5 Q Okay. And how long ago did you have your cataract surgery?

6 A Oh, December and January, maybe two years ago.

7 Q Okay. So, maybe a year or so before this incident occurred
8 at your home?

9 A Yes.

10 Q And had you fully recovered from your surgery at that
11 time?

12 A Yes, I had.

13 Q All right. And now I noticed that when you were talking
14 with the Solicitor about the video, y'all were talking
15 about the video and you were standing up here and they
16 were playing the video for you and you were at the bank,
17 but you weren't wearing your glasses. I think you had them
18 around your neck?

19 A When I had my surgery for cataracts, they put -- they gave
20 me a new prescription. They did my left eye first and they
21 gave me a new prescription for my right eye. When I had
22 those glasses fitted for me and put them on, I saw double
23 because my right eye was so weak and I went to Pee Dee
24 Optics. That's where I get my glasses, and the gentleman
25 there corrected it by putting a contact lense in my right

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1 eye and I did not need anything in my left eye, but I
2 still needed glasses for up close reading.

3 Q Okay. All right. So, when you were in the bank and you had
4 your glasses around your -- and this is a year after the
5 surgery. Is that correct?

6 A Yeah. Well, I can't -- it might have been less than --
7 well, I had it in December.

8 Q So, 2013?

9 A So, this was the year -- yeah '13.

10 Q You had it in 2013 and this would have been March of 2014?

11 A '14.

12 Q So, four months removed?

13 A Yes.

14 Q All right. And so, I guess my question is, the day that
15 you were in the bank are you saying that at that point you
16 had contact lenses in one of your eyes and the other one
17 was fine? Is that what you're saying?

18 A That's correct.

19 Q Okay. And so, then, why were you still wearing your
20 glasses around your neck?

21 A Because if I have to read anything or have anything up
22 close, I still need reading glasses.

23 Q Okay.

24 A And those were reading glasses and not prescribed glasses.

25 Q Okay. Now, the glasses that you're wearing today, are they

1 reading glasses or are they prescribed glasses?

2 A No, they're prescribed glasses.

3 Q Okay. So, the ones you had on, on March the 3rd, which is
4 the day that you were in the bank, were reading glasses?

5 A Yes, that's correct.

6 Q And you had a contact in one of your eyes and nothing in
7 the other eye?

8 A That's correct.

9 Q All right. Now, so that day when you got back home, you
10 would have not had glasses on. You would have still had
11 the contact in one eye and nothing in the other eye?

12 A That's correct.

13 Q So, you weren't wearing glasses that day when this event
14 occurred?

15 A That's right.

16 Q Now, when this individual came to your house -- and you
17 say that the man came to the house. Did he ring the
18 doorbell or did he knock?

19 A He rang the doorbell.

20 Q He rang the doorbell and you went to the door. And when
21 you got to the door he asked you a question about whether
22 or not you needed somebody to paint for you?

23 A That's correct.

24 Q And you said, "Well, I have vinyl siding"?

25 A (Nods head)

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- 1 Q At this point, the man puts his hand on your chest, kind
2 of gets your shirt, pushes you back into the house with a
3 gun?
- 4 A (Nods head)
- 5 Q Okay. Now, is this in the garage?
- 6 A No, I was standing in the door with the door open and he
7 was on the step.
- 8 Q Okay. So, what I'm asking, I guess, and I apologize if I'm
9 not clear. What I was asking is, did you come out of the
10 garage door to meet him ---
- 11 A No.
- 12 Q --- or was this the front door?
- 13 A No. This was the garage door, leading into the den from
14 the garage.
- 15 MR. WILSON: Your Honor, may I get these photographs for
16 just a second?
- 17 THE COURT: You may.
- 18 Q I think the garage #3D and #3E. Now, let me show you #3D
19 and -- I think it's marked as State's Exhibit #3D or DD,
20 apparently. And I'll just ask you to take a look at that
21 for me, please, sir. Is that your garage?
- 22 A Yes, it is.
- 23 Q And is that the door that you came out of?
- 24 A I didn't come out of the door. I opened the door.
- 25 Q Okay. And so you opened the door and the man was standing

1 at the steps talking with you?

2 A Yes.

3 Q All right. And so, how close would he have been to you at
4 that point?

5 A Two feet.

6 Q Would you tell me when I'm as close to you as he was?

7 A Okay.

8 MR. WILSON: Is it all right if I approach the witness,
9 Your Honor?

10 THE COURT: Yes.

11 A Okay. Right there.

12 Q So, you would have been this close to him?

13 A Yes.

14 Q Okay. All right. And how long did that contact or that
15 conversation last before he pushed you back into the
16 house?

17 A Oh, a minute or maybe less.

18 Q Okay. So a few, some seconds, you say?

19 A Yes.

20 Q All right. And as he pushed you back, you're saying that
21 he had the gun in one hand. Did you know what color the
22 gun was?

23 A Dark, silvery -- no, it was a dark color.

24 Q Okay. Did it have a cylinder on it or was it a ---

25 A It was a revolver.

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1 Q It was a revolver, okay. And are you familiar at all with
2 guns?

3 A A little bit.

4 Q All right. Do you know if it was a six-cylinder revolver
5 or a five?

6 A I don't know.

7 Q Okay. All right. But you know it was a revolver and you
8 know it was dark in color?

9 A Right.

10 Q Now, was the handle dark or was the whole gun dark or do
11 you know?

12 A Well, I saw the muzzle end of the gun and the barrel, but
13 I never saw the handle, so I don't know.

14 Q Okay. All right. And the muzzle was, you're saying dark?

15 A Yeah.

16 Q Now, you said silver at one point. So, is it silver or is
17 it dark?

18 A It's dark.

19 Q Okay. Dark as in black or dark as in grey or could you
20 tell?

21 A A darker gray to black.

22 Q Okay. And the man pushes you back into the house. Now,
23 when he gets you back into the house, how long are you
24 standing before he makes you get, you get down on the
25 floor? Because you said that he made you get down on the

1 floor.

2 A Yes.

3 Q Okay. So, how long are you standing once you get into the
4 house? And if you would, just explain to us as he pushes
5 you back into the house with your shirt and with the gun,
6 how he makes you lay down.

7 A It was just a matter of seconds, you know. Half-a-minute
8 at the most before he really started threatening and
9 getting me down on the floor.

10 Q Okay. All right. Is there any conversation? Once he puts
11 his hand in your chest and he's pushing you back into the
12 house, is there conversation before he makes you get down
13 on the floor? Is there any conversation between you and
14 him before he makes you get down on the floor?

15 A No, just his saying, "Get on the floor." "Get on the
16 floor."

17 Q All right. So, almost immediately after he pushes you back
18 into the house, the man demands that you get down on the
19 floor?

20 A Correct.

21 Q All right. And when you get down on the floor, you're
22 faced down?

23 A Yes.

24 Q All right. So, from the point that you're faced down, you
25 can't see who the man is or see his face anymore from that

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1 point?

2 A Until he walks away and I can see him in the kitchen.

3 Q Okay. Now, we're going to come to that in a minute, but
4 when the man, when he is pushing you back into the house,
5 does he have anything in his hands other than the gun?

6 A When he came in?

7 Q Yes, sir?

8 A No.

9 Q Okay. So, there was no role of tape in his hands?

10 A No.

11 Q All right. Because he had one hand in your chest and the
12 other hand with the gun?

13 A That's correct.

14 Q All right. And is there any question in your mind about
15 that?

16 A No.

17 Q All right. And when you get into -- when he puts you down
18 on the floor, is your wife coming almost immediately in
19 from the kitchen at that point?

20 A Almost immediately.

21 Q All right. And she hears some noise or ruckus or whatever
22 it is and she's trying to come see what's going on?

23 A That's correct.

24 Q The man then demands that she get down and he's yelling at
25 her to get down on the floor?

1 A That's correct.

2 Q All right. Now, your kitchen -- does your kitchen lead
3 into -- the area where the garage door is, now what room
4 of the house is that leading from?

5 A The den.

6 Q Okay. So, the kitchen, does your kitchen lead into your
7 den?

8 A Yes, it does. It's about a six-foot opening.

9 Q Okay. So, when she's coming out of the kitchen into the
10 den area and as soon as she gets there, the man tells her,
11 "Get down, get down," and starts yelling at her to get
12 down on the floor?

13 A Yes?

14 Q And she complies?

15 A Yes.

16 Q Okay. Is there any conversation between you and her at
17 that point?

18 A No.

19 Q And so now you said you were over behind the couch?

20 A Yes.

21 Q All right. And she was where, now, in reference to you?

22 A I was laying facing the door that was used to come into
23 the house and she was behind the sofa. This is my head and
24 she was laying this way.

25 Q How close were you together? Within inches of each?

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1 A Oh, yeah.

2 Q All right. All right. And so when you're laying there, you
3 said at some point, and I guess she's the one -- when the
4 first man calls for the second man, is your wife already
5 laying down on the floor?

6 A I think -- yes, I think she was.

7 Q Okay.

8 A We were both down on the floor.

9 Q Okay. So, you're both down on the floor and then the first
10 man who is in there with a gun calls for a second man to
11 come in. Is that correct?

12 A Yes.

13 Q The second man comes in. Now, when the second man comes
14 in, can you see him?

15 A No.

16 Q All right. And why is it that you cannot see him at this
17 point?

18 A My face, I was faced down.

19 Q Okay. You're faced down and your wife is also faced down
20 at this point?

21 A Yes.

22 Q Okay. So, when the second man comes in, how does the
23 taping begin? Does this first man tell him to tape you or
24 he just comes in and starts taping you?

25 A He says, tie them up or tape them up, I forget which. And

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1 the second man, that's when he started.

2 Q Could you see where the tape came from?

3 A No..

4 Q All right. Do you know who brought the tape into your
5 home?

6 A No..

7 Q Who do they tape first, you or your wife?

8 A They tape me first.

9 Q They tape you first. And they do your hands behind your
10 back and your feet?

11 A Ankles, right.

12 Q Ankles. All right. And then they do your wife, as well?

13 A Correct.

14 Q All right. Now, once both of you are taped, that's when
15 the rummaging starts through the house?

16 A He was rummaging. Brooks was rummaging, as the guy was
17 taping us up, and talking and shouting and threatening,
18 all of it at the same time.

19 Q Okay. Now, so at one point we know that there are at least
20 two people in the house, two men?

21 A Yes.

22 Q Two perpetrators. Fair? Right? Is there ever a third
23 perpetrator in the house?

24 A No.

25 Q Okay. So, at no point in time was there ever a third

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- 1 person in that house?
- 2 A Right.
- 3 Q Is there any question in your mind about that?
- 4 A No.
- 5 Q Emphatically, without question, no third person ever was
- 6 in that house?
- 7 A That's correct.
- 8 Q Now, so nobody named Mr. Campbell ever was in your house?
- 9 A Campbell?
- 10 Q Yes.
- 11 A I don't know.
- 12 Q Okay. Well, and that's my question. Was there ever more
- 13 than two people, two perpetrators in your house on this
- 14 day?
- 15 A There were two perpetrators in the house.
- 16 Q Okay. No question. All right. Now, let me ask you this:
- 17 When the perpetrators completed their search or rummaging
- 18 through the house -- well, let me back up. How long would
- 19 you say that they were there? That is, from the time the
- 20 first perpetrator came in with the weapon until the time
- 21 the second perpetrator came in, tied you up, until they
- 22 left. How long -- what period of time are we speaking of?
- 23 A I'd say about fifteen minutes.
- 24 Q Okay. And most of that time, except for the first few
- 25 seconds, you were faced down?

1 A Except when I was looking around.

2 Q Okay. So, and let's talk about that. When you were looking
3 around, you were faced down on the floor and your hands
4 are tied behind your back and your feet are tied or taped
5 and you are faced down on the floor and so you are trying
6 to hold your head up to see what you can see as best you
7 can. Is that what you're saying?

8 A That's correct.

9 Q Okay. And you never could get a visual of the second man,
10 other than the fact that you saw his back at one point?

11 A That's right.

12 Q All right. And how would you describe the second man based
13 on what you visualized?

14 A He was shorter than the first guy. He didn't have the
15 muscular build and I never heard him say anything.

16 Q Now, did he have dreads or do you know?

17 A I don't know. He had a hat on or a cap.

18 Q Okay. And I think you described it as a toboggan or ---

19 A Well, that's what it looked like.

20 Q All right. And what color was the toboggan that he had on?

21 A Dark.

22 Q Dark as in black or maybe dark -- maybe blue or brown?

23 A Yeah.

24 Q Now, let me ask you. In the video that the Solicitor
25 showed you earlier, he was asking you to identify, if you

CROSS EXAMINATION OF LARRY MURPHY BY MR. WILSON

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1 could identify the person who was in the video. Correct?

2 A That's correct.

3 Q And you hesitated for a period of time when you were with
4 him with two feet on the video?

5 A Okay. Yes.

6 Q All right. And you could not tell that that was not Mr.
7 Brooks?

8 A Yes, I could tell it was not him.

9 Q Well, then what was the hesitation?

10 A I wanted to be sure that what I was about to say was what
11 I was seeing.

12 Q Okay. So, would you describe the difference between Mr.
13 Brooks and the man that was in the video?

14 A The man in the video was not as muscular a build as Mr.
15 Brooks.

16 Q Okay. Now, let's talk about the identification for a
17 minute. When the police came to see you the day of this
18 incident, the very first thing or one of the very first
19 things that they wanted to know from you was if you could
20 identify the person who had perpetrated this offense
21 against you.

22 A That's correct.

23 Q All right. And they asked you to give them a general
24 description or the best description that you could of
25 these individuals and you said; I think, black male, over

- 1 six foot tall, with a muscular build. Is that right?
- 2 A Yes. Thirty or early thirties.
- 3 Q All right. And no facial hair?
- 4 A No facial hair that I remember.
- 5 Q All right. Now, let me show you what's marked as Exhibit
- 6 #6, State's Exhibit #6 and ask you to take a look at that
- 7 for us. (Witness complies) Now, that is the photographic
- 8 lineup that the police brought to you back on, what, March
- 9 14th, I think it was?
- 10 A I don't know the date, but ---
- 11 Q Let me check and make sure. March 14th.
- 12 A Okay.
- 13 Q They brought you that March 14th, which would have been
- 14 eleven days after the incident. Correct?
- 15 A Correct.
- 16 Q Right. And you told them, you said that the man that most
- 17 resembles the perpetrator is #2?
- 18 A That's correct.
- 19 Q Right. But that I can't be a hundred percent positive?
- 20 A That's correct.
- 21 Q Now, the man who is #2 in that has facial hair, does he
- 22 not?
- 23 A It doesn't look like it to me, because it's dark. The
- 24 picture is fairly dark.
- 25 Q Well ---

CROSS EXAMINATION OF LARRY MURPHY BY MR. WILSON

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1 A With the others, I can see facial hair.

2 Q Well, so what you're saying to me is, is that the other
3 five individuals in that photograph you can see facial
4 hair, but for #2, you couldn't see any facial hair?

5 A That's correct.

6 Q Now, so when you have this conversation with the police,
7 and when they come -- let me back up just a minute. When
8 they come to you to talk with you, had you had any
9 conversations with the police between March the 3rd and
10 March the 14th, when they brought you these photographs?

11 A No.

12 Q Okay. No conversations, nothing. You hadn't heard anything
13 from them since the day they came to your house and left?

14 A Not that I recall. But the police really kept us informed
15 and Detective Justin Heard -- I mean ---

16 Q Head?

17 A --- Head kept us very much informed and he may have
18 stopped by, you know, to keep us informed.

19 Q Okay. Well, if you hadn't heard from them in eleven days
20 after your -- you would will be a little concerned,
21 wouldn't you? So, you would think that you probably did
22 hear from them in that eleven days?

23 A That's more than likely I did hear.

24 Q All right. And did they tell you that we have a suspect at
25 some point in time before they give you this photograph to

1 look at, this lineup?

2 A They came and I think it was Detective Head that had
3 traced the jewelry that was tied to -- that this lady was
4 wearing at the pawn shop or the jewelry store. And they
5 were trying to trace it back, you know, and arrest someone
6 or get someone for questioning anyway, if I remember that
7 correctly.

8 Q Very well. Now, who was present when the photograph lineup
9 that is #6, State's Exhibit #6, when it was brought to
10 you? Who else was present, other than you and Investigator
11 Head?

12 A My wife.

13 Q All right.

14 A No, no, it wasn't Investigator Head. When they brought the
15 photo?

16 Q Yes, sir.

17 A It was the other gentleman.

18 Q Cody Jordan?

19 A And there may have been a policeman with him, but I don't
20 remember.

21 Q Okay. Tell me what they said to you. When they brought the
22 lineup to you and asked you to look at it, what
23 specifically did they tell you? What did they say to you?

24 A They said they wanted to see if I could identify from
25 these pictures the person that came into the house.

CROSS EXAMINATION OF LARRY MURPHY BY MR. WILSON

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1 Q Okay.

2 A We were in the kitchen and they asked my wife to leave the
3 room and then they showed me these pictures. And then
4 after I identified #2, then they asked my wife -- I left
5 the room and they asked my wife to come in.

6 Q Okay. All right. So, even after the police showed you the
7 photograph and you picked the person that you thought most
8 resembled the perpetrator, you still were not certain that
9 that was, in fact, the person. Is that right?

10 A I wasn't a hundred percent.

11 Q But you later, after they made an arrest and there was a
12 bond hearing, you appeared at that bond hearing, did you
13 not?

14 A Yes, I did.

15 Q All right. And then you saw a Mr. Brooks at the bond
16 hearing?

17 A Yes, I did.

18 Q All right. And that's when you say you became a hundred
19 percent certain that he was the one?

20 A That's correct.

21 Q And he was under arrest at that point in time, right? And
22 in jail and waiting on a bond?

23 A Yes.

24 Q All right. And y'all were at the bond hearing. Now, let me
25 ask you this because you said that -- you told the police

- 1 the man did not have facial hair and the only one of the
2 people in that photograph that you thought did not have
3 facial hair was Mr. Brooks. Is that a fair statement?
4 A Number one doesn't look like he has facial hair.
5 Q Okay. All right.
6 A Number four, he may have a mustache. It's hard to tell.
7 Q Well, can you tell now looking at #2, which is a picture
8 of Mr. Brooks, that, in fact, he does have facial hair; a
9 mustache, goatee, and a light beard?
10 A Yes, he does. I guess that's what that is. It's real dark.
11 Q It could have been facial hair?
12 A It could be he just needed shaving.
13 Q Well, it's still facial hair, right?
14 A Right.
15 Q No question about that. Now, let me ask you about the
16 medallion. As I understand it, this was an object that you
17 made from a class ring that you had, for your wife?
18 A I had made. I did not make it myself.
19 Q That you had made. I apologize. That you had made to give
20 to your wife and you gave it to her and that was one of
21 the items that was taken from your home on March 3rd?
22 A Yes.
23 Q All right. Now, when did you see the item again? When did
24 you get it back? Or did you get it back might be the
25 question?

CROSS EXAMINATION OF LARRY MURPHY BY MR. WILSON

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1 A Yes, we got it back. Detective Head brought it back by the
2 house.

3 Q Okay. All right. And when he brought it by, did he take a
4 photograph of it and have you sign the photograph
5 indicating that this was, in fact, your medallion, again,
6 that it was being returned to you?

7 A I don't remember when that photograph was made.

8 Q Okay. It wasn't made when he returned it to you?

9 A I do not remember.

10 Q Okay. Well, let me ask you this: Did he have you sign
11 anything indicating that the medallion had, in fact, been
12 returned to you and that this was, in fact, the medallion
13 that was returned to you?

14 A He didn't have me sign anything.

15 Q Well, did he have your wife, in your presence, sign it?

16 A I don't remember.

17 Q Well, let me ask you. In regards to the medallion, do you
18 know when it was that they returned it to you?

19 A Date? Is that ---

20 Q Yes, sir?

21 A No, I don't. It was sometime after all of the incident
22 happened, but I do not remember exactly when they brought
23 it back.

24 Q Was it before or after the photographic lineup or do you
25 recall that?

1 A It was after.

2 Q It was after the photographic lineup. Do you know how long

3 -- because the photographic lineup, we determined, was on

4 the 14th. So, how long after that was it, if you know?

5 A I don't know.

6 Q Do you know whether it was some months, some days or some

7 weeks?

8 A I don't know. It wasn't months.

9 Q All right. When it was returned to you, did they tell you

10 where they had retrieved it from?

11 A They gave us how they had traced it back, yes.

12 Q Okay. So, when they brought it back, they told you how

13 they came into possession of it?

14 A That's correct.

15 Q And they went through the chronology of who had it and who

16 pawned it and that kind of thing. Is that right?

17 A Well, it was never pawned. It was worn and it was

18 recognized.

19 Q Okay. By the jeweler at the ---

20 A Yes.

21 MR. WILSON: Bear with me just one second, please, sir.

22 Q Let me ask you something. In regards to your conversations

23 with the police about the suspect who came into your

24 house, what complexion did you describe to them as the

25 perpetrator being?

CROSS EXAMINATION OF LARRY MURPHY BY MR. WILSON

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- 1 A African American. As a complexion ---
- 2 Q Or were you even able to give them a complexion?
- 3 A I don't remember if I said he was dark-skinned, light.
- 4 I don't remember answering that question.
- 5 Q Okay. Well, let's talk about it for a second. The second
- 6 man that was there that you say that you only saw from the
- 7 back. Right?
- 8 A (Nods head)
- 9 Q So, you never saw his complexion at all?
- 10 A That's correct.
- 11 Q So, you don't know if he was light, dark complexioned, or
- 12 light skinned?
- 13 A That's correct.
- 14 Q All right. And how would you describe Mr. Brooks'
- 15 complexion?
- 16 A Well, he's not as dark as some African Americans that I've
- 17 seen, but he's not as light as some African Americans that
- 18 I've seen, so he's probably in the middle somewhere, not
- 19 light but still not dark.
- 20 Q So, if you were describing him to the police, what would
- 21 you say?
- 22 A Just what I said. He's not light, but he's not dark.
- 23 He's...
- 24 Q Okay. But when you gave them a description you never used
- 25 complexion at all. In fact, all you told them is simply

1 that it was an African American person. Is that correct?

2 A I do not remember, actually, anything on complexion.

3 Q Okay. All right. All right. I think that's all I have.

4 Thank you so much, sir.

5 THE COURT: Redirect?

6 MR. JEPERTINGER: I don't think I have anything for Mr.

7 Murphy and ask if he can go back to his seat, Your Honor.

8 THE COURT: You can go back.

9 MR. JEPERTINGER: Your Honor, I would call Cara Murphy to
10 the stand.

11 THE COURT: Not at this time.

12 MR. JEPERTINGER: Not at this time. All right.

13 THE COURT: Mr. Foreman, ladies and gentlemen of the jury,
14 we're going to take a break and we're going to break until one-
15 thirty, one-thirty sharp. We want you back at one thirty sharp.
16 Do not discuss the case amongst yourselves or with anyone else.
17 Everyone remain seated as the jury exits the courtroom.

18 (Jury out at 12:15 PM)

19 THE COURT: Anything from the State before we recess for
20 lunch?

21 MR. JEPERTINGER: No, Your Honor.

22 THE COURT: Anything from Defense?

23 MR. WILSON: No, sir.

24 THE COURT: All right. We'll stand at ease until one-
25 thirty.

1 (Lunch Break)

2 AFTERNOON - JUNE 16, 2015

3 THE COURT: Anything from the State before we proceed?

4 MR. JEPERTINGER: No, sir, Your Honor.

5 MR. RICHARDSON: No, sir.

6 THE COURT: All right. We're ready for the jury.

7 (Jury in at 1:34 PM)

8 THE COURT: It looks like we've got a bunch of Baptists on
9 the jury, everybody sits in the same spot. All right. Thank
10 y'all for being here and thank you for being here on time. Now,
11 once again, pay very close attention to these very serious
12 matters. Mr. Richardson, you're recognized.

13 MR. RICHARDSON: Thank you, Your Honor. The State would
14 call Megan Barr.

15 THE COURT: Yes, ma'am. Please come forward. I'm going to
16 ask, if you could, to place your left hand on the Bible and
17 raise your right hand as the clerk administers the oath.

18 (After being duly sworn by the Clerk of Court,
19 MEGAN BARR testified as follows:)

20 THE COURT: I would ask if you could to have a seat in the
21 witness chair. Pull up real close to that microphone, speak
22 loudly, clearly and slowly in order that we can hear everything
23 that you have to say and your full name, please, ma'am?

24 MS. BARR: My name is Megan Michelle Barr.

25 THE COURT: Now you need to speak up a little bit.

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

1 MS. BARR: Megan Michelle Barr.

2 THE COURT: There you go. Mr. Richardson.

3 MR. RICHARDSON: Thank you, Your Honor.

4 DIRECT EXAMINATION

5 BY MR. RICHARDSON:

6 Q Ms. Barr, would you tell us how old you are, please.

7 A Twenty-eight.

8 Q All right. And do you live in Florence?

9 A I do.

10 Q And how long have you lived in Florence?

11 A All my life.

12 Q Very good. So, you were living in Florence in March of
13 last year?

14 A Yes.

15 Q Back on March the 3rd of last year did you have an
16 opportunity to drive down Marsh Avenue in Florence?

17 A I did.

18 Q And about what time of day, if you recall, did you drive
19 down Marsh?

20 A It was between 11:20 and 11:45 AM.

21 Q And which direction were you headed?

22 A Towards Second Loop.

23 Q All right. And in order to get to Second Loop down Marsh,
24 did you have to go through the intersection of Marsh and
25 Berkley?

DIRECT EXAMINATION OF MEGAN BARR BY MR. RICHARDSON

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1 A Yes.

2 Q And did you see anything at that intersection when you
3 passed through that you deemed unusual?

4 A I did. A saw a larger SUV with a man standing beside it at
5 the stop sign.

6 Q All right. Do you recall if that SUV was to your right or
7 to your left?

8 A It was to my left.

9 Q Okay. And do you recall what the make or model of that
10 SUV?

11 A I would say maybe a Tahoe, a larger SUV.

12 Q All right. And do you recall what color it was?

13 A It was a teal color. It definitely wasn't a stock color
14 that you see everyday.

15 Q Okay. You think it was a teal?

16 A I do. A darker teal color.

17 Q All right. And you said you saw one individual standing
18 near the car?

19 A Yes, sir.

20 Q Do you recall if that individual was on the driver's side
21 of the vehicle or the passenger's side?

22 A The passenger's side.

23 Q And he was just standing by the car?

24 A Yes, sir.

25 Q Do you recall -- I know you just drove by, but do you

1 recall anything about what he looked like?

2 A The only thing, that he was an African American male.

3 That's about the only description I can give.

4 Q Okay. And you're sure only one individual was standing
5 next to that car?

6 A Yes, sir.

7 Q All right. And did you later make, I guess, a report or
8 make contact with the police department ---

9 A I did.

10 Q About what you had seen?

11 A Uh-huh.

12 Q All right. And you explained to him ---

13 A I did.

14 Q --- just what you told us today?

15 A Yes.

16 Q And that's pretty much all you saw. Is that right?

17 A It is.

18 Q Okay. Please answer any questions that Mr. Wilson may have
19 for you.

20 A Thank you.

21 THE COURT: Any cross examination?

22 MR. WILSON: No, sir. No questions.

23 THE COURT: You may step down. Thank you, ma'am. You're
24 free to leave.

25 MR. RICHARDSON: Your Honor, if she can be excused from her

DIRECT EXAMINATION OF TOMMY GIOLDASIS BY MR. RICHARDSON

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1 subpoena?

2 THE COURT: She's free to leave.

3 MR. RICHARDSON: We'd call Tommy Gioldasis next.

4 THE COURT: Mr. Gioldasis, please come forward. I'm going
5 to ask you if you could to place your left hand on the Bible
6 and raise your right hand as the clerk administers the oath.

7 (After being duly sworn by the Clerk of Court, TOMMY
8 GIOLDASIS testified as follows:)

9 THE COURT: Have a seat in that witness chair, pull up real
10 close to that microphone and speak loudly, clearly and slowly
11 in order that we can hear everything that you have to say and
12 may I ask you to state your full name and spell that last one.

13 MR. GIOLDASIS: Tommy Gioldasis, G-I-O-L-D-A-S-I-S.

14 THE COURT: Very good.

15 MR. RICHARDSON: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MR. RICHARDSON:

18 Q Good afternoon, sir. Can you tell us where you live?

19 A I live at 1300 Berkley Avenue, the corner of Marsh and
20 Berkley.

21 Q The corner of Marsh and Berkley?

22 A Yes, sir.

23 Q All right. Where is that in relation to where the Murphys
24 live?

25 A It's across the street from me.

- 1 Q All right. Is it diagonally across the street?
- 2 A Yes.
- 3 Q Okay. And on your house, do you have a surveillance
- 4 system, video surveillance system?
- 5 A I do.
- 6 Q And was it operational back on March 3rd of last year?
- 7 A Yes.
- 8 Q All right. I'm going to show you a series of items marked
- 9 as State's Exhibits 3YY, 3UU, 3VV, 3WW, and 3XX. Would you
- 10 take a look at these items and let me know if you
- 11 recognize what those are?
- 12 A This is my house, the front yard of the house, yes.
- 13 Q Those are photographs of your front yard?
- 14 A Yes, sir.
- 15 Q Are those photos from the surveillance camera on the front
- 16 of your house?
- 17 A Yes.
- 18 Q And what street does that camera aim at?
- 19 A At Berkley Avenue.
- 20 Q All right. And do each one of those photos, are they date
- 21 and time stamped?
- 22 A It's same date, different time.
- 23 Q Okay. Could you read us the times that you have on them?
- 24 A Okay.
- 25 Q Let me first ask you are those from March the 3rd?

DIRECT EXAMINATION OF TOMMY GIOLDASIS BY MR. RICHARDSON

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1 A Yeah. March the 3rd. Do I have to put it in order?

2 Q Not necessarily. If you could read the times that we have
3 on them.

4 A 11:07:47, 11:01:15, 11:35:55, 11:56:23.

5 Q And are all those in the AM or in the morning?

6 A Yes, sir, it is.

7 Q In each of those photographs, do you observe a vehicle in
8 those pictures?

9 A Yes, I do.

10 Q Based on your observations, those vehicles, the vehicle in
11 each of those photos, does it appear to be the same or a
12 very similar vehicle in each photo?

13 A Yes, sir.

14 Q Very good.

15 MR. RICHARDSON: Your Honor, at this time I'd move State's
16 3YY, 3UU, 3VV, 3WW, and 3XX into evidence.

17 MR. WILSON: Without objection, Your Honor.

18 THE COURT: They're into evidence without objection from
19 the Defense.

20 (Whereupon, 8x10 photocopies are entered into evidence
21 as State's Exhibit #3YY, #3UU, #3WW, and #3XX without
22 objection.)

23 MR. RICHARDSON: And permission to publish, Your Honor?

24 THE COURT: You may.

25 (Whereupon, State's Exhibits #3YY, #3UU, #3WW, and #3XX

1 were published to the jury.)

2 THE COURT: Can counsel approach the bench, please?

3 (Whereupon, a bench conference was held off the record.)

4 Q All right. Now, Mr. Gioldasis, did the police come to your
5 house at some point on March 3rd or shortly thereafter?

6 A Yes, sir.

7 Q And did you supply them with the video camera footage from
8 your house?

9 A Yes, sir.

10 Q All right. And those are still shots from that video. Is
11 that right?

12 A Yes, sir.

13 Q Okay. Thank you, sir. Please answer any questions the
14 Defense may have for you.

15 MR. WILSON: No questions, Your Honor.

16 THE COURT: You may step down and you're free to leave.

17 Thank you, sir.

18 THE COURT: You may call your next witness.

19 MR. RICHARDSON: Thank you, Your Honor. We'd call Franklin
20 Jones.

21 THE COURT: Mr. Jones, please come forward. I'd ask you if
22 you could to place your left hand on the Bible and raise your
23 right hand as the clerk administers the oath.

24 (After being duly sworn by the Clerk of Court, FRANKLIN

DIRECT EXAMINATION OF FRANKLIN JONES BY MR. RICHARDSON

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1 JONES testified as follows:)

2 THE COURT: Pull up real close to that microphone and speak
3 loudly, clearly, and slowly in order that we can hear
4 everything that you have to say, starting with your ---

5 MR. JONES: Franklin D. Jones.

6 THE COURT: Very good, Mr. Jones.

7 MR. RICHARDSON: Thank you, Your Honor.

8 DIRECT EXAMINATION

9 BY MR. RICHARDSON:

10 Q Mr. Jones, do you live in Florence?

11 A Yes, sir.

12 Q All right. And what do you do for a living in Florence?

13 A I'm a retail jeweler.

14 Q All right. And where do you work?

15 A Precision Lapidary Jewelers..

16 Q Okay. And do you own that place?

17 A Yes, sir.

18 Q And sometimes throughout the course of your business do
19 individuals come in to sell pieces of jewelry?

20 A Yes, sir.

21 Q Do you ever hear from the police to be on the lookout for
22 things?

23 A Yes, sir.

24 Q And did you hear -- in early March 2014, did you hear from

1 the police about any particular object?

2 A Yes, sir.

3 Q And what was the description given to you from the police?

4 A The hammer designed pendant with the "C" initial on it.

5 Q Okay. I'm going to show you what's already in evidence as

6 State's 3B. Do you recognize that?

7 A Yes, sir.

8 Q Did you see that back in March of 2014?

9 A Yes, sir.

10 Q Explain to us how you saw it.

11 A Ms. Heyward came into my store late in the afternoon with

12 some articles to sell and she was wearing the pendent.

13 Q Okay. And Ms. Heyward, is that Darlene Heyward?

14 A Yes, sir.

15 Q All right. Is she a regular customer of yours?

16 A Yes, sir.

17 Q So, she wasn't attempting to sell ---

18 A No, sir.

19 Q You just saw her wearing it?

20 A Yes, sir. She had an attachment to it. She liked the

21 piece.

22 Q Okay. And when you saw that ---

23 A Yes.

24 Q --- around her neck ---

DIRECT EXAMINATION OF FRANKLIN JONES BY MR. RICHARDSON

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1 A Yes, sir.

2 Q --- what did you do?

3 A I realized it was the article that they were looking for.

4 Q Okay. And when you realized that, what steps did you take
5 then?

6 A The Florence Police Department was alerted.

7 Q Okay. And did you give them the information you had with
8 respect to who was wearing that?

9 A Yes, sir. They went through my records and they got her
10 information, when she was there doing business. So, he
11 said, "This is who came by that afternoon?" I said, "Yes,
12 sir," and they took the paperwork that she filled out.

13 Q But when she left your store, she was still wearing that
14 necklace?

15 A Yes, sir.

16 Q All right. Very good. Mr. Jones, do you recall the date
17 that Ms. Heyward was in your store?

18 A No, sir. We filled out a form that day when she was in the
19 store ---

20 Q All right.

21 A --- that was submitted to the Florence Police Department.

22 MR. RICHARDSON: I'd like to have this marked as a State's
23 Exhibit.

24 Q Mr. Jones, I want to show you what's been marked as

1 State's #8, for identification only, at this time. Do you
2 recognize that?

3 A Yes, sir.

4 Q What is that?

5 A That's the gold buying form that was filled out, yes.

6 Q And that's something you use in your course of business?

7 A Yes, sir.

8 Q And what's the customer's name on there?

9 A Darlene Heyward.

10 Q And what's the date listed on there?

11 A The date is very difficult to see. This is a copy that's
12 tough to be able to see the date on it.

13 Q Tough to see?

14 A Yes, sir.

15 Q All right. But there is a date on it?

16 A Yes, sir. A date and a time.

17 Q Very good.

18 A Uh-huh.

19 MR. RICHARDSON: All right. Your Honor, I'd ask for State's
20 #8 to be placed into evidence.

21 THE COURT: Any objection?

22 MR. WILSON: No objection, Your Honor.

23 THE COURT: State's #8 is into evidence without objection
24 from the defense.

CROSS EXAMINATION OF FRANKLIN JONES BY MR. WILSON

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1 (Whereupon, an invoice is entered as State's Exhibit #8,
2 without objection)

3 Q Now, Mr. Jones, after you made contact with the police
4 about what you knew about the jewelry and who had it, was
5 that the extent of what you did in this case?

6 A That was the extent of it, yes, sir.

7 Q Very good. Please answer any questions the Defense may
8 have for you.

9 A Yes, sir.

10 THE COURT: Mr. Wilson?

11 MR. WILSON: Just a couple of questions.

12 CROSS-EXAMINATION

13 BY MR. WILSON:

14 Q Let me ask you, Mr. Jones, this individual, this Darlene
15 Heyward that you say that you purchased some items from
16 her. Is that correct?

17 A Yes, sir. Yes, sir.

18 Q And you said that she'd been a customer of yours in the
19 past?

20 A Yes, sir.

21 Q So, you found out who she was when she came in?

22 A Yes, sir.

23 Q All right. When she would come in, in the past would she
24 be wearing that medallion or was that the first time you'd
25 seen it?

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1 A First time I saw the piece. Yes, sir.

2 Q And did you contact the police the same day?

3 A It was around seven o'clock in the afternoon. It was late
4 in the afternoon. The police was notified in the morning.
5 A tip was made in the afternoon, but the call was made in
6 the morning when I called Justin Head at the police
7 department.

8 Q Okay. So, on the 13th, which is the date of the receipt,
9 she actually came into the store ---

10 A Yes.

11 Q --- and you said that's close to 7:00 PM?

12 A Six-thirty, seven, somewhere in that area.

13 Q And so you tried to call the police, but you weren't able
14 to get in contact with them until the following day, which
15 would have been the 14th?

16 A Right.

17 Q And then they came out to see you on the 14th?

18 A I don't recall the date, sir. He would have that
19 information.

20 Q Well, was it the next day after ---

21 A It was the next morning, yes, sir.

22 Q So, the next morning they come out and they see you. Now,
23 do you have in-store video cameras?

24 A No, sir.

25 Q All right. So, you don't have cameras in your store?

CROSS EXAMINATION OF FRANKLIN JONES BY MR. WILSON

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- 1 A No, sir.
- 2 Q All right. So, there's no surveillance camera in the
- 3 store?
- 4 A In the back of the store.
- 5 Q But not in the ---
- 6 A Not in the showroom.
- 7 Q Okay.
- 8 A Yes.
- 9 Q And you never actually had possession of the medallion at
- 10 any point in time?
- 11 A Yes, sir. I cleaned it.
- 12 Q Okay.
- 13 A Yes.
- 14 Q So, you took it ---
- 15 A She took it off and I cleaned it, yes, sir.
- 16 Q All right. And let me ask you ---
- 17 MR. WILSON: Your Honor, may I approach the witness?
- 18 THE COURT: Yes, sir.
- 19 Q Let me show you what's marked as State's Exhibit #3D.
- 20 A Yes, sir.
- 21 Q Take a look at that for me, please, sir.
- 22 A Uh-huh. Yes, sir.
- 23 Q And tell me if that is the same necklace that you saw.
- 24 A Yes, sir.
- 25 Q All right. And is that the same chain you saw when

1 cleaning it on that day?

2 A I can't tell you about the chain, sir, but the necklace is
3 the item that I saw.

4 Q Okay. All right. So, you don't know if that's the same
5 chain, but you know it's the same medallion?

6 A Yes, sir.

7 Q Okay. And did she bring it in for cleaning for you or you
8 just offered to clean it because she was a customer?

9 A No, sir, she offered to have it cleaned. Yes, sir.

10 Q Thank you, sir.

11 A Thank you, sir.

12 MR. WILSON: I don't have any other questions.

13 MR. RICHARDSON: No redirect, Judge.

14 THE COURT: You may step down.

15 MR. JONES: Thank you, sir.

16 THE COURT: Any objection to this witness being excused?

17 MR. RICHARDSON: No, sir.

18 MR. WILSON: None, Your Honor.

19 THE COURT: You're free to leave. Thank you, sir.

20 MR. JONES: Thank you, sir.

21 THE COURT: Mr. Richardson, You're recognized.

22 MR. RICHARDSON: Thank you, Your Honor. We'd call Darlene
23 Heyward.

24 THE COURT: Ms. Heyward, please come forward. Place you
25 left hand on the Bible and raise your right hand as the clerk

DIRECT EXAMINATION OF DARLENE HEYWARD BY MR. RICHARDSON 198

1 administers the oath.

2 (After being duly sworn by the Clerk of Court,

3 DARLENE HEYWARD testified as follows:)

4 THE COURT: Have a seat in that witness chair. Pull up real
5 close to that microphone, speak loudly, clearly and slowly in
6 order that we can hear everything that you have to say and
7 let's start with your full name, please, ma'am.

8 MS. HEYWARD: Peaches Darlene Heyward.

9 THE COURT: Thank you, Ms. Heyward.

10 MR. RICHARDSON: Thank you, Judge.

11 DIRECT EXAMINATION

12 BY MR. RICHARDSON:

13 Q Ms. Heyward, do you live here in Florence?

14 A Yes, I do.

15 Q And did you live here back in March of 2014?

16 A Yes, sir.

17 Q I want to show you State's #3B, a photograph already in
18 evidence, and ask if you recognize that.

19 A Yes, sir.

20 Q At some point in time in March of last year, did that come
21 to be in your possession?

22 A Yes, it did.

23 Q All right. And explain to the jury how you got it.

24 A My friend had came by, Tasha, and we were just sitting
25 around talking. I had a Michael Kors bag and she had a

1 Jimmy Choo bag. So, we was just talking about exchanging
2 purses. So, therefore ---

3 MR. WILSON: Your Honor, I'm going to object to any
4 conversation that she had with whoever it is she had it with.

5 THE COURT: I sustain the objection.

6 MR. RICHARDSON: Yes, sir, Your Honor.

7 Q Ms. Heyward, you met with a friend of yours or somebody
8 you know. And who was that?

9 A Tasha.

10 Q All right. Tasha McNeil. Do you see her in the courtroom
11 here today?

12 A Yes.

13 Q All right. And where is she located?

14 A Right there. (Indicating)

15 Q Okay. She's seated right here next to the jury?

16 A Yes, sir.

17 Q All right. And that necklace there that you identified,
18 did she have that in her possession?

19 A Yes, sir.

20 Q All right. And how did you get it from her? Did you buy
21 it?

22 A Yes, sir.

23 Q All right. And once you got it, what did you do with it?

24 A I took it to Frank's shop the next day and asked him to
25 check it out and I also bought a smaller herringbone which

CROSS EXAMINATION OF DARLENE HEYWARD BY MR. WILSON

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1 didn't fit. So, I was going to scrap that one out.

2 Q Okay. You intended to keep it?

3 A Yeah. I intended to keep that one because I really liked
4 it.

5 Q Very good. And were you subsequently contacted by Florence
6 Police?

7 A Next day.

8 Q Did they come visit you ---

9 A Yes, sir.

10 Q --- or did you go to the police department?

11 A They came to visit me.

12 Q All right. And did they, I guess, explain to you why they
13 wanted that necklace?

14 A Yes, sir.

15 Q And did you give it to them?

16 A Yes, sir.

17 Q And is that all you had to do with it?

18 A Yes, sir.

19 Q Very good. Please answer any questions that the Defense
20 may have for you.

21 THE COURT: Mr. Wilson.

22 MR. WILSON: Thank you, Your Honor.

23 CROSS EXAMINATION

24 BY MR. WILSON:

25 Q Ma'am, let me ask you. As I understand it, you went to see

1 the jeweler on the 13th. That was the date that you went?

2 A I don't know what the date was.

3 Q All right. But you did go see the jeweler?

4 A Yes.

5 Q Frank Jones. Is that correct?

6 A Yes.

7 Q All right. And what was your purpose in going there to see
8 him?

9 A To scrap the short chain I bought from her and have him
10 clean that one.

11 Q Okay. All right. And have you bought and sold jewelry to
12 him in the past?

13 A I been knowing Mr. Jones since I was two years old.

14 Q Okay. And you said something earlier about wanting to
15 change the chain to a herringbone chain or something. What
16 did you say about a herringbone chain?

17 A I said a short herringbone chain is what I scrapped out
18 that day.

19 Q Okay. That's what you sold?

20 A Yes.

21 Q Okay. I'm sorry. All right. So, you sold him a herringbone
22 chain and he cleaned your medallion for you?

23 A Yes.

24 Q All right. Did you know Michael Brooks?

25 A No, I don't know him.

DIRECT EXAMINATION OF LATASHA MCNEIL BY MR. RICHARDSON

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1 Q Have you ever met him before in your life ---

2 A Never.

3 Q --- that you know of?

4 A That I know of.

5 Q Did you get any medallion from him?

6 A No, I've never met him.

7 Q Okay.

8 MR. WILSON: I don't have any other questions.

9 THE COURT: Any redirect?

10 MR. RICHARDSON: No redirect.

11 THE COURT: You may step down and you're free to leave.

12 MR. RICHARDSON: Your Honor, our next witness is Latasha

13 McNeil.

14 THE COURT: Ms. McNeil, please come forward. I ask if you
15 could to place your left hand on the Bible and raise your right
16 hand.

17 MR. WILSON: Your Honor, may we approach?

18 THE COURT: Certainly.

19 (Bench conference off the record)

20 THE COURT: All right. Place your left hand on the Bible
21 and raise your right hand as the clerk administers the oath.

22 (After being duly sworn by the Clerk of Court, LATASHA
23 CHEVON MCNEIL testified as follows:)

24 THE COURT: Have a seat in the witness chair. Pull up real
25 close to that microphone and speak loudly, clearly and slowly

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1 in order that we can hear everything that you have to say.

2 Start with your full name, please, ma'am.

3 MS. MCNEIL: My name is LaTasha Chevon McNeil.

4 THE COURT: Very good.

5 MR. RICHARDSON: Thank you, Your Honor.

6 DIRECT EXAMINATION

7 BY MR. RICHARDSON:

8 Q Ms. McNeil, back in March of 2014, where did you live?

9 A I lived behind Michael Brooks in a green trailer, which
10 was called Smith & Smith, but they changed the name when I
11 moved out there to Grover Valley.

12 Q Okay. And about where is that located in Florence?

13 A Off of National Cemetery Road.

14 Q All right. So, you say you were a neighbor of Michael
15 Brooks?

16 A Right behind him.

17 Q Okay. I'm going to show you an Exhibit marked 3B. Do you
18 recognize what's in that?

19 A Uh-huh.

20 Q What is that thing?

21 A That's a necklace, along with some more jewelry that was
22 in a bag that he woke me up, out of my sleep, banging on
23 my door. It was late that night. I get a check, a
24 disability check. So, he knows, because I have given him
25 rides to the store before. So, he knows when I get my

DIRECT EXAMINATION OF LATASHA MCNEIL BY MR. RICHARDSON 204

1 money. So, the 2nd I always go and check the ATM and get
2 my money so I can be able to pay my bills that morning
3 without running around. So, I'd say the 3rd, about late in
4 the night, probably going on twelve-thirty, one o'clock in
5 the morning, I hear a beat on my door. Well, I'm trying to
6 go to bed. I'm in my room so my brother comes, he says,
7 "Mike's here for you." And I was like, "Okay." It's the
8 middle of the night. I said, "What he want?" So, I said
9 just tell him to step to the bedroom because I'm already
10 ready for bed. So, he comes to the edge of my room door. I
11 slide on my thing, I get up and I meet with him. He said,
12 "I got something you might be interested in, because I
13 need help on a bill," which he told me that the jewelry
14 belonged to his wife or girlfriend. They was in need of
15 help. And I said, "Okay, well, I just got the jewelry
16 because I'm kind of sleepy at this time." I purchased the
17 jewelry. I give him \$150.00 and he left out my house.
18 Well, I kept the jewelry in a bag for a week-and-a-half. I
19 never touched the jewelry, never tried to sell the jewelry
20 or nothing. So, I go to chill with Peaches.

21 Q That's Ms. Heyward?

22 A Ms. Heyward. So, me and her in there talking. I was, I
23 love your bag. She was like, I love your bag, too. So,
24 when I went to change the purse, I pulled out the jewelry,
25 set the jewelry down and everything and she was like, "I

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1 want to buy that". I said, "Well, I'm not trying to sell
2 the jewelry." I'm not -- you know, I was just keeping it
3 until I could go through it. Well, out of that bag of
4 jewelry she gets a herringbone and she gets this piece
5 right here with the "C". The reason that I wanted to not
6 sell it because I thought it was my initial. I couldn't
7 make out the initial. I was thinking it was a "L", but it
8 come out to be a "C".. So, she was like, well, how much you
9 trying to -- I said well, I paid \$150.00 to Mike for it so
10 I just want the money that I paid. So she give the \$150.00
11 and we exchanged purses and we just talked for a while and
12 then I left.

13 Q And when you sold that "C" medallion to Ms. Heyward, is
14 that he last time you saw it?

15 A Uh-huh.

16 Q Okay. And you said Michael Brooks was your neighbor. Just
17 for our purposes here, do you see Michael Brooks in the
18 courtroom?

19 A Yeah. Sitting right in front in the white shirt.

20 Q Very good.

21 MR. RICHARDSON: I would just ask that the record reflect
22 she's identified the Defendant.

23 THE COURT: So reflected.

24 MR. RICHARDSON: I beg the Court's indulgence.

25 Q Ms. McNeil, you mentioned that on the 3rd of March -- was

CROSS EXAMINATION OF LATASHA MCNEIL BY MR. WILSON

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1 it the 3rd of March last year?

2 A Yeah.

3 Q You said late that night, I think you said about twelve-
4 thirty or one o'clock. Would that have been like the early
5 morning hours of March the 4th then?

6 A Yeah.

7 Q Okay. Very good. All right. Thank you. Please answer any
8 questions the Defense may have for you.

9 THE COURT: Mr. Wilson.

10 MR. WILSON: Thank you.

11 CROSS EXAMINATION

12 BY MR. WILSON:

13 Q Ms. McNeil, as I understand it, you say that this was the
14 morning of the 14th. Is that correct?

15 A What? What was on the morning of the 14th?

16 Q The morning that you received the jewelry from Mr. Brooks.

17 A No. No. I received that jewelry in the middle of the
18 night, done bang on my door when I'm trying to put seven
19 kids to sleep. Three o'clock in the -- it had to be on the
20 3rd of March, not on the 14th, because that's the only
21 time I get money. I wouldn't have had no money on the
22 14th.

23 Q Well, let me ask you this: Didn't you have a conversation
24 with the police about this down at the station?

25 A The police came and they said they caught -- Well, I was

1 at home. I had to wait. They had to come and get me or
2 whatever, but when I got to -- it was me and I think they
3 had done talked to Peaches and Peaches give them my name.
4 So, they got in touch with me, came and picked me up, took
5 me to the station. I was so scared, because I didn't know
6 -- I didn't have any idea. They never mention jewelry to
7 me. They talked to me about a few things and then they
8 came out with the picture of the jewelry, because I was
9 like confused and all, what they got me for. I ain't did
10 nothing. So, when he showed me that picture I said, "I
11 brought [verbatim] that," and he was like, "Who you
12 brought it from?" I said, "Mike". Well, they give me a
13 lineup of pictures and they said if you see this Mike, can
14 you point him out? I said, yes. So, they give me a lineup
15 of photos and I went straight to Mike's face.

16 Q All right. Now, back to my original question, did you have
17 a conversation with the police about this case?

18 A Yes, I did have a conversation with them.

19 Q And was that conversation at the police station?

20 A Yes.

21 Q And did you tell them at that time that you didn't know
22 exactly when you got it, that you actually thought that
23 you'd gotten it before you moved into your new place?

24 A No, I did not.

25 Q You didn't say that?

CROSS EXAMINATION OF LATASHA MCNEIL BY MR. WILSON

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1 A I know exactly when I brought it and I know exactly where
2 I was staying and I know exactly the date that I brought
3 it.

4 Q So, you deny that you told the officers that you weren't
5 sure of the date that you got it, but when you got it,
6 that you had it, but you didn't know when you got it and
7 that you had moved from one place to another. Did you, in
8 fact, move from one place to another?

9 A Yes, I moved after this. It was this right here was like
10 -- I moved before they even got this case.

11 Q So, do you deny that you told them that you weren't sure
12 whether or not you had gotten it before you moved out of
13 the old place and into the new place or whether you got it
14 after you moved into the new place?

15 A No, I told them I brought it when I was staying behind
16 him. How am I going to purchase something if I move?

17 Q Did you also tell them that you knew that it was sometimes
18 around the first of the month because that's when you pay
19 your rent and it was about that time? Do you remember
20 telling them that?

21 A No.

22 Q You don't remember that either?

23 A I told -- when I talked to the officer, when they came to
24 me, I had to sit back because this was going on a year. I
25 had to sit back and I had to think about what dates and

1 everything, but I knew when I get my money. And as I
2 thought of it, then I was giving them dates. But then as I
3 thought of it, I remembered when he came and he knocked on
4 my door.

5 Q What day did the police take you down to the station to
6 talk to you?

7 A It was probably about a week after, if that.

8 Q A week after what?

9 A I guess after that I purchased the jewelry, after I got
10 the jewelry.

11 Q Well, you said you purchased the jewelry on the 13th -- I
12 mean on the 3rd, right? You said the night of the third,
13 morning of the 4th is when you purchased the jewelry.

14 A Uh-huh.

15 Q Isn't that what you said?

16 A Uh-huh.

17 Q Well, did you just hear testimony that the jewelry was in
18 her possession, that is, on the 13th?

19 A No. I had some more jewelry.

20 Q You had some more jewelry. Now, where did he you get the
21 other jewelry from?

22 A He brought a bag of jewelry. It wasn't just that piece. It
23 was a bag of jewelry.

24 Q Okay. So, you had a bag of jewelry. And that's the bag of
25 jewelry that you're talking about that when you say that

CROSS EXAMINATION OF LATASHA MCNEIL BY MR. WILSON

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1 you had a conversation with Ms. Peaches that you showed
2 her a bag of jewelry or she saw a bag of jewelry in your
3 possession. Is that right?

4 A Uh-huh. Yes.

5 Q Did you turn that bag of jewelry over to the police?

6 A No, I didn't turn it over to the police.

7 Q Why not? When you went down to the station and they asked
8 you about the medallion, didn't they ask you whether there
9 was any other jewelry?

10 A Oh, yeah, I turned it all -- yeah. They got all the
11 jewelry. Yeah, I turned it in to them.

12 Q All right. So, what pieces of jewelry did you turn over to
13 the police?

14 A I turned over what was left was a -- I think it was a rope
15 and a, and if I'm not mistaken that was it, because the
16 other pieces of jewelry belonged to my brother.

17 Q So, you turned over a rope, you said?

18 A Uh-huh.

19 Q Is that a gold rope chain is what you're speaking of?

20 A A gold rope. Uh-huh.

21 Q Okay. So, you turned over that to them?

22 A Uh-huh.

23 Q Did they accept that from you?

24 A Uh-huh.

25 Q The police take that from you? All right. And you did not

1 have, at that time you did not have possession of the
2 medallion anymore. Is that correct?

3 A No, I didn't have that.

4 Q Let me show you what's marked as State's Exhibit #3B. Take
5 a look at that for me, please ma'am.

6 A Uh-huh.

7 Q Now, is that the medallion that you had?

8 A Uh-huh.

9 Q Okay. Now, is that the chain that was on it when you got
10 it?

11 A Yes.

12 Q Okay. So, you never changed it?

13 A Nope.

14 Q All right. And that's the same chain in that picture that
15 you say was on it when you got it. Is that correct?

16 A Uh-huh.

17 Q Now, let's go back to your conversations with the police.
18 When you met with the police, how long did you stay with
19 them that day when they were interviewing you or
20 interrogating you about where you got the jewelry from? Do
21 you recall?

22 A It would have been about, what, about thirty minutes or so
23 or longer, because they really wanted to know.

24 Q Did they tape record the statement that they took from you
25 that night?

CROSS EXAMINATION OF LATASHA MCNEIL BY MR. WILSON

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1 A Yes.

2 Q Okay. And they asked you, they specifically were asking
3 you when it was that you got -- when it was that you came
4 into possession of the jewelry and who you got it from?

5 A Uh-huh.

6 Q Those were the questions that they were wanting to know
7 the answer to?

8 A Uh-huh.

9 Q And you told them that Mr. Brooks was the one that sold it
10 to you?

11 A Uh-huh.

12 Q All right. And did you tell them or do your recall what
13 you told them in reference to when it was that he sold it
14 to you?

15 A No, but I know what day that I could have purchased it.

16 Q And what I'm asking you is what did you tell the police?
17 Now what you say now. I'm asking you what did you tell the
18 police back then.

19 A When I talked to them they asked me could I remember the
20 date and I told them I had problems. I said I came -- you
21 know, because it's been a year. I take care of seven kids.
22 I can barely remember their birthday or social security
23 number so I have a lot going on in my life. So, I told
24 them, I said it had to be between the 1st going through
25 the 3rd, that I purchased that jewelry, late in the

1 nighttime.

2 Q And they told you well, it couldn't have been the 1st
3 because the robbery hadn't happened on the 1st. Isn't that
4 what they told you?

5 A They said what?

6 Q Didn't they tell you that when you told them it was on the
7 1st, that you got the jewelry on the 1st, they told, you
8 no. It couldn't have been the 1st because the robbery
9 hadn't even occurred on the 1st.

10 A I don't remember them telling me nothing like that. All I
11 remember them asking me was to try my hardest to remember
12 what day I brought that jewelry.

13 Q And they were asking you to try to remember because you
14 were having difficulty remembering when it was that you
15 say you got it?

16 A I ain't had difficulty remembering. Like I said, I told
17 them I had to purchase it between the day that I gets my
18 money. It had to be between the 1st, the 3rd, late night.

19 Q Now, which officers did you talk with?

20 A I talked to, I believe the one back there with the
21 mustache, if I'm not mistaken, and Officer Head.

22 Q Which one? When you say the one back there with the
23 mustache, Officer ---

24 A I don't know. It was two of them. It was a black male,
25 too. It was a black officer, too. Because they was like --

CROSS EXAMINATION OF LATASHA MCNEIL BY MR. WILSON

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1 I'm sitting here. I'm nervous already. I suffer from
2 anxiety attacks and stuff like that. So, I'm already
3 nervous like, what did I do wrong? I was trying to figure
4 out what they come and get me for, but when I seen that
5 picture of the jewelry, I did not deny nothing about it
6 because I know where I got it from.

7 Q Now, you were nervous because you were talking to the
8 police?

9 A No, I was nervous, because I was like what is going on?
10 Like what am I in trouble for? Because I don't get in
11 trouble. I don't do nothing.

12 Q Well, now, you've been in trouble haven't you?

13 A No. I ain't been in trouble since 2000 and something, for
14 misdemeanors.

15 Q But you'd been in a lot of trouble up until then, right?

16 A No.

17 Q No?

18 A I've got my record. I've got misdemeanors.

19 Q Just misdemeanors.

20 A CDVs with my baby's father because when he fought me, I
21 fought him back.

22 Q I don't have any other questions. Thank you, ma'am.

23 THE COURT: Any redirect?

24 MR. RICHARDSON: No, sir, Your Honor.

25 THE COURT: You may step down.

1 MR. RICHARDSON: May she be excused from her subpoena?

2 THE COURT: She's free to leave. You may call your next
3 witness.

4 MR. JEPERTINGER: Your Honor, the State would call Cara
5 Murphy to the stand.

6 THE COURT: Ms. Murphy, please come forward. Watch your
7 step. Place your left hand on the Bible and raise your right
8 hand as the clerk administers the oath.

9 (After being duly sworn by the Clerk of Court, CARA MURPHY
10 testified as follows:)

11 THE COURT: Have a seat in the witness chair. Pull up real
12 close to that microphone and speak loudly, clearly and slowly
13 in order that we can hear everything that you have to say and
14 let's start with your full name, please.

15 MS. MURPHY: My name is Cara Murphy, and that is spelled,
16 C-A-R-A.

17 THE COURT: Very good.

18 DIRECT EXAMINATION

19 BY MR. JEPERTINGER:

20 Q Ms. Murphy, forgive me if I ask you your age, but I'm
21 going to ask you your age. How old are you?

22 A I am seventy-five.

23 Q Okay. Now, last year on March the 3rd, you were...

24 A Seventy-four.

25 Q And, ma'am, what did you do for a living?

DIRECT EXAMINATION OF CARA MURPHY BY MR. JEPERTINGER

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1 A I was a teacher. I taught the deaf for thirty-two years.

2 Q And where did you teach the deaf?

3 A I taught in Connecticut, in Washington State, in
4 Washington, DC, and Tennessee, in Columbia, and
5 Greenville, then it was Tennessee, and then I came back to
6 South Carolina.

7 Q And I think we've established you've been living here in
8 Florence County ---

9 A Twenty-nine years.

10 Q --- for thirty ---

11 A Twenty-nine.

12 Q Twenty-nine years. Okay. Ma'am, I'm going to take you back
13 to March the 3rd of 2014. Do you recall that date?

14 A Oh, very well.

15 Q Can you tell us what you were doing that day, ma'am?

16 A Well, at the time of this incident, I was in the kitchen
17 fixing lunch. I heard the doorbell ring and I heard
18 voices. So, I walked through the entrance of the den to
19 see who was at the door.

20 Q The entrance between the kitchen and the den?

21 A Between the kitchen and the den. And what I saw was
22 Michael Brooks with a gun in his right hand, and he had my
23 husband by the shirt forcing him back into the house. And
24 he was saying, "Get down, get down, get on the floor." And
25 when I walked in, he said the same thing to me.

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1 Q And then what happened next?

2 A Well, my husband and I both got down on the floor, faced
3 down. We were sort of head-to-head, behind the sofa and I
4 was in front of the fireplace and he called a cohort in
5 and said, "Tie them up". And all the time, he's also
6 saying, "Where's the money?" "Where's the money?" He did
7 not say, "Where's your money?" "Give me your money." He
8 said, "Where's the money". He was looking for specific
9 money that he thought we had in the house.

10 Q Okay. And then what happened next?

11 A Well, my husband mentioned the wallets. He went over and
12 got the wallets. I saw him ---

13 Q Let me just back up. At this time, were you tied up?

14 A Oh, I was bound, yes. We were both bound. Hands behind our
15 backs, feet bound, but I looked up to see him holding my
16 wallet with a kitchen towel. And ---

17 Q Was your head facing the kitchen, ma'am?

18 A Yes, it was.

19 Q Okay. And did the guy with the gun, did he say anything to
20 you, personally?

21 A Oh, yes.

22 Q What did that individual say?

23 A When he couldn't find the money, he came back over asking
24 my husband again, "Where's the money?" "Where's the
25 money?" "Where's the safe?" And then he came around to me

DIRECT EXAMINATION OF CARA MURPHY BY MR. JEPERTINGER

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1 and he put that gun to my neck and he said, and I quote,
2 "Tell me where the money is or I'm going to shoot this
3 bitch." And that's just the way he said it.

4 Q And then what happened next?

5 A Well, then he went upstairs and I heard a loud thump,
6 which I later determined was when he had thrown the strong
7 box on the floor and I could just hear him running around
8 upstairs.

9 Q How about the other individual?

10 A He was rummaging behind us. Now, he did walk into the
11 kitchen but I did not see him do that. But the whole time
12 he was in there, he was rummaging through the tables and
13 in the drawers and whatever he could find in the den
14 behind us. He never said a word. And then Michael came
15 back down stairs and I don't think he said anything then.
16 He just, I guess sort of nodded to the other fellow and
17 they went out and closed the door.

18 Q You're still -- when they left, you're still bound. Is
19 that correct?

20 A Oh, yes.

21 Q And what happened after that?

22 A Well, I might add that when I was bound, he went around my
23 wrists and then he went through my wrists.

24 Q Yes, ma'am.

25 A So, there was no way I could wiggle out.

1 Q Yes, ma'am.

2 A But Larry was able to get his hands free and then he was
3 able to sort of duck walk over to the kitchen to get the
4 scissors, cut his ankles loose and then he cut my hands
5 loose and then he gave me the scissors to cut my feet
6 loose so he could call the police.

7 Q Now, at that point, obviously, the police came?

8 A Oh, yes. Very quickly.

9 Q And did you have a chance to talk to the police?

10 A Oh, yes.

11 Q And, ma'am, to be fair to everyone, you mentioned that
12 Michael Brooks did this and Michael Brooks did that. But
13 is it an accurate statement to say that you could not
14 identify Michael Brooks when the police came to your
15 house?

16 A Yes. That is accurate. I was still in a state of shock.

17 Q Okay. And eleven days later the police came to your house
18 again?

19 A Yes.

20 Q And they showed you what's been in evidence as State's
21 Exhibit #6, correct?

22 A Correct.

23 Q And could you identify Mr. Brooks as being #2 in this
24 photograph?

25 A Not at that time.

DIRECT EXAMINATION OF CARA MURPHY BY MR. JEPERTINGER

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1 Q Okay. And today, you have said it was Michael Brooks that
2 did this and did that. How do you know it was Michael
3 Brooks now?

4 A Because I attended his bond hearing and as soon as I heard
5 him open his mouth, I knew it was Mr. Brooks.

6 Q Yes, ma'am. All right. Now, when the police asked you if
7 anything was missing from the house, did you have an
8 opportunity to see what was missing?

9 A Yes. Well, we knew immediately that our wallets were
10 missing and then the police went with us as we went
11 upstairs. And, you know, we saw what -- my jewelry things
12 were open and all the chains were gone. Drawers were
13 opened and rummaged through. We went in the other bedrooms
14 and saw drawers opened and then we came back downstairs
15 and in the dining room there was a drawer open.

16 Q And did you notice anything, specifically, that was
17 missing that had special meaning to you?

18 A Oh, yes. My jewelry. This clasp and this rope. Of course,
19 there were several other necklaces. There was one in
20 particular that my mother gave me that I knew was missing.
21 There were a number of chains hanging there, so I don't
22 recall all, but I knew immediately that these two were
23 gone.

24 Q And that one you pointed to that's hanging around your
25 neck, is that what we see in Exhibit 3B?

1 A Yes, it is.

2 Q All right. And I'm going to show you what's been marked as
3 State's Exhibit 3A. Can you identify this as well, ma'am?

4 A That is this rope chain.

5 Q That you're currently wearing?

6 A That I'm wearing.

7 Q Yes, ma'am.

8 MR. JEPERTINGER: At this time, I would move State's
9 Exhibit 3A into evidence.

10 THE COURT: Any objection?

11 MR. WILSON: No objection.

12 THE COURT: It's into evidence. That's denominated as
13 State's Exhibit...

14 MR. JEPERTINGER: 3A.

15 THE COURT: 3A, into evidence.

16 (Whereupon, photocopy of jewelry is entered into evidence
17 as State's Exhibit #3A, without objection)

18 Q Ma'am, how did you get those two pieces of jewelry that
19 you're wearing around your neck? How did you get those
20 back?

21 A Well, I got both of these when we were living in
22 Tennessee.

23 Q No, I mean, now, after the robbery.

24 A Oh, how did I get them back?

25 Q Yes, ma'am?

DIRECT EXAMINATION OF CARA MURPHY BY MR. JEPERTINGER

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1 A Justin Head brought them back to me.

2 Q Do you remember when he would have brought them back,
3 ma'am?

4 A I do not remember the day. I do know that it was probably
5 less than a month after the incident. I don't remember the
6 exact date.

7 Q Would it have been after you went through this process of
8 looking at this photograph?

9 A Oh, yes.

10 Q Now, did you -- did they bring any other jewelry for you
11 to look at?

12 A They did bring one other piece, which I suppose is the
13 herringbone, that chain that Ms. Heyward said was too
14 small. They showed me a herringbone chain and it had two
15 little somethings on it, anyway. But I knew that was not
16 mine. I never had one like that.

17 Q Okay. Now, getting back to the question when you were,
18 that you were about to answer. When did you get the "C"
19 medallion?

20 A I don't really remember the year, but it was while we were
21 living in Tennessee.

22 Q Do you remember what years you lived in Tennessee?

23 A From August of '75 until October of '86.

24 Q So, at a minimum we're talking from the date of the crime,
25 thirty -- at least thirty years. Is that right?

1 A Yeah.

2 Q Or more?

3 A Right. And this one also was while we were in Tennessee.

4 Q Okay. And you've worn it often?

5 A Oh, yes.

6 MR. JEPERTINGER: I beg the Court's indulgence.

7 Q Ms. Cara, if you could do me the favor of answering any
8 questions that Mr. Wilson might have for you.

9 THE COURT: Mr. Wilson, you're recognized. Cross
10 examination.

11 CROSS EXAMINATION

12 BY MR. WILSON:

13 Q Ms. Murphy, I'm just going to ask you a few questions
14 about that afternoon when all of this occurred, in the
15 morning or the afternoon that this incident occurred. And
16 I'm sure, like your husband, that you haven't ever been in
17 anything like this before?

18 A I have had my purse stolen before. That was in '06.

19 Q And have you ever had anybody point a gun at you before?

20 A Never.

21 Q Or anybody threaten to kill you before?

22 A Never.

23 Q And that, in and of itself, is fairly traumatic. Would you
24 agree with that?

CROSS EXAMINATION OF CARA MURPHY BY MR. WILSON

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- 1 A I would agree with that.
- 2 Q And I know you told the Solicitor earlier that you were
- 3 still in shock when the police got there.
- 4 A I was.
- 5 Q And you weren't thinking as clearly as you would
- 6 ordinarily ---
- 7 A Oh, I did not say that.
- 8 Q I'm sorry?
- 9 A I said I did not say that I was not thinking clearly.
- 10 Q I think that was a question. That was a question to you. I
- 11 was asking you ---
- 12 A Oh.
- 13 Q --- whether you were or not.
- 14 A Oh, yes. I was thinking clearly.
- 15 Q Okay. And would you think, at that point in time, by the
- 16 time the police got there that you had regained composure
- 17 of your faculties so that you were able to think clearly
- 18 and rationally and make wise choices?
- 19 A I never lost composure of my faculties.
- 20 Q All right. And you hadn't lost composure and when the
- 21 police got there and they asked you about the individuals
- 22 who had robbed you and you told them that you could not
- 23 give them a description of the individuals, did you not?
- 24 A I probably did say that.

1 Q Well, I mean, probably or did you say that or didn't you?

2 If you didn't say it, just say you didn't say it. It's all
3 right.

4 A I don't know.

5 Q You don't know what you said to the police?

6 A I don't remember, verbatim, what I said, no.

7 Q Did you tell the police that you could or could not
8 identify the individuals who had robbed you?

9 A I would say I told them I could not identify them.

10 Q Okay. Did you tell the police at any point in time that
11 one of the men told you or one of the men put a gun to
12 your head and told you that he would blow your brains out
13 if your husband didn't tell him where the money is?

14 A Yes. I told them.

15 Q When did you tell them that?

16 A I told them that very day.

17 Q Did you give a statement to the police, a taped statement
18 to the police at any point in time?

19 A While we were in our house, I understand that everything
20 we said was recorded.

21 Q Okay. And so you're saying that you told them that in the
22 recorded statement. Is that what you're saying?

23 A Yes.

24 Q Now, let me ask you, ma'am, the police on 3/3, which is

CROSS EXAMINATION OF CARA MURPHY BY MR. WILSON

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1 the date that this incident took place, the police came
2 out, they talked with you and with your husband and these
3 police officers were very kind, very thoughtful, trying to
4 be helpful in every way they could possibly be. Is that
5 right?

6 A Yes, they did.

7 Q All right. They were professional and courteous in every
8 possible way?

9 A Yes, they were.

10 Q All right. And they were wanting very much to help every
11 way that they could and when they were questioning you or
12 talking to you about what you saw and what happened, they
13 were interested in trying to find a description of these
14 individuals so that they could try to make an arrest or
15 track down the people who had invaded your home and robbed
16 you. Fair enough?

17 A Yes.

18 Q Now. And they wanted from you a detailed statement as to
19 the description of these individuals and this is literally
20 minutes after the robbery had occurred?

21 A Yes.

22 Q Is that not correct?

23 A Yes. Yes.

24 Q In fact, the police were there probably within four or

1 five minutes after the call was made to them?

2 A Correct.

3 Q All right. Which would have been probably less than ten
4 minutes after the robbers had left your home?

5 A Right.

6 Q And at that point in time, you could not give them a
7 description to work with. Is that fair?

8 A That's fair.

9 Q All right. Now, on 3/14, and you said, when we were
10 talking earlier about whether you were nervous or whether
11 you were upset and whether trauma had set in, but on 3/14,
12 eleven days later, the police come back to you again, do
13 they not?

14 A Uh-huh.

15 Q And when they come back to you they ask you again, can you
16 identify the perpetrator or perpetrators. In fact, they
17 bring to you a...

18 MR. WILSON: May I approach, Your Honor.

19 THE COURT: Yes, sir.

20 Q They bring to you a photographic lineup, which is marked
21 as State's Exhibit #6. And if you would, ma'am, please
22 just take a look at that for me, if you would, please,
23 ma'am.

24 A (Witness complies)

CROSS EXAMINATION OF CARA MURPHY BY MR. WILSON

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- 1 Q They bring that to you back on the 14th, which is eleven
2 days after the robbery. Is that correct?
- 3 A Oh, yes. I didn't know you were waiting for an answer.
4 Sorry.
- 5 Q And they show it to you and they ask you to pick out the
6 man who put the gun to your head and said these words to
7 you or who robbed your home, did they not?
- 8 A They came twice with photos.
- 9 Q Okay. Well, right now I'm talking about the 14th.
- 10 A Yes, they did.
- 11 Q Okay. And you were unable to pick anybody out at that
12 time?
- 13 A That's correct.
- 14 Q And that's eleven days after. So, on the 3rd you couldn't
15 pick anybody out or identify anybody and then on the 14th,
16 eleven days later, you still couldn't identify anybody. In
17 fact, the truth of the matter is, until they arrested
18 Michael Brooks and brought him into a bond hearing, you
19 never identified him as being the person who committed
20 this robbery. Is that fair?
- 21 A That's correct.
- 22 Q Now, the police came back, you said another time. Is that
23 right?
- 24 A Right.

1 Q And they brought you another photographic lineup, did they
2 not?

3 A They did.

4 Q And that was of a different individual, right?

5 A Right.

6 Q That was of a Mr. Campbell, right?

7 A Right.

8 Q And, in fact, you picked out Mr. Campbell and told them
9 that that was the perpetrator of the crime, did you not?

10 A I don't think so.

11 MR. WILSON: May I approach just one second. I'm looking
12 for the photographic lineup for that.

13 Q It's not in evidence, but just let me just ask you some
14 questions about it. The police came back. When they came,
15 back to bring the lineup the second time, was this after
16 the 14th when they had brought the first lineup?

17 A Well, if they brought the first one on the 14th, then the
18 second one had to have been after that.

19 Q Well, that's my question. Was it?

20 A Yes.

21 Q Okay. And do you know when or about when it was?

22 A No, I do not.

23 Q You just know that it was after the 14th?

24 A No, I know it was after the first time.

CROSS EXAMINATION OF CARA MURPHY BY MR. WILSON

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1 Q After the first set of photographs. And then they showed
2 you six more pictures?

3 A Right.

4 Q And they asked you to pick out the perpetrator. Is that
5 fair?

6 A Yes.

7 Q All right. And you picked out Mr. Campbell.

8 A No, I did not.

9 Q Who did you pick ---

10 A They asked me to pick out Mr. Campbell. I told them I
11 never saw Mr. Campbell, but that one of those pictures
12 looked like Mr. Brooks.

13 Q Okay. And you pointed to Mr. Campbell who you said you
14 thought was the person that held the gun to your head. Is
15 that fair?

16 A No, that's not fair, because I don't know who I pointed
17 to. They never told me who they were.

18 Q Well, let me -- let's go back so that we can be clear,
19 because I think this is really important. The police come
20 to you with a second lineup. And let's establish that that
21 is, in fact, a fact.

22 A Yes.

23 Q They came to you with a separate set of photographs.

24 A Yes.

1 Q Any question about that?

2 A No.

3 Q And that second set of photographs was different than this
4 first set of photographs, which they had brought to you on
5 the 14th.

6 A Correct.

7 Q All right. And in that second set of photographs that you
8 saw some time after the 14th, there were some six other
9 individuals in there and you selected one of them thinking
10 that it was Mr. Brooks.

11 A I said, this one looks like Mr. Brooks, but I had no idea
12 what Mr. Campbell looked like.

13 Q Okay. Well, did you later find out that, in fact, the
14 fellow that you chose or selected or that you thought
15 looked like Mr. Brooks was, in fact, Mr. Campbell?

16 A No, I did not.

17 Q You did not? So, the first time you've heard that is
18 today?

19 A Yes.

20 Q So, the police never told you that?

21 A They never told me that.

22 Q The Solicitor never told you that through this entire
23 process?

24 A They never told me that I picked out Mr. Campbell, no.

CROSS EXAMINATION OF CARA MURPHY BY MR. WILSON

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- 1 Q When you picked out whoever it was that you picked out of
2 that second lineup, had you already been to the bond
3 hearing at that point?
- 4 A Yes, I guess I would have.
- 5 Q Okay. So, this would have been after the bond hearing.
6 Now, at the bond hearing, who was present in terms of
7 defendants?
- 8 A Mr. Campbell and Mr. Brooks.
- 9 Q Mr. Campbell and Mr. Brooks. Now, as I understood it,
10 there were never but two men in your home?
- 11 A That's correct.
- 12 Q Never was there a third man in your home.
- 13 A That's correct.
- 14 Q All right. So, was Mr. Campbell ever in your home to your
15 knowledge?
- 16 A I thought he was because at that time, I did not know that
17 there was a third perpetrator. I knew there were two men
18 in my home and I knew that Mr. Brooks and Mr. Campbell had
19 been arrested for this event. I did not know there was a
20 third one.
- 21 Q And so the fact that they had been arrested, that is, Mr.
22 Campbell and Mr. Brooks, in your mind meant that they had
23 to be the people who did it because why else would the
24 police arrest them, right?

1 A Right.

2 Q And that was the thought process that you were using. And
3 so, when you saw the photographs of the men they arrested,
4 that'd be the guys. The police couldn't possibly make
5 mistakes, right?

6 MR. JEPERTINGER: Your Honor, I would object.

7 MR. WILSON: I withdraw that.

8 THE COURT: Sustained.

9 MR. WILSON: I withdraw the question and I apologize.

10 Q Just let me ask you this, ma'am. Well, let me go back for
11 just a second, please, and let me go to another subject.
12 The jewelry that you got back. You got back the medallion
13 and you got back the rope necklace. Those two things you
14 got back.

15 A Yes.

16 Q And you identified them as being your items, items that
17 you owned.

18 A Yes.

19 Q And they were taken in the robbery.

20 A Yes.

21 Q The day of this event. Now, there were two men in the
22 house. When you came out of the kitchen to go into the den
23 area where your husband was, there were two ---

24 A No.

CROSS EXAMINATION OF CARA MURPHY BY MR. WILSON

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- 1 Q There was one man there, at that point.
- 2 A Right.
- 3 Q And then they forced you and your husband onto the floor.
- 4 A Right.
- 5 Q Okay. So, you were faced down and your husband's faced
- 6 down.
- 7 A Right.
- 8 Q And you both are in close proximity to each other.
- 9 A Yes.
- 10 Q And at some point the first man who's in the house calls
- 11 the second man.
- 12 A Yes.
- 13 Q And the second man comes in and they tape both of y'all
- 14 up.
- 15 A Yes.
- 16 Q Okay. Now, did you get a look at the second man?
- 17 A Not at all.
- 18 Q Okay. So, you never -- did you ever see even see his
- 19 outline?
- 20 A No. Because when he walked into the kitchen, I was faced
- 21 down and I did not lift my head.
- 22 Q Okay. All right. And so the only person that you ever
- 23 really got to saw was the first guy -- I'm sorry -- to
- 24 see, was the first guy as you were approaching him and

- 1 your husband as they were in the den area?
- 2 A Yes.
- 3 Q Now, who taped you up? Was it the guy who was in the house
- 4 first or was it the guy who came in the house second?
- 5 A It was the guy who came in second.
- 6 Q Okay. And the guy who was in there first, did he ever have
- 7 the roll of tape that you know about?
- 8 A Not that I know about.
- 9 Q Well, a piece of tape, if you will?
- 10 A No. When he came in the house he had a gun in one hand and
- 11 he had my husband's shirt in the other hand. So, unless he
- 12 had it in a pocket, I don't know where he would have had
- 13 it.
- 14 Q Okay. And so when the second man comes in, you don't
- 15 actually see him come in, or do you?
- 16 A No, I do not see him. I heard him.
- 17 Q You heard him come in. And then he tapes up your husband
- 18 and then he tapes you up?
- 19 A Right.
- 20 MR. WILSON: Bear with me one second, Your Honor.
- 21 Q Let me ask you, do you recall going to the bond hearing in
- 22 this case?
- 23 A Yes.
- 24 Q Where Mr. Campbell and Mr. Brooks were?

REDIRECT EXAMINATION OF CARA MURPHY BY MR. JEPERTINGER

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1 A Yes.

2 Q And I think your testimony was that you recognized or you,
3 at least, told the police you recognized Mr. Brooks from
4 his voice at the bond hearing?

5 A That was said after the hearing.

6 Q Right. But you actually spoke and called him Mr. Brooks
7 before he ever said a word at the bond hearing ---

8 A That's true.

9 Q --- and identifying him.

10 A I said that's true.

11 Q So, at the bond hearing you were already saying that he
12 was the person and at that point he hadn't even spoken at
13 the bond hearing. So, if he -- when he did speak, you
14 spoke after he did. I'm sorry, before he did at the bond
15 hearing. As the victim, you have the right to speak and
16 you spoke first.

17 A That's correct.

18 MR. WILSON: I don't think I have any other questions.

19 Thank you.

20 THE COURT: Any redirect?

21 REDIRECT EXAMINATION

22 BY MR. JEPERTINGER:

23 Q Did you have an opportunity to hear Campbell's voice at
24 the bond hearing?

25 A Yes, I did.

1 Q Did you identify Campbell as the person with the gun that
2 put you on the ground?

3 A No, I did not.

4 Q Whose voice did you identify? Whose voice did you
5 identify?

6 A I identified Mr. Brooks, after the fact.

7 Q No question in your mind?

8 A No.

9 Q All right. Thank you so much.

10 THE COURT: You may step down. You may call your next
11 witness.

12 MR. RICHARDSON: Your Honor, we call Keith Creel.

13 THE COURT: Please come forward. I'd ask you if you could
14 to place your left hand on the Bible and raise your right hand
15 as the Clerk administers the oath.

16 (After being duly sworn by the Clerk of Court, KEITH CREEL
17 testified as follows:)

18 THE COURT: Have a seat in that witness chair. Pull up real
19 close to that microphone. Speak loudly, clearly and slowly. And
20 let's start with a full name.

21 MR. CREEL: Keith M. Creel, Florence Police Department.

22 THE COURT: Thank you, Officer Creel.

23 MR. RICHARDSON: Thank you, Your Honor.

24 DIRECT EXAMINATION

25 BY MR. RICHARDSON:

DIRECT EXAMINATION OF KEITH CREEL BY MR. RICHARDSON

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- 1 Q Officer Creel, you mentioned you were with the Florence
2 Police Department. How long have you worked there?
- 3 A Almost sixteen years.
- 4 Q All right. And what are your job responsibilities with the
5 Florence Police Department?
- 6 A I'm a patrol officer.
- 7 Q And could you describe to the jury kind of what that
8 means, what you do on a day to day basis?
- 9 A My job is to patrol the city.
- 10 Q All right. So, if any call comes in ---
- 11 A When the calls come up, I answer the calls.
- 12 Q All right. So, you're one of the first responders for the
13 Police Department?
- 14 A I am.
- 15 Q Very good. And back on March 3rd of 2014, did you have the
16 opportunity to respond to a call at a residence at the
17 intersection of Berkley and Marsh?
- 18 A I did.
- 19 Q All right. And you went to that house?
- 20 A I did.
- 21 Q And is that location in the County of Florence?
- 22 A It's in the City of Florence.
- 23 Q All right. Which is also in the County of Florence?
- 24 A It is.
- 25 Q All right. And when you arrived, what information did you

1 have?

2 A When I arrived, according to central dispatch, I got a
3 call in reference to a home invasion.

4 Q And what did you do when you got there?

5 A Myself and other officers responded to the home. We all
6 arrived there about the same time and once I got out, I
7 proceeded to go the door, checking the door, make sure the
8 doors were locked, trying to gain entry into the house.

9 Q All right. And did you knock or ring the doorbell or
10 announce your presence?

11 A I did not. I went around to the back door and I pulled on
12 the screen door. The screen door was locked. But the other
13 officers went to the front door. I went back to the
14 screened door a second time. I pulled on the screen door
15 and broke the latch on the screen door and I was about to
16 go in through the back door if I had to break it down, but
17 I got the call across the radio that somebody came to the
18 door, opened the front door.

19 Q All right. So, at the time you arrived, did you know if
20 any suspects were still in there?

21 A I had no idea what was there. I had no idea.

22 Q So, ultimately, you got information that somebody had
23 opened the front door?

24 A Right.

25 Q And did you walk around and make entry in that door?

DIRECT EXAMINATION OF DAVIS LOGAN BY MR. RICHARDSON

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1 A I did. I did.

2 Q All right. And what did you observe when you got in the
3 house?

4 A Once I walked into the house I saw the victims. I saw Ms.
5 Murphy still had the tape wrapped around her wrists. I
6 walked around through the kitchen. I noticed there was a
7 bunch of stuff scattered all over the floor. Somebody
8 dumped the stuff out of her pocketbook onto the kitchen
9 floor and onto the kitchen table.

10 Q All right. And did you go upstairs or clear the residence?

11 A Yes. I went upstairs and cleared the residence, made sure
12 there wasn't nobody else inside the house. At ---

13 Q Go ahead.

14 A At that time, I spoke with the victims. After I spoke with
15 the victims, got all the information stuff, we proceed to
16 go around inside the house to see if we can find out what
17 was missing inside the house.

18 Q All right. Did you notify investigations or ---

19 A Everybody was already on scene.

20 Q Everybody came at once?

21 A Everybody come at once.

22 Q All right. Once you cleared the house and, you know, began
23 to try to identify what items were missing, did you have
24 any further involvement or did it kind of turn over to the
25 investigations?

1 A It was turned over to investigations and crime scene.

2 Q All right. And once you left the scene that day, is that
3 the extent ---

4 A That's the extent of my -- yes, it is.

5 Q All right. Thank you. Please answer any questions the
6 Defense may have for you.

7 MR. WILSON: I don't have any questions.

8 THE COURT: You're free to leave. Thank you, sir.

9 MR. RICHARDSON: We call Officer Davis Logan.

10 THE COURT: Officer Logan, please come forward. I'd ask you
11 if you could, come forward. Place your left hand on the Bible,
12 raise your right hand as the clerk administers the oath.

13 (After being duly sworn by the Clerk of Court, DAVIS LOGAN
14 testified as follows:)

15 THE COURT: Pull up real close to that microphone speak
16 loudly, clearly and slowly. Mr. Richardson.

17 MR. RICHARDSON: Thank you, Your Honor.

18 MR. LOGAN: My full name is Davis Alan Logan.

19 DIRECT EXAMINATION

20 BY MR. RICHARDSON:

21 Q Officer Logan, you're with the Florence Police Department
22 as well?

23 A Yes, sir.

24 Q And how long have you been with the Florence ---

25 A Six years.

DIRECT EXAMINATION OF STEPHEN BANNISTER BY MR. RICHARDSON 242

1 Q Six years. So, back on March 3rd, 2014 were you also a
2 patrol officer?

3 A Yes, sir.

4 Q And did you also respond to a call at the corner of
5 Berkley and Marsh Avenue?

6 A I did.

7 Q And what information did you have and what did you do when
8 you got there?

9 A Information came out that there was a home invasion had
10 occurred. Whenever we responded, myself and Officer Creel
11 showed up about the same time. We went around the back
12 side of the house, checked the doors. Everything was still
13 secured. So, Officer Creel stayed at the back of the
14 house. I went back towards the garage in case there was
15 still a suspect inside and then Sergeant Johnson had the
16 front door covered and then shortly after that, Sergeant
17 Johnson said someone came to the front door and opened it.
18 I went inside, noticed that there was other officers
19 already inside, along with investigations so I ended up
20 leaving from inside the house, and going outside running
21 with the K-9.

22 Q All right. Explain that further to us. What's going on
23 with the K-9?

24 A Our K-9 officer had gotten a scent from somewhere. I don't
25 know where and they were running through the yard, through

1 the neighborhood, trying to see if the dog would pick up
2 on it.

3 Q Okay. But that ultimately proved to be fruitless?

4 A Yes, sir.

5 Q All right. So, after you initially got in there, you spent
6 most of your time on the outside with the K-9 team?

7 A Yes, sir.

8 Q Once that was over, was that the extent of your
9 involvement?

10 A Yes, sir.

11 Q Very good. Please answer any questions that the Defense
12 may have.

13 A Yes, sir.

14 MR. WILSON: I have no questions.

15 THE COURT: You may step down and you're free to leave.

16 MR. LOGAN: Thank you, sir.

17 MR. RICHARDSON: We'd call investigator Stephen Bannister.

18 THE COURT: Officer Bannister, please come forward, place
19 your left hand on the Bible and raise your right hand as the
20 clerk administers the oath.

21 (After being duly sworn by the Clerk of Court,

22 STEPHEN BANNISTER testified as follows:)

23 THE COURT: Pull up real close to that microphone. Speak
24 loudly, clearly and slowly in order that we can hear everything
25 that you have to say and let's start with your full name.

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1 MR. BANNISTER: Yes, sir. My name is Stephen Alec
2 Bannister.

3 THE COURT: Mr. Richardson.

4 MR. RICHARDSON: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MR. RICHARDSON:

7 Q Investigator Bannister, how long have you been with the
8 Florence Police?

9 A I just hit ten years.

10 Q All right. And what are your job responsibilities?

11 A I'm assigned to the detective division.

12 Q All right. So, as opposed to being a first responder, you
13 sort of take things over once the scene is cleared and you
14 try to solve crimes. Is that right?

15 A Yes, sir.

16 Q And did you have some involvement with this particular
17 case back in March of 2014?

18 A We're all working on the same force so we hear things and
19 we talk about the case. Me and Justin Head and a few of
20 the other investigators went looking for, at the time, a
21 suspect, Mr. Brooks, at different residences.

22 Q Okay. And were you aware at the time you were going to
23 look for Mr. Brooks if there were already warrants for his
24 arrest?

25 A Yes. At the time I went to a residence, Mr. Head had the

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1 warrants with him. But he advised us he had already
2 obtained the warrants for his arrest.

3 Q All right. So, you were going to assist Investigator Head
4 and some of the other investigators to try to locate Mr.
5 Brooks?

6 A Yes, sir.

7 Q All right. Where did you end up going in your efforts to
8 find Mr. Brooks?

9 A Myself, Investigator Jordan, and Investigator Williamson
10 went to a residence towards the, it would be the south
11 part of town and more west. I forget the name of the road.
12 It was out in the country area off of Alligator Road. We
13 went to the residence and, of course, approached carefully
14 and Mr. Williamson and Mr. Cody Jordan joined and first
15 approached the door.

16 Q All right. So, the two of them went to the front door of
17 that house?

18 A Yes, sir.

19 Q Out there off Alligator Road somewhere?

20 A Yes, sir.

21 Q While they were at the front door where were you?

22 A I was on the side of the residence. And when I heard them
23 knock, I heard them start to speak to someone. Somebody
24 answered the door and I was walking up to the door to
25 assist them, just to see who was there.

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1 Q Then what took place?

2 A We asked about Mr. Brooks and if I remember correctly, it
3 was the mother at the door that informed us that he just
4 went out the back door and Mr. Jordan had made a comment
5 to me about something, where he heard something from
6 outside. There's a wooded area behind the house. So,
7 myself and Investigator Williamson traveled to the back of
8 the house to see if we could see if Mr. Brooks was outside
9 or even there.

10 Q And what did you observe?

11 A I did not see him at the, see him running or anything at
12 that point. Mr. Scotty Williamson advised me that he seen
13 somebody a little bit, a few minutes later running through
14 the woods, kind of sporadically. Had a white tee shirt on.
15 At that time we were told by the mother that it was Mr.
16 Brooks that ran out the back door that went into the
17 woods. So, we kind of -- we looked briefly, but it was a
18 pretty good wooded area and we had called the county
19 sheriff's department and just kind of sat on either end of
20 the woods waiting for them to arrive.

21 Q All right. And what took place after that?

22 A I was standing there and there was a little trail, so I
23 kind of just stood on the edge of the trail waiting. I
24 have to guess the time. I think it was probably about ten
25 minutes or so, the sheriff's deputies showed up and I was

1 told they had the K-9 and right at that moment, I heard
2 crunching in the leaves and seen a person walking up to me
3 in a white shirt.

4 Q And was this during the daylight hours or night time?

5 A It was daylight hours. If I remember, I think it was in
6 the afternoon, but I can't remember the exact time.

7 Q All right. So, what did you do when you saw this
8 individual walking towards you?

9 A Well, at first, I wasn't sure who it was and I kind of
10 squatted down and watched him and when he got fairly close
11 to me, it was Mr. Brooks. He looked at me and I stood up
12 to him. At the time I had a taser with me and I told him,
13 I pointed the taser at him and told him to stop.

14 Q Were any other officers around you at that point?

15 A No. I was yelling for them, but we're talking a pretty
16 good area and they had not made it yet. I was telling them
17 that I had a suspect or something of that nature, yelling
18 them to come my way. At that point, I was directing my
19 attention to Mr. Brooks. Because of the severity of the
20 crime, I wasn't sure what I might be expecting.

21 Q Okay. And you mentioned you pulled out your taser. And
22 what did you do at that point?

23 A I ordered Mr. Brooks to the ground multiple times. During
24 that time, he continued to try to speak over me saying
25 it's just child support. I think I have child support

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1 warrants or something of that nature. He just kept
2 repeating himself and I kept telling him to get on the
3 ground, lay down, show me your hands, things of that
4 nature?

5 Q And what took place?

6 A We were within about ten feet of each other and he kept
7 refusing to comply, refusing to comply. And then he
8 finally turned and it looked like he was going to run from
9 me again. Because of the warrants, severity of the crime
10 at that time, I made the decision and I deployed my taser.

11 Q All right. And that's what you did?

12 A Yes, sir.

13 Q And did the taser prongs make contact with him?

14 A Yes, it did. It hit him on the side and a larger portion
15 of his back. He stiffened up immediately, turned, fell to
16 the ground. There's like a slight creek. When I say creek,
17 it's only about this wide, like this deep. It's more like
18 a little water runoff area. He fell in that, laying on his
19 back and the taser went through its five-second cycle.

20 Q All right. And were you able to gain control of him at
21 that time?

22 A Yes. As soon as the cycle ran and I was telling him the
23 whole time to put his hand behind his back, roll over on
24 his side. As so, as the cycle ended on the taser, he
25 rolled over on his stomach, put his hands behind his back,

1 and I cuffed him. By that time, other deputies and
2 officers were getting to me. We stood him up and walked
3 him out of the woods. We were probably maybe twenty-five
4 yards from the actual cut down area of his back yard or
5 the back yard where we were at the time.

6 Q Okay. And were you involved in transporting him anywhere?

7 A I did not transport him. We walked him up and some of the
8 sheriff's deputies and officers took over from there. My
9 feet were soaked, not to mention since we were in the
10 woods, there were some briars and I got a little scraped
11 so they were helping me out by escorting him to the car
12 and checking him out and dealing with the taser probes and
13 things of that nature.

14 Q Very good.

15 MR. RICHARDSON: I beg the Court's indulgence one moment.

16 Q Were you aware if Mr. Brooks did have any child support
17 warrants at the time or do you not know?

18 A At that time, in the woods, I did not know.

19 Q Did you subsequently find out?

20 A Eventually, we did. Mr. Head looked it up. I don't know
21 how by phone or later or whatnot we found out that there
22 was no such warrants at all for child support.

23 Q Very good. Please answer any questions the Defense may
24 have for you.

25 A Sure.

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1 THE COURT: Cross examination, Mr. Wilson.

2 MR. WILSON: Thank you, Your Honor.

3 Cross examination

4 BY MR. WILSON:

5 Q You said that Mr. Brooks was indicating to you that he
6 thought that you were seeking him for child support?

7 A He kept saying it's just child support. It's child support
8 warrants or something of that nature. Something to do with
9 child support.

10 Q And you say you checked to find out if, in fact, that were
11 true and you didn't find any reason to believe that that
12 was, in fact, true?

13 A No, I did not check. Officer Justin Head, the lead
14 investigator found out. I never checked myself.

15 Q Let me show you these documents. Take a look at them
16 please. Do you know what they are?

17 A No.

18 Q Do you want to know what they are?

19 A Well, it says Family Court. I'm just looking at them now.

20 Q Okay.

21 A Okay. They're Family Court warrants for Family Court.

22 Q And did you check with the Family Court to find if, in
23 fact, there were a Rule to Show Cause and an order to have
24 him picked up out there? Did you ever check?

25 A No. But I wasn't there for Family Court.

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1 Q Okay. All right. So, the fact that he told you that that's
2 what he thought was happening didn't mean that you needed
3 to check to find out if, in fact, that were true or not
4 true? Is what you're saying?

5 A You mean at the moment in the woods?

6 Q Pardon?

7 A When we were -- the consultation in the woods?

8 Q Yes, sir.

9 A Right then and there, no.

10 Q Okay. Now, did you say that you had arrest warrants for
11 him, other arrest warrants?

12 A I didn't have them. Officer Justin Head had them and he
13 said he was en route to us. But he had confirmed with us
14 before we ever got to that residence that we had warrants
15 for his arrest.

16 Q Okay. And the arrest warrants that you had, had you seen
17 them?

18 A Did I see them?

19 Q Yes.

20 A No, I did not.

21 Q So, prior to his arrest, you've never seen the arrest
22 warrants?

23 A No.

24 Q So, you don't even know what they said but you were
25 arresting him and you were tasing him and you didn't even

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1 know what the warrant said?

2 A I knew what the charges were going to be. I just didn't
3 know how they were worded because I didn't type the
4 warrants.

5 Q Well, did you know what's in the affidavit in the warrant
6 that you were arresting him on?

7 A I didn't know the affidavit, I didn't know the warrants
8 because I didn't type them, but I knew what the background
9 was on the investigation, what kind of crime it was, and
10 what we were seeking him for.

11 Q Well, what if the information in the warrant was
12 incorrect? Would that make a difference in whether you
13 want to arrest him or tase him or anything else?

14 A At the time, no. Because at the time we had the warrants.
15 The severity of those warrants. Anything, just from the
16 narrative in the warrant would be for a later day in
17 court. At the time in the woods, I was looking for my
18 safety and the officers' safety around me and at the time,
19 he was not compliant with my orders, so I had to make a
20 decision.

21 Q So, it wasn't an issue about whether the warrants were
22 valid or invalid, the issue was, you were giving him a
23 command and he wasn't immediately complying with your
24 command?

25 A Yes, sir. I told him he was under arrest, to show me his

1 hands, to stop what he was doing. He did not comply and at
2 that time I really did not care about Family Court
3 warrants. They were very small in the order compared for
4 what we had him for at the time.

5 Q Well, when he's not complying, had you told him what it
6 was? Because he's saying to you that he thinks it's Family
7 Court. And did you tell him, look, we're trying to arrest
8 you for burglary first degree and armed robbery and
9 kidnaping and all this stuff?

10 A No.

11 Q So, when he ran, he had no way of knowing because you
12 certainly hadn't told him what you were there for at that
13 point, right?

14 A I guess not, no.

15 Q Now, let me ask you this. In regards to Mr. & Ms. Murphy's
16 home, did you ever go to the home?

17 A No, I did not.

18 Q Did you ever participate in any of the interviews with Mr.
19 Murphy or Ms. Murphy?

20 A No, I did not.

21 Q Did you participate in any statements with Mr. Campbell or
22 Mr. Brooks?

23 A I did assist Mr. Head in going to the detention center and
24 speaking to Mr. Campbell.

25 MR. WILSON: No other questions..

1 Q Thank you, sir.

2 THE COURT: Any redirect.

3 MR. RICHARDSON: No redirect?

4 THE COURT: Okay. You may step down.

5 MR. RICHARDSON: Your Honor, may we approach?

6 THE COURT: Certainly.

7 (Brief bench conference off the record.)

8 THE COURT: Mr. Foreman, ladies and gentlemen, of the jury,
9 we're going to take a mid-afternoon break. We also have some
10 legal matters to tend to outside of your presence. So, everyone
11 remain seated as the jury exits the courtroom. There's to be no
12 discussion about the case, whatsoever.

13 (Jury out at 3:05 PM)

14 THE COURT: Yes, sir, Mr. Jepertering?

15 MR. JEPERTINGER: Your Honor, when pondering the testimony
16 that we're going to try to elicit from Investigator Head, he
17 received correspondence dated April 7th, 2015. It said Dear
18 Justin Head and Ralph Wilson, my attorney. I received this
19 three-page document, I guess, from Investigator Head that
20 included part of an incidental report supplemental and
21 something dated also April 24, 2015 that was attached to the
22 April 7th letter signed by Mr. Brooks. It reads: Dear Justin
23 Head and Ralph Wilson, my attorney. Let me just have it marked,
24 okay?

25 THE COURT: Yeah.

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1 MR. JEPERTINGER: This will be State's Exhibit #9 and I
2 think Mr. Wilson got a copy of this as well. Dear Justin Head
3 and Ralph Wilson my attorney: How are you doing? You, in
4 parenthesis, Justin, told me in our interview if I wasn't the
5 one holding the gun then that you would have my charges
6 lowered. I do not know how my DNA got on the tape that was used
7 on those people, but I have a feeling you and Bannister did
8 that. I am ready to end this nightmare and drop the lawsuit.
9 Here's my offer. You talk to my lawyer and the Solicitor. Let
10 them know if Michael's willing to admit to being present and
11 being the one who was ordered to put the duct tape on. That, it
12 was Campbell's idea because he was in the bank and thought the
13 man was depositing the money and I went along with him and
14 followed him into the residence and I will be willing to
15 testify to this. I'm ready to end this and move on with my
16 life.

17 And then it says: In order I plead to asseary -- I guess
18 that's accessory -- saying I was Campbell's accompish and I'll
19 plead to anything between five to ten years. I will do this
20 instead of having SLED look into when the items were sent off
21 or still getting my case dismissed for warrant-less
22 unconstitutional arrest or bad faith warrants. And then in
23 parenthesis above bad faith warrants. He has no log for
24 jewelry. And then if -- with the words false arrest on top of
25 that -- If I can go ahead and set this meeting up and get an

1 agreement from the solicitor, then I will give my statement
2 against Campbell go ahead and plead so I can go ahead up the
3 road and be called back to trail when I am needed. Below is my
4 lawyer's name and phone number.

5 And then he gives Mr. Wilson's address, his phone number
6 and his fax number. And then in the lower left-hand corner he
7 has, I have a written statement prepared. And then it's a note
8 to Justin and Ralph, P.S. I know you feel the same way I do.
9 Let's close out this case and end this lawsuit. What I'm
10 offering is an honest way between us to do this. If you would
11 be a man of your word, Justin, I'm ready to end this. I'm also
12 sending my lawyer a copy. Five to ten years means the less I
13 could do is five and the most ten. Then he includes on the
14 second page, an incident report supplemental, which starts off
15 at page six. Officer Head's number with Head/J: That he was
16 still going to be charged. I informed Brooks that due to his
17 cooperation, I would speak on his behalf to the solicitor's
18 office and that it is possible that they could lower his
19 charges if he was truly not the one holding the gun. I informed
20 Brooks I could not promise him anything but that being honest
21 can truly help him in the long run. Brooks still stated that he
22 was indeed the one driving the car, but that he had not
23 actively participated in the robbery. It should be noted that
24 during the interview I asked Brooks if Campbell still lived at
25 ■■■ and that's, all that's on that page.

1 And the last page was April 24, 2015. Dear Justin, I hope
2 my coming forward and asking for clemency would be able to
3 benefit all involved. I know my co-defendant Campbell is trying
4 to worm his way out and my writing and oral statements will
5 help close this case. I also will drop the lawsuit and cancel
6 my meeting with Lieutenant Abraham from (SLED). I was gonna
7 have him look into the security video from (Precision Lapidary)
8 pawn shop to see was the jewelry taken from the pawn shop and
9 also have him look into other aspects but all that can be put
10 behind us. I guess I will be hearing from my lawyer soon and we
11 can work out what needs to be done. I already have a writing
12 statement and after my lawyer left y'all read it and terms are
13 agreed on I will give an oral statement. I hope we will get
14 into court together and close this case. Signed, Michael
15 Brooks.

16 Your Honor, I feel that if we are able to redact some of
17 this statement in terms of what he's looking for or in terms of
18 a sentence, that there is an admission in this statement. Let
19 them know that Michael is willing to admit to being present and
20 being the one who was ordered to put the duct tape on, that it
21 was Campbell's idea because he was in the bank and thought, I
22 think he meant thought the man was depositing money. That I
23 went along with him and followed him into the residence and I
24 would be willing to testify to this.

25 THE COURT: That's in essence what you want in?

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1 MR. JEPERTINGER: Absolutely. And I would redact the other
2 aspects of this statement, we'll black-ink everything else.

3 THE COURT: Okay. What's the Defense's position?

4 MR. WILSON: Your Honor, obviously, I would object to it.
5 First of all, the Defendant is in custody. And at this point
6 I'm not even sure that the letter is from Michael Brooks,
7 though that's what it's -- based on the reading of it, that's
8 what it says. I don't know how we prove that it, in fact, was
9 sent from my Michael Brooks. And if somehow they intercepted a
10 letter that was designated for me as his attorney, then I would
11 submit that that's not admissible in the first place.

12 THE COURT: I don't think -- I think it was sent to you ---

13 MR. JEPERTINGER: It went to both individuals.

14 THE COURT: It was sent to both of you.

15 MR. WILSON: Well, but ---

16 THE COURT: You've seen it, haven't you?

17 MR. WILSON: I've seen it, yes, sir. But there's no showing
18 -- I haven't seen anything that shows me that that letter was
19 ever mailed to Justin Head. I haven't seen anything that
20 suggests that. That his name is on there, there's no question
21 about that, but I need to know how they came into possession of
22 that letter. And secondly, if they came in, if they came into
23 it in a legal fashion, then second of all, is it actually from
24 Mr. Brooks. I think those are questions that have to be
25 answered before we can talk about what part of it, if any,

1 could be admitted.

2 MR. JEPERTINGER: Your Honor, we can proffer the testimony
3 from Justin, of course, to say they received this letter in the
4 U.S. Mail. We would also proffer the testimony that he
5 recognized Michael Brooks' signature because he has written Mr.
6 Head several letters and he can identify the handwriting of Mr.
7 Brooks.

8 THE COURT: I think that's what -- I think that you would
9 certainly need that before you could introduce it, but I think
10 that if he can recognize his handwriting. Of course, you can
11 say that it's not his handwriting and he can get up and deny
12 that he wrote it, but if Head says that he received this
13 through the U.S. Mail and that he has seen Mr. Brooks'
14 signature on paperwork and various other things and looked at
15 his signature on his license and however he can do it, if he
16 can identify this as being, as receiving it in the mail and he
17 recognizes his handwriting, I think that it's admissible.

18 MR. WILSON: Then I think that what we have to do, Your
19 Honor, the way I would suggest, in the statement where Justin
20 Head is -- Justin Head is actually interviewing or
21 interrogating this Defendant in some of the other statements,
22 these, I'm going to say promises, but that's for lack of a
23 better word. I thinks that's what they are. If you did this,
24 then this is what I will do. And so what I am suggesting to the
25 Court is that those are the things that precipitated. And so if

1 we're going to, if we're going to allow this in, then we have
2 to be able to show this Court and this jury that, in fact,
3 these things were precipitated by this officer through his
4 interrogation and promises that he made to this Defendant.

5 THE COURT: I think it would be to some extent detrimental
6 to your client. I think Jepertinger is actually -- I don't know
7 why he chose to redact that, but I thought it was because he
8 thought it was objectionable from your point of view because it
9 talks about ranges of sentences, which are generally not
10 admissible. But if you want that in, I'll be glad to hear from
11 Mr. Jepertinger. Do you have an objection to that coming in?

12 MR. JEPERTINGER: No, absolutely not.

13 THE COURT: Okay. Well, he's indicated that he's going to
14 redact it to that relevant information that he has put forward
15 if he can lay the proper foundation through Investigator Head.

16 MR. JEPERTINGER: In fact, we'll go through the redaction
17 with the Court.

18 MR. WILSON: Well, I think I'm being -- I think I'm
19 misunderstood. What I'm saying is, is that it ought not be
20 admissible, period, as a result of the promises and things that
21 were made to this Defendant during the interrogation process,
22 which is what precipitated these.

23 THE COURT: You're saying that it's inadmissible because
24 it's plea negotiations?

25 MR. WILSON: Yes, sir. And clearly they told him in these

1 audio taped interviews that if he admitted that he wasn't, that
2 he wasn't the shooter and he didn't have the gun in his hands,
3 they were going to do all these things. They were going to help
4 him and they were going to get a hold of the Solicitor and get
5 -- and they made -- well, he actually used the word promise.
6 That I will do this if these things happen. He's no -- even if
7 he does what they ask him to do, they want to use it against
8 him, you know, now, and without doing Miranda, without doing
9 anything. I just think that that's really unfair when the
10 Defendant is incarcerated at the time that this is occurring
11 and he has an attorney.

12 THE COURT: Well, now, of course, they didn't ask for this
13 letter. He voluntarily gave it. That's the problem.

14 MR. WILSON: Well, and that's yet to be determined at this
15 point whether or not he sent it to them. I don't know how they
16 got the letter. I don't know how they got it.

17 THE COURT: Well, I'm certain we're fixing to find out.

18 MR. WILSON: I assume they're going to have to establish
19 that, but I'm not sure how they got it.

20 THE COURT: Well, what do you think about the issue about,
21 generally, plea negotiations are not admissible?

22 MR. JEPERTINGER: Generally, they're not. That's why I was
23 going to redact that portion of that letter, Your Honor, in
24 terms of settlement. However, at that point when that letter's
25 written, Justin Head, I mean, the Solicitor's office has the

1 case. I'm the only one that can bind the State in terms of plea
2 bargain negotiations, not a police officer at that stage and he
3 knows that, because by that time, he's had his bond hearing,
4 the case has been indicted. If you look at the date of the
5 letter, it's come from 2015. Not too long ago. He already has
6 counsel. Counsel has been in contact with me. We've sent Rule 5
7 to counsel. At that point, I wouldn't say it's in the nature of
8 plea bargaining, whatsoever, and it would have been a year
9 after the last interrogation which took place in March of 2014.

10 THE COURT: If they can lay the proper foundation, I'm
11 going to allow it in because it's an admission against
12 interests. I don't think that it is, indeed, plea negotiations
13 because I think what the rule anticipates is that if you and
14 the Solicitor and you are saying, well, I'll take five, you
15 know, if you plead guilty or I'll take ten and then there's
16 discussion about the merits of the defense and merits of the
17 prosecution, all of that I think would be precluded by the
18 rule. But I do, indeed, find that this is an admission against
19 interests and I'm going to allow Mr. Jepertinger to redact all
20 of the stuff, with the exception of that core part about his
21 admission and going in and this and that, the admission that he
22 wants into evidence. And then -- however, if you want to get
23 into discussion about the sentences and that sort of thing,
24 I'll allow you to do that at your own risk, whatever you want
25 to do.

1 MR. WILSON: Well, what I want to do is, I think that,
2 first of all -- and I understand the Court's ruling and your
3 position, but what I would ask the Court to do is make the
4 other two interviews, which I think is March 19th and March
5 27th, give those for the purposes of this in-camera process and
6 make those two statements of the Defendant prior to his letter
7 and the reason for that is, on appeal one of the things that I
8 need to be able to show to whoever is reviewing this, if it
9 gets that far, is that these promises were made to him, which I
10 think induced him to do what he did.

11 THE COURT: All right. And that all goes to the
12 voluntariness and that's ultimately a question of fact for the
13 jury. And you can make it a part of the record for the purposes
14 of this hearing, but as far as whether or not -- as far as it's
15 introduced into evidence, you don't intend on doing that?

16 MR. WILSON: No, sir.

17 THE COURT: Well, certainly. Do you have an objection to
18 him making that a part of the record?

19 MR. JEPERTINGER: No, absolutely not. But those statements,
20 Judge, I don't know how -- I think they're pretty long to play
21 all three of the statements.

22 MR. WILSON: We're not going to play them. What I'm simply
23 asking is that they be made a part of this record.

24 THE COURT: Now, I haven't heard those statements. However,
25 I have heard the one that y'all intend on introducing, which

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1 does talk about some of the promises, perhaps.

2 MR. JEPERTINGER: Yes. And with the caveat both from Mr.
3 Head and Mr. Williamson that if things could be confirmed.

4 THE COURT: Right. I understand that.

5 MR. JEPERTINGER: Now, I will say that the other statements
6 are filled with references to polygraph and ---

7 THE COURT: All right. But for purposes ---

8 MR. JEPERTINGER: But for purposes of this, it doesn't
9 matter.

10 THE COURT: It does not matter and we will make it a part
11 of the record. And I don't think it's necessary really for me
12 to hear it at this juncture, do you think, Mr. Wilson? Because
13 essentially, what you're saying is that they're making promises
14 if he makes certain statements?

15 MR. WILSON: Yes, that's correct.

16 THE COURT: And that all goes to voluntariness and you can
17 make it a part of the record for the purpose of this hearing
18 and if you want to make a factual issue about the
19 voluntariness, you're free to do that at the time that you are
20 allowed to put up your defense.

21 MR. WILSON: Yes, sir.

22 THE COURT: All right. Mr. Jepertinger, we're going to take
23 about a five-minute recess.

24 MR. JEPERTINGER: Yes, sir.

25 THE COURT: I want you to maybe highlight a copy as to what

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1 you want to -- why don't y'all reach an agreement and blank out
2 the rest.

3 MR. JEPERTINGER: Yes, sir.

4 THE COURT: Okay. And we'll take about a five-minute
5 recess.

6 (Brief break)

7 MR. JEPERTINGER: All right. Your Honor, I think the first
8 matter would be to proffer the testimony of Justin Head.

9 THE COURT: Yes.

10 MR. JEPERTINGER: Justin if you would come forward, please?
11 Now, this is a copy. This has not been marked.

12 THE COURT: Very good. You swear to tell the truth the
13 whole truth and nothing but the truth so help you God?

14 MR. HEAD: Yes, sir, I do.

15 THE COURT: You may have a seat.

16 (After being duly sworn by Judge Nettles, JUSTIN HEAD
17 testified as follows:)

18 PROFFERED DIRECT EXAMINATION

19 BY MR. JEPERTINGER:

20 Q Okay, Investigator Head, I'm going to show -- this is a
21 copy of, I believe, State's Exhibit #9, if I'm not
22 mistaken, in terms of that number. Do you recall receiving
23 this document? Just tell the Court what it is, please.

24 A Yes, sir. This is a letter that I received at the police
25 department from the jail that was from Michael Brooks.

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- 1 Q All right. How do you know it was from Michael Brooks?
- 2 A Because he puts his name in it multiple times and he's
- 3 cited.
- 4 Q I notice that's the -- that was April 25th, I believe?
- 5 A That's what it said at the top. It's cut off now.
- 6 Q On State's Exhibit #9? We'll see it once we get it back.
- 7 But what signature is on the bottom there?
- 8 A Michael Brooks.
- 9 Q Okay. Are you familiar with Michael Brooks' signature?
- 10 A Oh, yes, sir. He's written me multiple letters, more than
- 11 I can count, and signed several Miranda affidavits.
- 12 Q And on State's Exhibit #2 -- well, it's not in evidence
- 13 yet, but whose signature is listed at the bottom?
- 14 A At the bottom is Michael Brooks.
- 15 Q Okay. Is that the same signature that you see on that
- 16 document that is the ---
- 17 A It looks the same to me, yes, sir.
- 18 Q For the purposes of this hearing, this is State's Exhibit
- 19 #9. I've taken my copy back.
- 20 A Okay.
- 21 Q And have you received previous correspondence from Mr.
- 22 Brooks?
- 23 A Yes, sir, as I said, more than I could count.
- 24 Q Okay. Are you familiar with his handwriting?
- 25 A Absolutely.

1 Q Is that his printing that you've seen ---

2 A Yes, sir. Absolutely.

3 Q No question in your mind?

4 A No, sir.

5 Q Now, did you receive that via United States Mail or you
6 said you got it from the jail. How does that ---

7 A The jail will send letters to our records division and
8 then the records division will forward it. On multiple
9 occasions I've come to work and they've been in my box. As
10 I said, the records division will get them, open them,
11 make sure there's nothing dangerous or anything in there,
12 and then give them to who they are addressed to.

13 Q On April 7th, 2015 and April the 24th, of 2015, on any of
14 those dates or just prior to that, did you solicit Mr.
15 Brooks in any way, shape or form that he write you a
16 letter?

17 A No, sir. Absolutely, not. Yeah, I believe it had been
18 approximately a year since the last time I personally
19 spoke to him. He'd written me on multiple occasions. I
20 never wrote him back. Never went out there to see him
21 prior to going over with Mr. Jepertinger prior to this
22 case.

23 THE COURT: Very good.

24 MR. JEPERTINGER: All right. That's all I have in regards
25 to that matter. And I will show you -- I would, I guess -- we

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1 had it marked as State's Exhibit #9, but it's a redacted form
2 of State's Exhibit #9. If we could give it its own number?

3 THE COURT: Very good.

4 (Whereupon, a redacted letter of Mr. Brooks' is introduced
5 as State's Exhibit #10, for identification.)

6 THE COURT: Mr. Wilson, do you -- I know you disagree with
7 the introduction of it. However, you agree that this redacted
8 version is consistent with my ruling?

9 MR. JEPERTINGER: Let me show it to him.

10 MR. WILSON: Well, after -- may I ask him some questions?

11 THE COURT: Sure. I'm just asking as far as the integrity
12 of the redaction.

13 MR. WILSON: Yes, sir. I think this complies with the
14 Court's admission of the letter.

15 THE COURT: Very good. All right, Mr. Wilson. Are you
16 through with your examination?

17 MR. JEPERTINGER: Yes. I just point that State's Exhibit #9
18 should only be a Court's Exhibit.

19 THE COURT: That's correct.

20 MR. JEPERTINGER: In terms of this State's Exhibit #9 --
21 State's Exhibit #10 is what we will be introducing into
22 evidence on this matter.

23 THE COURT: Very good.

24 MR. JEPERTINGER: Thank you.

25 THE COURT: Mr. Wilson, you're recognized.

1 MR. WILSON: I just have a couple of questions.

2 PROFFERED CROSS EXAMINATION

3 BY MR. WILSON:

4 Q Investigator, let me ask you this: Did you get -- you said
5 you got this in your mail at the department?

6 A Yes, sir.

7 Q And do you have an envelope that this came in?

8 A It came in an envelope. I do recall that. At some point
9 between all of the letters that I got, it was misplaced.
10 There were some envelopes that were in there, some that
11 were not. It was a very large case file. Things tend to go
12 missing, occasionally.

13 Q When you received this letter, which is dated April 7, was
14 it a one-page document?

15 A No, sir. There was three pages attached to it. I don't
16 believe they were stapled, but they were folded together.

17 Q Okay. Now, let me ask you...

18 MR. WILSON: And I don't know if this is the appropriate
19 time, Your Honor, to ask him questions about the two interviews
20 that we had on the 19th and the 27th?

21 THE COURT: Yeah. I think now would be a great time to do
22 that.

23 Q Let me ask you, did you have some conversations,
24 interviews, with Mr. Brooks on the 19th and then, I think
25 again, on the 27th?

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1 A I would have to refer back to my notes that are over there
2 for the exact dates, but I have had multiple conversations
3 with him last year. I apologize.

4 (Mr. Jepertinger hands witness a folder)

5 A Now, what dates were you referring to, sir?

6 Q The 19th and the 27th of March.

7 A Okay. I did speak to him on the 19th, yes, and the 27th,
8 yes, sir.

9 Q And both of those statements, in both those interviews,
10 did you read him Miranda?

11 A Yes, sir.

12 Q And in both those statements he was incarcerated. Is that
13 correct?

14 A Correct.

15 Q All right. And do you recall in those statements him
16 wanting you to make him some agreement as to what was
17 going to happen to him if he gave you information?

18 A Yes, sir. He asked multiple times for promises for -- in
19 fact one of the times he wanted us to let him go. Matter
20 of fact, I believe multiple times he wanted us to let him
21 go, immediately. I explained to him multiple times that I
22 could not make him any promises, but that as I do for a
23 lot of defendants, if he does cooperate, I would be more
24 than willing to speak on his behalf to the Solicitor's
25 office and let them make any agreements with you.

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1 Q And, in fact, in the letter that he sent you he is trying
2 to make you a deal, another part of the deal in order for
3 you to, to get your assistance to help him with the
4 Solicitor. In this letter that's dated April the 7th.

5 A Yes, sir. I'd have to see the letter, because I know he
6 highlighted. I don't know if -- but he had highlighted a
7 certain part of it for the second letter and I could tell
8 you exactly what interview that was he's referring to if
9 I'm allowed to look at it.

10 Q Let me show you. This is my copy. If you'll just take a
11 look at that.

12 A Yeah, there was a part of my supplemental that he attached
13 to this that he highlighted. I'm not familiar with exactly
14 which one that was. If I could look at this one. That is
15 #6. Because like I say, he was in reference to it in that
16 conversation on the 17th, which I believe we've already
17 discussed yesterday.

18 Q Right.

19 A But, yes, as I said, he did put that on there. But as I do
20 with every person I interview, I explain to them we all
21 make mistakes. If you man-up to your mistakes, I am more
22 than willing to try to help you out as much as possible.
23 But I do explain to them they still have to pay for their
24 part in that crime.

25 Q And he did. In fact, when you told him that if he

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1 cooperated fully and gave you all the information and if
2 he wasn't the person who actually was holding the gun and
3 present during the participation of this crime, that you
4 would go to the Solicitor and try to intercede in his
5 behalf.

6 A Correct.

7 Q And he understood that and he continued to try to
8 cooperate at various stages trying to get you to do that
9 for him?

10 A Cooperation would be a loose term. But, yes.

11 Q Well, in fact -- you say cooperation. He actually did
12 cooperate because he gave you Campbell's name.

13 A He did. He left out several aspects that were later
14 proven to be true. But, yes, he did give us their name.

15 Q And he gave you Terrance's name?

16 A Correct.

17 Q So, he did cooperate to some degree. Whether he fully
18 cooperated, we can debate that.

19 A Correct. And I did my part. I explained to the Solicitor's
20 office what he did. I've never tried to hide the aspect
21 that he gave us those names.

22 Q Okay.

23 A I explained that to them and whatever happened next is
24 their decision.

25 Q And so when he sends you this letter on the 7th, this

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1 letter that you presented on the 7th, he's actually trying
2 to get you to again intercede for him with the Solicitor
3 by giving you, telling you what he is willing to say or
4 what he can say to -- if y'all want to use him as a
5 witness or, I guess, or as a...

6 A He does make references to that, but I do think it is
7 worth noting that it was over a year later that he decided
8 to do this.

9 Q Yeah. Right. Because these interview conversations were in
10 March of 2014?

11 A Correct.

12 Q And this was April of '15?

13 A April 7th, 2015. So, more than a year later, yes, he does
14 send that stuff to us.

15 Q But then he is continuously incarcerated during this
16 period of time?

17 A Yes, sir.

18 Q Okay. Will you give me that first sheet back?

19 A I apologize. I don't know which one is yours.

20 Q I think this one is yours. Let me ask you ---

21 A Yes, sir.

22 Q And, again, let me show you this April 7th letter. Take a
23 look at that one.

24 A Yes, sir.

25 Q And where does it say that this letter's from Michael?

- 1 A I know the second page he signed, which was attached to
2 this. I don't know if his name is actually in this letter.
3 If you give me a moment, I could read the entire thing.
4 Q Okay.
- 5 A He puts his name in here. He speaks to himself in the
6 first person there. He says Michael. But as I have said
7 earlier, he did not sign this part, but I can tell you
8 this is his handwriting. I'm not a handwriting expert, but
9 I have read multiple letters from him and it came in the
10 exact same manner as all the rest.
- 11 Q Thank you.
- 12 A You're welcome.
- 13 MR. WILSON: No other questions.
- 14 THE COURT: All right. Anything further?
- 15 MR. JEPERTINGER: No, sir.
- 16 THE COURT: All right. Now, is he going to be your next
17 witness?
- 18 MR. JEPERTINGER: If we do, Judge. I mean, that statement
19 we have is going to go about what, about an hour with them and
20 besides there'll be things that he did in this case. We could
21 take another short witness. But he's going to take ---
- 22 THE COURT: Well, we're going to go until five and if we
23 have to break in the middle of a witness, that's fine, but
24 we're going to keep on going until five.
- 25 MR. JEPERTINGER: Very good then.

1 THE COURT: It's however you want to do it.

2 MR. JEPERTINGER: We can do him then.

3 THE COURT: Okay. Well, let's do it. We'll break at the
4 appropriate time. We're ready for the jury. You can just remain
5 right there.

6 MR. WILSON: Your Honor, before you do that, this letter
7 that we've been talking about, this April 7th, I'm not sure
8 what the exhibit number is. Just so I'm clear when they refer
9 to it.

10 MR. JEPERTINGER: It's State's Exhibit #10.

11 MR. WILSON: State's Exhibit #10. My concern is, is that
12 when I read this letter, and I've already shared with the Court
13 some of my other concerns about it, but when I read this
14 letter, and especially the first paragraph of this letter, I
15 mean, it's clear this is not an admission on this Defendant's
16 part. In fact, what he says is, is that I do not know how my
17 DNA got on the tape that was used. That's clearly an indication
18 that he's saying I'm not guilty.

19 THE COURT: Okay.

20 MR. WILSON: That's not an admission. And I have a feeling
21 you and Bannister did that. I'm ready to end this nightmare.
22 And then he says, let them know if, if Michael is willing to
23 admit to being present and it's Campbell's idea because he was
24 in the bank. So, he's not saying he did anything. What he's
25 saying is if he were to say that, what would he do? That's what

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1 he's saying. That's not an admission of guilt on this
2 Defendant's part. I don't see how that's an admission of guilt.
3 THE COURT: Well, I think that he, indeed, said it. I think
4 he's identified it as being his writing. He received it in the
5 regular course of his investigation. However, you are going to
6 have an opportunity to explain just that to the jury, that it's
7 not an admission that it's just a hypothetical.

8 MR. WILSON: The only problem with that, Your Honor, and I
9 agree. I understand the Court's ruling. I'm not going to
10 belabor it. It's just that what it does is it forces me into
11 the position of having to try to defend the entire letter
12 because that portion that they put in is really not a fair
13 characterization of what's in the content of the body of the
14 letter.

15 THE COURT: What does the State have to say about putting
16 in the whole letter.

17 MR. JEPERTINGER: We can put in the whole letter.

18 THE COURT: I think that would be fine, too, if that's --
19 whatever your pleasure is now.

20 MR. WILSON: No, I'm not offering it. I'm simply saying,
21 Your Honor, I'm just -- I don't want any of it in. That's my
22 position, but if the Court's willing to do it anyway then I
23 think that it's probably better for my client if the whole
24 thing goes in, because I think then the jury can certainly
25 understand what he's saying as opposed to this small paragraph,

1 which is taken out of context when it's read by itself and not
2 within the full context of the letter.

3 THE COURT: Well, do you want -- are you in a position to
4 make -- I'm going to let that paragraph in. And if I do that,
5 you want the whole letter in?

6 MR. WILSON: Yes, sir. I think ---

7 THE COURT: All right. We'll put the whole letter in then.

8 MR. JEPERTINGER: Okay. That would be State's Exhibit #9.

9 THE COURT: Okay. And we can make the redacted one a
10 Court's Exhibit and then put in the full letter.

11 (Whereupon, State's Exhibit #10, previously marked, is
12 remarked as Court's Exhibit #1.)

13 MR. WILSON: Your Honor, the other issue, and I apologize.
14 The other issue that I have some concern about is giving the
15 jury the indication that there is, attorney/client, that there
16 is a privilege between attorneys and clients. And my name is on
17 this letter because it says, Justin and Ralph Wilson, my
18 attorney. And my feeling is that ---

19 THE COURT: I don't think there's anyway in the world this
20 is attorney/client privilege, because when you tell somebody
21 else, it's not an attorney/client privilege. He sent the letter
22 to the investigator, which is not smart. It's not good. But one
23 thing we also know, it's not attorney/client privilege.

24 MR. WILSON: I understand.

25 THE COURT: You know, probably a less extreme example of

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1 that is if you've got Mr. Brooks and his mama in the office and
2 you start talking about the case, somebody else is there. It's
3 not attorney/client privilege and certainly when you send a
4 letter to the chief investigator about it, it's not privileged.
5 They didn't interrogate him. They didn't ask him about it. The
6 law is very clear that voluntary statements are admissible and
7 it's not subject to Miranda when they do these type things.
8 That's on him. He's the one that did that. All right. All
9 right. Are we ready for the jury?

10 MR. JEPERTINGER: Yes, sir.

11 (Jury in at 3:53 PM)

12 THE COURT: Mr. Foreman, ladies and gentlemen of the jury,
13 thank you for your patience. There were legal matters that we
14 had to tend to, but hopefully, you got a good break and they
15 were able to give you some refreshments. But perk up and pay
16 close attention. I know it's late in the afternoon, but these
17 are important matters. Mr. Jepertinger.

18 DIRECT EXAMINATION

19 BY MR. JEPERTINGER:

20 Q Your name, sir?

21 A Investigator Justin Brooks Head.

22 Q Okay. Were you the chief investigator in this case?

23 A Yes, sir. I was the lead investigator.

24 Q Okay. And how long have you been an investigator for the
25 Florence Police Department?

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1 A I believe I'm going on my fourth year. I believe third or
2 fourth year.

3 Q All right. In this particular case, did you make an arrest
4 of the Defendant in this case?

5 A Yes, sir, I did.

6 Q Okay. You were the one that charged him with the charges
7 being tried in Court today. Correct?

8 A Yes, sir.

9 Q Did you have an opportunity to speak with him on March the
10 17th, 2014?

11 A Yes, sir. I spoke to him on multiple occasions. March 17th
12 was one of them. Yes, sir.

13 Q Okay. On March 14th, you spoke with him. Correct?

14 A Yes, sir. Yes, sir. That was the day he was arrested.

15 Q All right. And how did you come to speak with him on March
16 the 17th?

17 A March the 17th, he called me. He was originally arrested
18 on the 14th. We interviewed him then. He claimed he had no
19 idea what we were speaking about and that was that. We had
20 spoken for a while then. He was sent to the detention
21 center. The warrants were served on him. He was in the
22 detention center. That was a Friday, I do believe. The
23 following Monday, around -- it was right when I was
24 getting off of work, because I get off at four-thirty
25 everyday and he called, or I got a call from the actual

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1 detention center booking staff who informed me that he had
2 broken down into tears and he wished to speak with me
3 further about this matter. So, myself and Investigator
4 Williamson actually traveled to the detention center that
5 night to speak with him.

6 Q All right. Prior to speaking to him, did you give him what
7 we see on television, the Miranda warnings?

8 A Absolutely. Always.

9 Q Okay. I'm going to show you State's #2. Can you identify
10 that, please?

11 A Yes, sir. That is the Miranda form that we read to Michael
12 Brooks on the 17th of March in 2014.

13 Q Okay. Can you go over that with the jury, please, what you
14 read?

15 A Yes, I can. It's very much like you see on TV. We have
16 these forms. Prior to questioning we read it to everyone
17 who is in an interview/interrogation circumstance. We make
18 sure they understand it. It reads as follows: We put the
19 case number, date, Defendant's name, where they're at,
20 birthday, all that stuff on there. And then we read this
21 to them, and it says: Before we ask you any questions you
22 must understand your rights. You have the right to remain
23 silent. Anything you say can and will be used against you
24 in a court of law. You have the right to talk to a lawyer
25 and have him present with you while you're being

1 questioned. If you cannot afford to hire a lawyer, one
2 will be appointed to represent you before you're
3 questioned, if you wish. You can decide at any time to
4 exercise these rights and not answer any questions or make
5 any statements. Now, down here at the bottom. It says I,
6 and we fill that in for them. We put in their name for
7 them, Michael Brooks, voluntarily without threats, duress,
8 force, promises of immunity or reward agree to be
9 questioned by the Florence Police Department and there at
10 the bottom it says, important notice. If you do not
11 understand any part of this form, do not sign it until you
12 do. We make sure they understand, then we hand it to them
13 and they sign it down there at the bottom.

14 Q And his signature is on the bottom?

15 A Yes, sir. He signed and dated it.

16 Q All right.

17 MR. JEPERTINGER: At this time I would move State's Exhibit
18 #2 into evidence.

19 THE COURT: Any objection from the Defense?

20 MR. WILSON: No, sir.

21 THE COURT: All right. State's Exhibit #2 is into evidence.

22 (Whereupon, a Miranda form, 3/17/14, is entered into
23 evidence as State's Exhibit #2, without objection)

24 Q All right. When you spoke with him on March the 17th,
25 2014, it was with Investigator Williamson down at the

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1 jail?

2 A Yes, sir.

3 Q Was that statement recorded?

4 A Yes, sir, it was.

5 Q Okay. I'll show you State's Exhibit #1. Can you identify
6 that for the jury?

7 A That is a disk that I do believe contains portions of my
8 interview with Mr. Brooks.

9 Q All right.

10 MR. JEPERTINGER: And at this time I would move State's
11 Exhibit #1 into evidence.

12 MR. WILSON: Subject to my previous objection.

13 THE COURT: All right. It's into evidence over objection.

14 (Whereupon, a CD interview is entered into evidence as
15 State's Exhibit #1, over objection)

16 MR. JEPERTINGER: And we'd like to play that for the jury
17 right now.

18 THE COURT: You may.

19 (Whereupon, State's Exhibit #1 was played for the jury.)

20 MR. JEPERTINGER: Just one quick question, Judge.

21 THE COURT: Very good.

22 MR. JEPERTINGER: And that'll be, I guess, all for the
23 night.

24 THE COURT: Very good.

25 Q When you said five fifty-five at the end of that tape,

1 this was PM. Correct?

2 A Correct.

3 Q And that's the question I had for you.

4 THE COURT: All right. Very good. Mr. Foreman, ladies and
5 gentlemen of the jury, we're going to recess for the evening.
6 Once again, do not discuss the case. Do not do any independent
7 investigations. If there was some news media coverage about
8 this case, which I don't anticipate there was, divert your
9 attention from that. Get a good nights rest. I know that many
10 of you are obviously not working tomorrow and there might be a
11 tendency to stay up and watch the Jimmy Kimmel show or
12 something like that. Don't do that, because this is a sedentary
13 activity. You need to stay awake. You need to be attentive.
14 These are very important matters. So, go home and get a good
15 nights rest. We'll see you back at nine-thirty, nine-thirty
16 sharp. Everyone remain seated as the jury exits the courtroom.

17 (Jury out at 4:59 PM)

18 THE COURT: Investigator Head, under these circumstances
19 you can't discuss this case with any of the lawyers. Be back
20 here at nine-thirty in the morning, nine-thirty sharp. And do
21 not discuss the case with anyone.

22 MR. HEAD: Yes, sir.

23 THE COURT: Anything from the State before we recess for
24 the evening?

25 MR. JEPERTINGER: No, Your Honor, not that I'm aware.

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1 THE COURT: Anything from the Defense, Mr. Wilson?

2 MR. WILSON: Your Honor, just a housekeeping matter. I had
3 asked the Court previously about allowing me to have marked as
4 Court's Exhibits the ---

5 THE COURT: The two previous interviews?

6 MR. WILSON: Yes, sir.

7 THE COURT: You're certainly able to do that.

8 MR. WILSON: Thank you. And I'd ask the Court to have it
9 marked.

10 THE COURT: Yes, we can.

11 (Whereupon, two interviews on CD of Mr. Brooks are marked
12 as Court's Exhibits #2 and #3)

13 THE COURT: We'll stand at ease until nine-thirty in the
14 morning.

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16 THE COURT: Is there anything from the State before we
17 bring the jury out?

18 MR. JEPERTINGER: No, sir.

19 THE COURT: Anything from Defense?

20 MR. WILSON: No, sir.

21 THE COURT: We're ready for the jury.

22 (Jury in at 9:35 AM)

23 THE COURT: Mr. Foreman, ladies and gentlemen of the jury,
24 good morning. Everybody looks alert, ready to hear testimony.
25 Pay very close attention. Mr. Jepertinger, you're recognized.

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1 MR. JEPERTINGER: We would re-call Justin Head to the
2 stand.

3 THE COURT: All right. Mr. Head, once again I'm going to
4 ask you place your left hand on the Bible and raise your right
5 hand as the clerk administers the oath.

6 (After being duly sworn by the Clerk of Court, INVESTIGATOR
7 JUSTIN HEAD testified as follows:)

8 THE COURT: Once again, pull up close to the microphone,
9 speak loudly, clearly and slowly. Mr. Jepertinger, you're
10 recognized.

11 MR. HEAD: I'm Investigator Justin Head.

12 CONTINUED DIRECT EXAMINATION

13 BY MR. JEPERTINGER:

14 Q Okay. Justin, just to refresh everybody's recollection,
15 you were the chief investigator in this case?

16 A Correct.

17 Q Okay. Now, we kind of did things out of order yesterday in
18 terms of the statement we heard before we adjourned for
19 the evening. Kind of give us, chronologically, if you
20 could, how you were called out to the Berkley address.

21 A Yes, sir. I was sitting in my office doing paperwork. I
22 had my radio on and I overheard this call come out on the
23 radio about a home invasion. Myself and Corporal Howard,
24 we traveled over to that location prior to being called
25 out, because it seemed like a pretty big call. So, we went

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- 1 over there to make sure everything was okay. When we
2 arrived on scene, I observed multiple law enforcements
3 already there. They explained to me what had happened.
4 They explained that at least two black males had forced
5 their way into the residence with a gun and that they had
6 robbed the victims, Cara and Larry Murphy. I was informed
7 that they had duct-taped both of their hands together,
8 Both their hands and their feet, and laid them on the
9 floor. And at that point we did not know what they took,
10 except for their wallets, I believe at that time. We went
11 in. I observed the duct tape laying on the ground where
12 Mr. Murphy was able to free himself. Ms. Murphy still had
13 duct tape on her hands. It had been cut so that she could
14 still move and on her feet, I believe, had been cut, but
15 she still had it on her at that time.
- 16 Q What was her physical condition and were they emotional at
17 that point or how would you describe them?
- 18 A They were very upset, but I deemed it to be more of a
19 state of shock because they were not crying and screaming,
20 but they were in a -- you could tell they were obviously
21 upset. The only time -- I do believe Ms. Murphy did break
22 down at one point was when she called her daughter to tell
23 her what had happened and that was when she broke into
24 tears.
- 25 Q And so what did you do after you spoke with her?

1 A I went ahead and called the crime scene unit. Sergeant
2 Myers and Corporal Hill arrived on the scene.

3 Q And both of those individuals are in the courtroom today,
4 are they not?

5 A Yes, sir, they are. They responded to the scene. While
6 they were en route I began to speak with the victims, to
7 get a brief description of what they said, what they saw.
8 Two black males, one taller, one shorter, they had come
9 in. I was informed that the first black male had placed,
10 had put a gun to Mr. Murphy and said, "Give me your
11 money." "Give me the money." I asked Mr. Murphy if he kept
12 large amounts of money in the house. Some people do. He
13 said they did not. He did tell me at that point that he
14 had made a deposit at a bank, a local bank that day, but
15 it had been several hours earlier in the day. So, at that
16 point, we weren't a hundred percent sure if that was
17 related to this incident or not. After getting a few of
18 the facts from Mr. & Ms. Murphy, we walked around the
19 residence and she showed me where certain items were
20 missing from and that was where she informed me that the
21 necklace that we brought earlier was missing.

22 Q All right. And that would be the pendant that I think is
23 #3B. Is that correct?

24 A Yes, sir, it is.

25 Q All right. So, with that information after you spoke with

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1 them, what did you do then?

2 A Yeah, at that point, what we typically do is turn the
3 scene over to the crime scene unit. They're the ones who
4 process the scene for forensic evidence, DNA, all that
5 good stuff. My job at that point is to go track down
6 leads. I went to all the local pawn and gold shops in town
7 and informed them of kind of what we were looking for. At
8 that point, we did not have a photograph of it. All I
9 could do was kind of describe it to them. Later Ms. Murphy
10 did provide me with a photograph of her wearing it. Many
11 years ago a portrait where she had it on. So, I was kind
12 of able to blow it up and take it back to all the shops
13 and say, "Hey, this is what we're looking for. If you see
14 anything like this, please call me."

15 Q So, as a result of you doing that, what happened then?

16 A It was several, approximately a week later, the 14th,
17 exactly. That was when Mr. Franklin Jones, the owner of
18 Precision Lapidary -- I know Mr. Jones very well. I've
19 dealt with him quite a few times. We have a very good
20 working relationship. He knows a lot of people in the city
21 and we've always been very friendly and cordial to each
22 other and he called me and said he thought he saw the
23 necklace that I was speaking of and that's was when I went
24 over there and he gave me the name of Ms. Heyward.

25 Q Okay. And did he provide you what's been marked State's

1 Exhibit #8 with her identifying information?

2 A Yes, sir. He informed me that he did not buy that
3 particular piece, because she did not want to sell it, but
4 that he had bought other items from her and by state law
5 when they buy something from you, they have to take your
6 ID, write down all the information or scan it, something
7 of that nature just in case things are being stolen or
8 something of that nature.

9 Q Okay. And I see a date here under this date thing.

10 A It says 3/13/2014.

11 Q Okay. So ---

12 A That would have been the day before.

13 Q The day before?

14 A Yes, sir.

15 Q So, up to that point, from the 3rd to the, I guess, 14th,
16 what were you doing during that time?

17 A We were following up on every lead possible. We had been
18 informed by a passer-by, who spoke yesterday, that she'd
19 seen a greenish-teal colored Chevy Suburban, Tahoe,
20 something of that nature, right across the street with one
21 African American male standing outside. At that point,
22 that was really all we had to go on. So, we started
23 looking around. Patrol pulled over a lot of cars around
24 that time, in that area, to see if any of those were them.
25 None of them were them. We did find that there was a

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1 residence that had a video camera, luckily. That was Mr.
2 Gioldasis. Excuse me if I mispronounced that. He allowed
3 us to look at his video surveillance. Mr. & Ms. Murphy's
4 house is here on the corner and their house is directly
5 across, diagonally. So, they're at the same intersection.
6 I believe they're in the 1200 block. He's in the 1300
7 block, there on the opposite side. He allowed us to view
8 his surveillance cameras and we were able to see a
9 Tahoe/Suburban looking vehicle travel through several
10 times, possibly circling the neighborhood, circling the
11 block.

12 Q Okay. Then on the 14th you get your information from
13 Precision Lapidary?

14 A Yes, sir.

15 Q Okay. What did you do with the information from Darlene
16 Heyward once you got that, once you got that information
17 from Mr. Jones?

18 A Once we got Ms. Heyward's information, I traveled to her
19 address. She was home. I explained to her what I was
20 looking for and the reason I was looking for it. She
21 informed me that she did, indeed, have that piece. I asked
22 her where she got it from and she explained that she had
23 gotten it from Ms. McNeil. She informed me that it had
24 been a little bit before -- I can't remember the exact
25 date, but that she had bought it from her for her personal

1 use because she liked it and that she had taken some other
2 stuff to Mr. Jones to sell and that he had been looking at
3 it.

4 Q All right. And once you got that information and Ms.
5 McNeil's name popped up, did you follow that lead?

6 A Yes, sir, we did. At that time, we were pursuing Ms.
7 McNeil as a possible suspect. We actually did find out
8 that she had a vehicle similar to that registered in her
9 name, but it later turned out that she'd gotten rid of
10 that vehicle a long time ago and the registration had
11 expired. When we did finally locate Ms. McNeil, we brought
12 her in for formal questioning. She was obviously nervous.
13 When we explained to her the reason we were looking for
14 that, her first words were immediately, I bought that from
15 Mike. I believe she also said his name, he went by "Main".

16 Q A nickname?

17 A Yes, sir. A street name of "Main".

18 Q Okay. And at that point what did you do with that
19 information once she told you that?

20 A She wasn't able to give us a full name for Mr. Brooks at
21 that time. Like I said, she was very upset. It was kind of
22 confusing as to -- as you kind of saw yesterday, it was a
23 little confusing over exactly what she was saying. So,
24 what we had is, I had an investigator go out to the
25 trailer park where she said she lived, who asked around,

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1 and he was able to come back with the name of Michael
2 Brooks. At that point ---

3 Q Okay. And let me stop you. The trailer park where she
4 lived was where?

5 A Smith & Smith I believe is what it was called at that
6 time. Smith & Smith Trailer Park.

7 Q Now, just for perspective for the jurors and the Court and
8 people that may not know where Smith & Smith Mobile Home
9 Park is, where would that be located?

10 A It's close to National Cemetery Road in the east Florence
11 area.

12 Q Accessible like by Freedom Boulevard?

13 A Yes, sir. You can travel down Freedom, down National
14 Cemetery. It's in that trailer park in between those,
15 those roads. Those are the two main roads to get there.

16 Q Okay. So, you sent a investigator out there.

17 A Yes, sir. Yes, sir, I did.

18 Q Do you remember which one it was?

19 A I believe it was Investigator Williamson.

20 Q Okay. And as a result of you sending him out there, what
21 was he supposed to do out there?

22 A He was questioning individuals out there to see if they,
23 anyone knew -- it's not that large of a trailer park. To
24 see if anyone knew of an individual named Michael who went
25 by the street name of "Main". and he in turn provided me

1 with the name of Michael Brooks.

2 Q All right. And once you got -- now, listen carefully here.

3 Once you got the name of Michael Brooks, did you go back
4 to Ms. McNeil to confirm if that was the same individual?

5 A Yes, sir. Yes, sir. We confirmed that that was the
6 individual that she had, indeed, bought that from.

7 Q And did you show her this same lineup or ---

8 A I did not. I believe another investigator did. I was
9 actually interviewing another individual at that time, a
10 family member of hers. But, yes, she was shown that
11 lineup.

12 Q Okay. And I think she testified to who she picked out as
13 being the individual.

14 A Yes, sir.

15 Q All right. Now, based on that information, what did you do
16 at that point?

17 A At that point we were able to get a time frame of what we
18 were looking at. As she testified yesterday, she said she
19 believed it was on the 3rd, which was the same day this
20 robbery took place. It is worth noting she did, she varied
21 at times. She said, well, it could have been the 4th but
22 then she said she thought it was the 3rd and then she said
23 she thought it was the 4th. It was kind of hard for her to
24 lock down a time, but we knew it was within hours to a
25 day, around that time that she was able to get that

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1 necklace from Mr. Brooks. We also asked her have you seen
2 Mr. Brooks in any kind of vehicle and she said that she's
3 never actually seen him driving, but that she had seen him
4 in that type of vehicle, SUV. She couldn't remember a
5 color.

6 Q Okay. So, based on that, Investigator Head, what did you
7 do then?

8 A At that point, we looked at the physical characteristics
9 of Mr. Brooks. We determined that he did meet the physical
10 characteristics of what the victims had told us.

11 Q And what were the physical characteristics of Mr. Brooks?

12 A He was a taller, well-built African American male.

13 Basically, he was a taller, well-built African American
14 male that fit the skin tone and everything that we were
15 informed of.

16 Q Okay. So, at that point did you make a decision of his
17 involvement in this crime?

18 A Yes, sir, at that point we felt that we had probable cause
19 to believe that he was involved in this crime.

20 Q So, what did you do?

21 A At that point, I contacted my supervisors. I explained to
22 them everything. I contacted the Solicitor's office and
23 explained to them that why we felt he was involved. I was
24 informed that they too felt that there was enough to
25 believe that he was involved in this crime. So, we

1 obtained warrants for his arrest.

2 Q Okay. And those warrants are what he's on trial for today?

3 A Yes, sir. Yes, sir.

4 Q Okay. Did you try to find him that day?

5 A We did. We had ---

6 Q Excuse me. I'm not sure of the day. That day, referring to

7 March the 14th?

8 A Yes, sir.

9 Q I'm sorry. Go ahead.

10 A We had multiple locations that he has stayed in the past

11 throughout Florence County. We did not know where he

12 lived. The last location we had was Smith & Smith Trailer

13 Park. We had confirmed earlier that day that he no longer

14 lived there. He had been, I believe, evicted. So, myself

15 and a few investigators, along with another car of

16 investigators, went out and knocked on doors to see if we

17 could find where he might be so that we could speak to

18 him.

19 Q Okay. Did you finally find the location where he was at?

20 A Yes, sir. As Investigator Bannister testified yesterday,

21 it was Ed James Road in Savannah Grove. They pulled up.

22 And what I was informed was that they did not even think

23 that that was the right address. The name on the mailbox

24 did not match what was at the house. So, they said they

25 were going to go up and knock on the door and see if they

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1 knew where the individuals who lived there before may have
2 moved to or if they knew them. When they knocked on the
3 door, they heard someone running out the back. They
4 weren't a hundred percent sure of that until a female came
5 to the door and said that Mr. Brooks had indeed run out
6 the back of the residence.

7 Q All right. And he was arrested that day?

8 A Yes, sir. Yes, sir. Immediately, they called for the
9 Sheriff's office to come. They set up a perimeter and they
10 turned Mr. -- Investigator Bannister was able to apprehend
11 him and the Sheriff's office assisted.

12 Q Okay. Were you able to see him that day?

13 A Yes, sir, I was.

14 Q And where did you see him?

15 A We transported him back to the Florence Police Department
16 where the warrants were served on him and he was
17 interviewed subsequently for his involvement.

18 Q What was his hairstyle at that point?

19 A Very closely shaved. Most like it is now.

20 Q No dread locks?

21 A No, sir. At any time no one told us anything about dread
22 locks being prevalent on either of the suspects.

23 Q Okay. Now, I think it was referenced to in this statement
24 by Mr. Brooks on State's Exhibit #1. Did you speak with
25 him on March the 14th?

1 A Yes, sir, I did. We interviewed him for at least two hours
2 I do believe and he denied any involvement in this. We
3 showed him the actual jewelry. He claimed that he'd never
4 seen it before, that he had no idea what we were talking
5 about.

6 Q All right. And I notice we have a waiver of rights form
7 that's State's Exhibit #2 for March the 17th, 2014?

8 A Yes, sir.

9 Q Did you give him his Miranda warnings on March the 14th as
10 well?

11 A Yes, sir. I did.

12 Q All right. Do you have a copy of that?

13 A I do believe I do in my file. Yes, sir. If you can indulge
14 me just a moment to look through all my paperwork?

15 Q Sure.

16 A Here it is.

17 MR. WILSON: I have no objections, Your Honor.

18 MR. JEPERTINGER: Your Honor, I would just move this into
19 evidence, I guess without any objection from the Defense.

20 THE COURT: State's Exhibit #11 is into evidence without
21 objection from Defense.

22 (Whereupon, a Miranda form from 3/14/15 is entered into
23 evidence as State's Exhibit #11, without objection)

24 Q Now, obviously you spoke with him on the 14th.

25 A Yes, sir.

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1 Q Okay.. And when you spoke to him on the 14th, he provided
2 you some information?

3 A He provided me very little information on the 14th.

4 Q Okay. But he gave you the names of Boogie and -- excuse
5 me. On the 17th.

6 A Yes.

7 Q You talked with him on the 17th?

8 A Yes.

9 Q That's exactly right. I'm sorry. I get my days confused.
10 Tell us how you came to speak with him on the 17th.

11 A On the 14th, we were speaking to him. As I said, he said
12 he had no idea what we were talking about. At a certain
13 point, you just determine you're beating your head up
14 against the wall. So, he was sent down to the Florence
15 County Detention Center and the interview was concluded.
16 On the 17th is when I received the phone call from the
17 booking staff, which would be the following Monday, later
18 in the evening and they stated that Mr. Brooks had
19 requested to speak to me, because he wanted to inform me
20 of certain aspects of this crime.

21 Q Okay. So, is that how the interview happened with him on
22 the 17th?

23 A Yes, sir. In that interview he did give us the name of
24 Terrance, a/k/a Boogie, and Gregory Campbell who he
25 informed us was his cousin.

1 Q All right. And he gave you information concerning SCB&T?

2 A Yes, sir, he did. He informed us that Mr. Campbell had
3 been there. No where when we ever interviewed Michael
4 before did we ever mention the bank to him. That was
5 intentionally left out. He is the one who brought up the
6 bank to us.

7 Q Okay. So, he mentioned that Campbell was at the bank?

8 A Yes, sir, he did. He said that Mr. Campbell had gone to
9 the SCB&T Bank, and that there was an individual in there,
10 you heard the recording yesterday, that had a lot of money
11 and that he and Mr., that he and Terrance had subsequently
12 robbed him.

13 Q All right. Now, you did get a search warrant for the bank
14 video?

15 A Correct. We got the search warrant for the bank video
16 after we spoke to Michael. I believe it was the next day I
17 obtained the search warrant.

18 Q Okay. So, you've had the ability and the opportunity to
19 watch what's in evidence as State's Exhibit #4, the bank
20 video?

21 A Correct.

22 Q Did you see an individual in there that he named?

23 A Yes. We were able to actually -- we physically saw Mr.
24 Campbell on video there. And we were able to pull the
25 check that he had cashed, where there was a copy of it

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- 1 there, which was in the same time frame that Mr. Murphy
2 was at the bank.
- 3 Q All right. Did you subsequently, based on that
4 information, move to arrest Gregory Campbell?
- 5 A Yes, we did. We obtained a warrant for his arrest for this
6 crime, as well.
- 7 Q Charging him with the same ---
- 8 A Exact same crime. Exact same stuff, yes, sir.
- 9 Q And he's awaiting trial?
- 10 A He is awaiting trial at this time.
- 11 Q Okay. Do you recall which day that you arrested Gregory
12 Campbell?
- 13 A If you can give me one moment, I can tell you. I believe,
14 offhand, it was the 20th, but I want to be sure. Yes, sir.
15 It was March 20th at five o'clock in the morning. We
16 executed a search warrant at Mr. Campbell's residence on
17 Cumberland Drive.
- 18 Q Okay. And I'm going to show you what's been marked for
19 identification as #3AAA, #3AAA. Do you recognize that?
- 20 A Yes, sir. That's Mr. Campbell.
- 21 Q Okay. Does that photograph -- I guess would that be
22 considered a mug shot, I guess?
- 23 A Yeah, that would be a booking photo, a mug shot of him.
- 24 Q Is that -- does that fairly and accurately portray how he
25 looked like on March the 20th, 2014?

1 A Yes, sir. I believe that is a photo from that day.

2 MR. WILSON: Your Honor, Well, let me -- I guess I have a
3 question more than a response.

4 THE COURT: All right. Well, if it -- really, at this
5 juncture if you have an objection you could state the
6 objection, but if we need to discuss it, you need to come up to
7 the bench.

8 (Brief bench conference off the record)

9 Q Once again, I'm going to show you #3AAA. Does this fairly
10 and accurately portray how he looked like on March the
11 20th, 2014?

12 A Yes, sir. It does.

13 Q Okay.

14 MR. JEPERTINGER: At this time I would move #3AAA into
15 evidence.

16 THE COURT: Any objection?

17 MR. WILSON: No objection, subject to cross examination.

18 THE COURT: Very good. And that is into evidence and it's
19 denominated as...

20 MR. JEPERTINGER: #3AAA.

21 THE COURT: #3AAA is into evidence.

22 (Whereupon, a photocopy is entered into evidence as
23 State's Exhibit #3AAA, without objection)

24 Q All right. Now, what particular thing ---

25 MR. JEPERTINGER: And may I publish it to the jury?

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1 THE COURT: You may.

2 MR. JEPERTINGER: Okay.

3 (Whereupon, State's Exhibit #3AAA was published to the
4 jury.)

5 Q And if you could get a -- what particular thing do you
6 notice about his hairstyle in this case?

7 A It's very different from Mr. Brooks'.

8 Q Okay. Well, is it longer?

9 A Much longer.

10 Q And do you see anything in his hair that would be
11 considered a sort of dread locks style?

12 A Absolutely.

13 Q And you've had a chance to look at the bank video?

14 A Yes, sir.

15 Q From March the 3rd?

16 A Yes, sir, I did.

17 Q Was his hairstyle similar?

18 A Absolutely.

19 Q Was it the same?

20 A Yes, sir.

21 Q Do you know where Mr. Campbell was arrested?

22 A He was arrested at his home on Cumberland Drive. I believe
23 the address is [REDACTED] Cumberland Drive in the city limits of
24 Florence.

25 Q All right. Were you present when he was arrested?

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1 A Yes, sir, I was. We actually conducted a -- the ERT team,
2 the emergency response team with the City of Florence
3 conducted the search warrant because of the high risk of
4 these types of crimes. We knew he was living there. We
5 were able to confirm through several different channels
6 that that was his house and we drove by and saw that type
7 of vehicle parked in the driveway. So, that was why we had
8 them do it, just for safety aspects. No one was injured
9 and he was successfully taken into custody without any
10 issues.

11 Q Okay. I'm going to show you a series of photographs..

12 A Okay.

13 Q Can you tell me what #3ZZ is?

14 A #3ZZ would be a photograph of Mr. Campbell's Chevy SUV.

15 Q What type brand vehicle was that?

16 A I believe it was a Tahoe.

17 Q What color is it?

18 A A green.

19 Q And 3 triple E.

20 A That would be a side view of Mr. Campbell's vehicle and
21 the front door where entry was made into the residence.

22 Q #3FFF?

23 A The top photograph is the bedroom, I do believe, where he
24 was taken into custody in. He was sleeping. We were able
25 to get him out bed and he came with us peacefully and the

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1 following photograph is while searching the residence, we
2 observed at the very top, behind the bottles, out of
3 anyone's physical reach, a roll of duct tape.

4 Q And #3GGG. You don't have to show the jury this, yet.

5 A It was a closer view of that roll of duct tape. It was,
6 what I would say, hidden behind bottles on top of a shelf,
7 close to the ceiling. Not a typical place where you would
8 keep duct tape. It wasn't in, say, a supply closet or a
9 storage shed. It was where it could not be easily
10 accessible.

11 Q And there was something on top of that?

12 A Yes, sir. There was a mask that we found on top of it.

13 Q Okay. Do all of those photographs that I've just shown you
14 fairly and accurately portray what you found on the
15 Cumberland Drive address Gregory Campbell?

16 A Yes, it does.

17 MR. WILSON: I have no objections, Your Honor.

18 THE COURT: Okay.

19 MR. JEPERTINGER: At this time, Your Honor, the State would
20 move #3EEE, #3FFF, #3GGG, and #3ZZZ into evidence.

21 THE COURT: That's a sporty numbering system y'all have.

22 MR. JEPERTINGER: Yes, sir.

23 THE COURT: At any rate, they're all into evidence and the
24 record will reflect which ones.

25 MR. JEPERTINGER: Thank you, Your Honor.

1 (Whereupon, photocopies are entered into evidence as
2 State's Exhibits #3EEE, #3FFF, #3GGG, and #3ZZZ, without
3 objection)

4 Q Okay. Do you arrest Campbell?

5 A Yes, sir.

6 Q At that point?

7 A Correct.

8 Q Any leads on Terrance/Boogie?

9 A At that point? Besides what he had told us, Mr. Brooks, we
10 still had nothing on Terrance. We did not know who that
11 was.

12 Q Now, I'm going to zoom from that time to earlier this
13 year.

14 A Yes, sir.

15 Q And you finally got a lead on Terrance?

16 A Yes, sir. We received a DNA hit back from SLED that stated
17 that the individual named Terrance Baker, his DNA was
18 found on certain portions of, I believe, duct tape that
19 was pulled from the residence.

20 Q All right. Terrance Baker. Did you subsequently arrest
21 Terrance Baker in this case?

22 A Yes, we did. After that, along with Mr. Brooks' testimony,
23 and some from Mr. Campbell. We had two people saying that
24 he was involved, along with the DNA hit, we felt that
25 there was more than enough to prove that he was involved

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1 in this crime.

2 Q Have you talked to Terrance "Boogie" Baker?

3 A Yes, I have.

4 Q Okay. And what is his physical description, for the jury?

5 A He is short. I say short. He's a little bit shorter than

6 me, I do believe. Compared to Mr. Brooks, he is quite

7 shorter and he, I don't know want to be rude, but he is a

8 homely fellow with what looks to be acne or something

9 around his face, which is the way he described him.

10 Q All right. Okay. Now, in the statement Mr. Brooks gave you

11 on the 17th ---

12 A Uh-huh.

13 Q --- both you and Williamson kept using the words confirmed

14 or confirm. Right?

15 A Yes, sir.

16 Q Was that important?

17 A Yes, sir. It was very important. As I said in the video or

18 in the recording, I never want to send someone who I don't

19 think was involved in a crime to prison. That's the last

20 thing I want to do. We did our best to confirm everything

21 that Mr. Brooks did. But, in fact, we were eventually able

22 to do the opposite and confirm that he was involved in

23 this crime.

24 Q Okay. Now, did you have contact with Chris Neil at the

25 Florence County Sheriff's Office in regards to any phone

1 calls?

2 A I never spoke to Mr. Neil but I did listen to phone
3 conversations. I have access to the Florence County -- all
4 law enforcement can listen to all jail conversations
5 between inmates to outgoing individuals, family and
6 friends and such and such. They're all recorded.

7 Q And you did that?

8 A Yes, sir. I listened to them.

9 Q. Did you have an opportunity to listen to a phone
10 conversation on March the 17th, 2014, that Mr. Brooks had
11 made to another individual?

12 A Yes, sir. I did. It was, I believe, a few hours after we
13 interviewed Mr. Brooks that he had a phone conversation.

14 Q Okay.

15 MR. JEPERTINGER: I would like to have -- this is State's
16 Exhibit #5.

17 MR. WILSON: Your Honor, I have an objection.

18 THE COURT: All right. You may approach the bench.

19 (Brief bench conference off the record)

20 Q This is State's Exhibit #5 for identification. Are you
21 aware of where this call was made from?

22 A Yes, sir. It was made from the Florence County Detention
23 Center.

24 Q All right. And based on that you, I guess, listened to the
25 full conversation and put it on the disk?

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1 A I had a crime scene technician who handles more stuff like
2 that than I do. They put it on a disk.

3 Q Okay. All right.

4 MR. JEPERTINGER: At this time, I would move State's
5 Exhibit #5 into evidence.

6 THE COURT: Any objection from Defense?

7 MR. WILSON: Yes, sir. My objection would be foundation.

8 THE COURT: Very good. Objection overruled. You may present
9 it. It's into evidence.

10 (Whereupon, jail call on a CD is entered into evidence as
11 State's Exhibit #5, over objection, and published to the jury)

12 Q After you heard that conversation, did that cause you some
13 concern about what he was telling you?

14 A Yeah, it did. It made it sound like he was trying to hide
15 something. That, along with ---

16 MR. WILSON: Judge, I object. I object.

17 THE COURT: I'll sustain the objection.

18 Q Okay. Don't editorialize. But it caused you some concern?

19 A Yes, sir.

20 Q All right.

21 MR. JEPERTINGER: I beg the Court's indulgence one second.

22 Q Now, what did -- After you listened to this, did you have
23 any further dealings with Mr. Brooks?

24 A Yes, sir. We interviewed him, I do believe, again on the
25 27th after speaking to Mr. Campbell.

1 Q Okay. And did you speak to him on the 19th, as well?

2 A On the 19th?

3 Q Yes.

4 A I believe we did, yes, sir.

5 Q Okay. Now, after you spoke to him those two other times,
6 did your communication cease with him?

7 A Yes.

8 MR. WILSON: Your Honor, I object. And I have a matter that
9 I really need to put on the record.

10 THE COURT: Okay. Mr. Foreman, ladies and gentlemen of the
11 jury, I'm going to ask that you retire to the jury room. Do not
12 discuss the case.

13 (Jury out at 10:17 AM)

14 MR. WILSON: Your Honor, we did a Jackson v. Denno hearing
15 for the 17th conversation. That is the only conversation that
16 we did that for. They had every opportunity to have gone into
17 those other statements had they wanted to and chose not to.
18 There is no ruling by this Court about the admissibility of any
19 other conversations that this officer had with this Defendant.
20 He was clearly in custody when all those all other
21 conversations took place.

22 THE COURT: What other conversations?

23 MR. WILSON: The conversations that they just referred to
24 on the 19th and on the 27th. All of those conversations which
25 were interviews while he was locked up in jail. Now, the jury

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1 is aware -- because he has just said that he had at least two
2 other conversations with him on the 19th and on the 27th -- the
3 jury is now aware that he's had those conversations with him
4 and he says that to say that after having those conversations
5 with him, he no longer believed his story. And my point is, is
6 that that is highly, highly, prejudicial because what they've
7 done indirectly is what they could not or did not want to do
8 directly, which is to get the inference to this jury that this
9 Defendant gave other statements which were either inconsistent
10 or which they didn't believe.

11 THE COURT: Well, one thing I'd like to say about that is,
12 is that you were aware of the substance of all of the, all of
13 the statements. Is that correct?

14 MR. WILSON: Yes, sir.

15 THE COURT: All right. And I think it's incumbent upon you
16 to move to suppress certain statements. And then the burden
17 shifts to them to show -- that triggers a Jackson v. Denno
18 hearing. And what do you think about the idea that they made
19 reference to it, which might or might not be inappropriate, but
20 it still gives you the opportunity, if need be, to present the
21 substance of the statements?

22 MR. WILSON: Judge, the problem here is this. Is, is that,
23 yes, I can make a motion to suppress if I wanted to make a
24 motion to suppress. There's no need to make a motion to
25 suppress if the State's not offering it in the first place.

1 What happened here is they didn't offer it so there was no need
2 for a motion to suppress. A motion to suppress would have come
3 out ---

4 THE COURT: They didn't offer it?

5 MR. WILSON: They just did. They just did.

6 THE COURT: I know, but what I'm saying, I'm asking them,
7 they didn't offer it?

8 MR. WILSON: No, sir. They did not offer it. And not only
9 did they not offer it, they're obligated, the State's obligated
10 to ---

11 THE COURT: Well, first of all, they aren't -- they haven't
12 completed their case. Are they going to offer it or do you
13 know?

14 MR. WILSON: I don't know. But my point is, is, is that
15 before they can prejudice this jury about giving them
16 information about interviews with the Defendant, they need to
17 know that that statement is admissible, that whatever it is was
18 admissible. And the if the Court had ruled that it was
19 inadmissible, then they couldn't have brought it up in the
20 first place and they never did that. They didn't show -- before
21 they made this statement to the jury, there was no showing that
22 he was read his Miranda. There was no showing that he agreed to
23 it, that it was given voluntarily and freely. All that has to
24 be done before they can offer it.

25 THE COURT: Incidentally, was he given all of his warnings?

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1 MR. WILSON: He was. He was given it. But ---

2 THE COURT: I was just asking. I know that isn't the point
3 that you're making. Mr. Jepertinger.

4 MR. JEPERTINGER: The situation arose yesterday when Mr.
5 Wilson wanted the whole statement, the three-page deal, State's
6 Exhibit #9, that I'm going to introduce, he did not want the
7 redacted copy. He wanted the three-page letter that was sent
8 from Mr. Brooks to Mr. Head. Included in that was an incident
9 report supplemental that said, "I informed Brooks that due to
10 his cooperation, I would speak on his behalf to the Solicitors
11 office and that it was possible that they would lower his
12 charge if he was truly not the one holding the gun. I informed
13 Brooks that I could not promise him anything but that being
14 honest would truly help him in the long run. Brooks still
15 stated that he was, indeed, the one driving the car." Okay.
16 That was not in the statement of the 17th nor was it in the
17 statement of the 14th, as he said he gave him nothing on the
18 14th. He said in his statement on State's Exhibit #1, the
19 redacted statement, I told them nothing but that he had not
20 actively participated in the robbery. So, this statement
21 appeared that he wrote, sent to him, and you have a statement
22 that Mr. Wilson wanted in that he was the driver of the
23 vehicle. Now, I can't have it both ways, Judge, but I have to
24 explain it, because the jury's going to get this piece, which
25 Mr. Wilson did not redact out.

1 THE COURT: You're saying Mr. Wilson's opened the door.

2 MR. JEPERTINGER: Absolutely.

3 THE COURT: But at the same time you aren't offering it,
4 the substance of the statement just by -- you're offering the
5 fact that there were statements given?

6 MR. JEPERTINGER: There were statements given. And one of
7 them will be that I think he opened the door when he said he
8 wanted the whole statement in.

9 MR. WILSON: First of all, that is not what I said. The one
10 page. The one page is the only thing that I ever agreed to in
11 this trial, is that one-page statement, which we were arguing
12 about and that was going to be redacted. That's the only thing
13 I agreed to. I did not agree to any supplemental pages or any
14 second or third pages. I agreed to one page, which is that
15 written statement, that they say that they got from this
16 Defendant. There was never any discussion about the second page
17 and the third page going into this trial.

18 MR. JEPERTINGER: Judge ---

19 MR. WILSON: Never.

20 MR. JEPERTINGER: --- if you look at the Court's Exhibit
21 #10, which would have been inclusive of the first and third
22 pages, then he said he didn't want it in. He wanted what was
23 originally in. And what was originally in, which was going to
24 be Court's Exhibit #9 was the three-page thing. I gave it to
25 him ---

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1 MR. WILSON: If you ---

2 MR. JEPERTINGER: --- to look at it.

3 THE COURT: All right. First of all, we need to talk one at
4 a time.

5 MR. WILSON: Yes, sir.

6 THE COURT: All right. Mr. Wilson.

7 MR. WILSON: If you check the transcript. If you check the
8 transcript of this record you will see that what I agreed to do
9 was to have that one page, because that's what we were arguing
10 about was whether that page, that letter, the first page of
11 that letter, which was the only thing that I ever agreed to. We
12 agreed to redact it and I didn't like the redaction because the
13 problem was that it left out some important stuff during the
14 first part of the letter. But not only that, I was specifically
15 told by the Solicitor that they were not offering these other
16 statements. I was specifically told that before this trial
17 began. Because if they told me that they were going to try to
18 put it in, then, yeah, I would have put them to the test of
19 having to go through the process of doing it. I was told that
20 they weren't going to do it so I didn't have to make a motion
21 to ask that they be suppressed.

22 THE COURT: All right. Mr. Jepertinger, I think it's clear
23 from what you've told me you don't intend on offering the
24 substance of those two other statements?

25 MR. JEPERTINGER: No. And then going back to Court's

1 Exhibit #10, I would suggest that if he doesn't want that
2 supplemental report, which was on the complete Court's Exhibit
3 #9 and State's Exhibit #9, that we go back to the redaction
4 that I wanted.

5 THE COURT: Okay. Let me see the two again. This State's
6 Exhibit #9 has not been offered into evidence yet. We talked
7 about it, but it has not been offered yet, has it?

8 MR. JEPERTINGER: No.

9 THE COURT: Okay. What is your objection to this April 24th
10 handwritten letter from your client?

11 MR. WILSON: My objection to the letter -- first of all, if
12 the Court recalls, when it came up, my question was how did
13 they get it in the first place. That was the first issue that I
14 had.

15 THE COURT: Right.

16 MR. WILSON: And I still have not been satisfied. My
17 concern is, is that I don't know how it came into possession of
18 law enforcement. There was no envelope to show that it was ever
19 mailed to them. It was, in part, addressed to me. I'm his
20 attorney. And if he was sending it to me before he sent it to
21 them and they intercepted it, then I think that that's improper
22 and I don't know how they got it.

23 THE COURT: Say that last one again. What did you say?

24 MR. WILSON: What I'm saying is, if he was sending a letter
25 to me as his attorney ---

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1 THE COURT: No. It's clear that he's not doing that. This
2 letter is addressed to Justin Head. And he says, oh, by the
3 way, I'm sending a copy to my lawyer. You were just cc'ed on
4 this one. And then the second one is addressed to Justin, as
5 well.

6 MR. WILSON: The letter that I saw was addressed to me and
7 Justin Head.

8 THE COURT: That's correct, but it says in there that --
9 it's clearly the substance of the letter is to him and he says
10 in the bottom of it, he's, oh, yeah, by the way, I'm sending a
11 copy to my lawyer. But I understand what you're saying and
12 we've addressed that issue. My question to you is, is the
13 objection you have for page one the same as the second
14 handwritten letter?

15 MR. WILSON: I'm not sure what the second handwritten
16 letter is.

17 THE COURT: It's dated April 24th, 2015.

18 MR. WILSON: Now, I didn't know that they'd offered that
19 second letter.

20 MR. JEPERTINGER: It was included. It was all stapled
21 together.

22 THE COURT: Okay. Well, look at it. Look at this one right
23 here.

24 MR. WILSON: (Looks at document) Judge, as far as I know, I
25 was sent two letters by the Solicitor and I'm going to have to

1 look at my documents. I know I got two letters from them that
2 they said that they had received from the Defendant. This
3 letter, this April the 24th letter, I'm not -- can I just have
4 a minute to check? I just need to look because I don't -- when
5 I look at this April 24th letter, I don't recognize it. I'm not
6 saying I didn't get it, but I need to look, make sure that I
7 didn't get it.

8 THE COURT: Okay.

9 MR. WILSON: They did send me two letters. (Looks at
10 documents) Your Honor, I don't want to continue to hold you up.
11 We're trying to find it and we'll go ahead and go forward at
12 this point until we can track it down.

13 THE COURT: All right. My ruling is -- and I'm going to
14 allow y'all the opportunity to look through your discovery and
15 see if you, indeed, did receive the April 24th, 2015 letter.
16 I'm going to ask the Solicitor's office -- he's confident that
17 you received it and I think perhaps transmitted it to you by
18 email. Is that correct?

19 MR. JEPERTINGER: That's my understanding.

20 THE COURT: So, they're confident in that regard. My ruling
21 with regard to the second letter is the same as the first
22 letter. However, I do agree that this supplemental report is
23 not admissible and if they're going to testify with regard to
24 the substance of what was said, that needs to be subject to a
25 Jackson v. Denno hearing if you're going to offer it.

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1 MR. JEPERTINGER: Judge, I was not going to intend to offer
2 it. I will take that out.

3 THE COURT: You don't intend to offer the supplemental?

4 MR. JEPERTINGER: I mean, I don't have any problem with it.

5 THE COURT: Well, there's a problem with that. These others
6 were not subject to interrogation, not subject to Jackson v.
7 Denno, not subject Miranda. He voluntarily gave those. But
8 you're absolutely one hundred percent correct. The incident
9 report supplemental is not admissible because it makes
10 reference to a statement, which has not been subject to Jackson
11 v. Denno.

12 MR. WILSON: All right, sir.

13 THE COURT: And, of course, we all know that we've talked
14 about State's Exhibit #9, but it's not been introduced. And my
15 ruling is, is that the handwritten letters from your client
16 are, indeed, admissible. However, this is not admissible just
17 in this form. If they want to go through the process of ---

18 MR. JEPERTINGER: Well, I'll take the middle page out.

19 THE COURT: Okay.

20 MR. JEPERTINGER: If that's okay. And let the record
21 reflect that I will be -- it was my understanding -- let me
22 just state this, and I know Mr. Wilson and I are going to
23 disagree until hell freezes over.

24 THE COURT: Well, it really doesn't make any difference,
25 because it has not been introduced into evidence.

1 MR. JEPERTINGER: I understand.

2 THE COURT: And he would have the opportunity to scrutinize
3 what's offered and he would have objected at that time because
4 there's a misunderstanding. There's no sense in us even arguing
5 about that.

6 MR. WILSON: My other objection, Your Honor, at the very
7 outset of this was the conversation that the Solicitor had with
8 the witness about the two prior conversations, two additional
9 conversations that they claim that, that this officer claims.

10 THE COURT: And I'm going to ask that you not make further
11 reference to that and if you are going to make reference to it,
12 then you're going to have to offer it.

13 MR. JEPERTINGER: Will not. We will not do it. Okay.

14 THE COURT: Very good.

15 MR. WILSON: All right. At this point, maybe the better
16 course for me, anyway, is to agree to the redacted portion and
17 I don't know if the Court is inclined to do that at this point
18 after all the discussion about this. I'm just really, really --
19 because the problem I'm having here is the cumulative effect of
20 this. With this officer having already testified in front of
21 this jury that there are two official statements that this
22 Defendant's given, now we're bringing in two letters that this
23 Defendant sent, which, I think the combination of those things
24 are extremely prejudicial and without having the benefit of
25 knowing what the conversations were, the jury, I'm talking

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1 about. Having the benefit of knowing what the conversation was
2 about and without the Court having authorized or approved or
3 allowed that information to even come in, it just -- they put
4 it in before anybody could do anything. And, you know, I object
5 to it. I think it's prejudicial. I think my concern is, is that
6 it prejudices the Defendant in the eyes of the jury in the
7 sense that they now -- this officer has tried to testify and
8 create an inference that this Defendant gave multiple
9 statements, which he did. But they want to present to the jury
10 without having gone through the proper channels so that it
11 would be admissible or the content of those statements would be
12 admissible, other than if I put it in.

13 MR. JEPERTINGER: Your Honor ---

14 THE COURT: All right. First of all, is it the stipulation
15 of counsel that the redacted version is acceptable?

16 MR. JEPERTINGER: It was acceptable to me yesterday.

17 THE COURT: Is it today?

18 MR. JEPERTINGER: Absolutely.

19 THE COURT: All right. That's what you want is the redacted
20 version. We will indeed do that. And the reference to the two
21 statements -- how did you make reference to them in front of
22 the jury, the two additional statements, which have not been
23 subject to Miranda?

24 MR. JEPERTINGER: If he had any further communications with
25 him and he said I think one on the 27th and then I asked him

1 about the 19th.

2 THE COURT: The 27th and 19th interviews?

3 MR. JEPERTINGER: Yes. Judge, it would not take five

4 minutes for me to go over his Miranda warnings because he gave

5 Mirandas every single time, even without me offering it.

6 There's been no substance of the statements given. If Mr.

7 Wilson wants to produce those statements, he can do that. But I

8 can go over the Miranda warnings that he gave him ---

9 THE COURT: I don't think he wants to introduce it. I think

10 this -- this is my course of action. This is what I'm going to

11 do. Unless you ask that I not do that, I'm going to give a

12 curative charge. There have been references to interviews on

13 the 27th and the 19th, to disregard that statement completely

14 and it's stricken from the record.

15 MR. WILSON: I would appreciate that, but I would also ask

16 the Court to consider a mistrial. And the other thing, the

17 other reason for that is, is that I think that in this case

18 because of all this controversy about these statements and the

19 Defendant has a constitutional right to remain silent and the

20 only way that right can be overcome is through some

21 participation of this Court, where the Court hears the

22 information and makes a decision that the statement that that

23 Defendant gave is admissible and can be heard.

24 THE COURT: All right. Let me touch on that. First of all,

25 the only statement that has been played for the jury we heard

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1 yesterday and that was subject to a Jackson v. Denno hearing.
2 These other two are not subject to Jackson v. Denno because he
3 wrote them, and he wrote them to the lead investigator. That is
4 prejudicial, but that isn't my doing nor your doing. It's your
5 client's doing. And he did that. It's not subject to my
6 scrutiny. It's admissible in my opinion. All right.

7 With regard to the interviews, the 27th and 19th, there
8 was a passing comment about two other interviews. I'm going to
9 tell them to disregard those statements and that the statement
10 with regard to any other discussions with the Defendant will be
11 stricken from the record.

12 MR. WILSON: I understand.

13 THE COURT: And what you're having to live with in this
14 trial is what he said on that tape and these handwritten
15 letters.

16 MR. WILSON: No, I understand the Court's ruling, Your
17 Honor.

18 THE COURT: All right.

19 MR. WILSON: I understand the Court's ruling.

20 THE COURT: All right.

21 MR. WILSON: And we take exception, but I understand.

22 THE COURT: And the Defendant does, indeed, request a
23 curative charge with regard to that, the interviews of the 27th
24 and 19th?

25 MR. WILSON: Yes, sir.

1 THE COURT: Yes, sir.

2 MR. JEPERTINGER: Just for my edification, the three-page
3 document that was -- that Mr. Head said he received, could we
4 have those Court's Exhibit again, #9?

5 THE COURT: Yes. And we're going to switch this one to the
6 trial exhibit.

7 MR. JEPERTINGER: Right. That'll be Court's Exhibit #9 and
8 I guess that'll be -- Is that by stipulation of the parties or
9 how do we -- #10?

10 THE COURT: All right #10.. Is that by stipulation?

11 MR. WILSON: That is by stipulation.

12 THE COURT: Very good. #10 is by stipulation into evidence.

13 MR. WILSON: And, Your Honor, and I say by stipulation,
14 it's by stipulation in terms of admitting it, but we have made
15 some objections about it coming in. We didn't want it in, in
16 the first place, but we stipulate to the fact that if it's
17 going to come in, that's the form that we want it to come in.

18 THE COURT: Okay. Anything before we bring the jury out?

19 MR. WILSON: I'm sorry?

20 THE COURT: Anything before we bring the jury out, Mr.
21 Jepertinger?

22 MR. JEPERTINGER: Do you have anything else?

23 THE COURT: I'm asking you, Mr. Jepertinger. Do you have
24 anything?

25 MR. JEPERTINGER: No, I have nothing else, Judge. I'm ready

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1 to go.

2 THE COURT: Mr. Wilson, do you have anything else?

3 MR. WILSON: No, sir.

4 THE COURT: All right. We're ready for the jury.

5 (Jury in at 10:49 AM)

6 THE COURT: Mr. Foreman, ladies and gentlemen of the jury,
7 there was mention of an interview on the 27th and the 19th.
8 That was the way it was referenced. That testimony is stricken
9 from the record. It's inadmissible. That statement is
10 inadmissible. It's stricken from the record. Mr. Foreman, I'm
11 going to ask that you enforce the rule that the fact that, that
12 has been stricken from the record, you cannot discuss it in any
13 way shape or form in the jury room and I'm going to ask that
14 you enforce that rule and that particular testimony is not to
15 be discussed, whatsoever.

16 THE COURT: Mr. Jepertinger.

17 CONTINUED DIRECT EXAMINATION

18 BY MR. JEPERTINGER:

19 Q This year, in April, did you receive any correspondence?

20 A This year?

21 Q Yes, this year.

22 A Yes, sir. I did.

23 Q Okay. And I'm going to show you what's been marked as

24 State's Exhibit #10. Do you recognize this correspondence?

25 A Yes, sir, I do.

1 Q All right. And how would you have received that
2 correspondence, sir?

3 A I received this letter from the Florence County Detention
4 Center. It was written to me from Mr. Brooks in April of
5 this year.

6 Q And are you familiar with Mr. Brooks' signature?

7 A Yes, sir. I've received many letters from him.

8 Q All right. I'm going to show you State's Exhibit #2, the
9 waiver of rights form.

10 A Yes, sir.

11 Q Is that the signature of Mr. Brooks, as well?

12 A Yes, sir.

13 Q Now, how did you come in contact, get the portion of this
14 letter that we see here in State's Exhibit #10?

15 A Anytime someone at the jail or any prison throughout the
16 state wishes to contact us, typically, they would write us
17 a letter. They would then send it over to, I believe, the
18 booking staff there, who would forward it to the
19 individuals they wish it to go to. It would go to our
20 records division, who then open it just to make sure
21 there's nothing dangerous or anything inside the letter.
22 And then they would put in my box.

23 Q And is that how you received it in April of this year?

24 A Yes, sir. It was in my box outside my office.

25 Q Okay.

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1 MR. JEPERTINGER: At this time, I would like to introduce
2 State's Exhibit #10 into evidence.

3 MR. WILSON: Subject to my earlier objections.

4 THE COURT: Over objection, it's into evidence.

5 (Whereupon, a redacted letter from Mr. Brooks is entered
6 into evidence as State's Exhibit #10, over objection)

7 Q Okay. Can you read just everything that's on both pages
8 here?

9 A Yes, sir. It reads as April 27th -- I apologize. April 7th
10 of 2015. Dear Justin Head and Ralph Wilson, my attorney.
11 Let them know if Michael is willing to admit -- if
12 Michael is willing to admit to being present and being the
13 one who was ordered to put the duct tape on. It was
14 Campbell's idea because he was in the bank and thought the
15 man was depositing the money, that I went along with him
16 and followed him into the residence and I will be willing
17 to testify to this. I'm ready to end this and move on with
18 my life. It says, below is my lawyer's name and phone
19 number. This has Mr. Wilson's phone. Ralph Wilson 1315
20 Third Avenue, P. O. Box 1827 in Conway, South Carolina
21 29528. It also has his phone number 843-381-0765 and his
22 fax number at 843-381-0767. On the second page, and it
23 actually came all together, it was all folded together,
24 but this one's dated April 24th, 2015. I actually believe

1 I received this some time in May. All that this one says
2 is Dear Justin and blank with Michael Brooks' signature on
3 the bottom of it.

4 Q All right. Thank you. All right. Please answer any
5 questions Mr. Wilson may have for you.

6 A Yes, sir.

7 THE COURT: Mr. Wilson, you're recognized.

8 MR. WILSON: Thank you very much, Your Honor.

9 CROSS EXAMINATION

10 BY MR. WILSON:

11 Q Let's start by going back to the beginning of this
12 investigation and talk about, first of all, what you did
13 in this case.

14 A Okay.

15 Q When you got assigned to this case, you went out to the
16 house, I would assume?

17 A Yes, sir, the incident location. Yes, sir, I did.

18 Q All right. And did you, on that day, which would have been
19 March 3rd ---

20 A Uh-huh.

21 Q --- did you meet Mr. & Ms. Murphy?

22 A Yes, sir, I did.

23 Q And did you take statements from Mr. & Ms. Murphy on that
24 day?

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- 1 A Yes, sir. I got descriptions and an account of what
2 happened, yes, sir.
- 3 Q Okay. And in taking those statements from them, obviously
4 being the good investigator that you are, one of the
5 things that you would want to know is, you would want a
6 description of the individuals who committed the offense.
- 7 A Yes, sir.
- 8 Q All right. And you would have asked them to give you a
9 description of these individuals.
- 10 A Yes, sir.
- 11 Q And did you, in fact, get descriptions of the individuals
12 that they say committed the crime?
- 13 A Yes, sir, I did.
- 14 Q Okay.
- 15 A To the best that they were able to do at that time.
- 16 Q Okay. And let's take them one at a time. Tell me what the
17 description was from Mr. Murphy as to the individual who
18 committed the crime.
- 19 A Okay. I'll read back what he said to me. If you can
20 indulge me for one minute. I believe what he told me was
21 that he was a taller black male and that was about all he
22 was able to describe at that point.
- 23 Q Okay. Now, the day of the incident ---
- 24 A Yes, sir.

1 Q --- not a week later. The day of the incident, the only
2 thing he could tell you is that it was a taller black
3 male?

4 A Yes, sir.

5 Q And Ms. Murphy told you she didn't have any description of
6 any of the individuals?

7 A I believe she did say that one of them was a taller black
8 male confirming what he stated, but that she was not sure
9 of much else.

10 Q All right. And later you were going to take some, or you
11 had someone take photographs to the Murphys for them to
12 try to pick out one of the individuals or the individuals?

13 A Yes, sir.

14 Q And you ordered that. Did you actually do the lineups
15 yourself, setting them up?

16 A No, sir, a member of the crime scene unit, who also serves
17 as our technical support, he created that lineup with Mr.
18 Brooks. I believe the one for Mr. Campbell was actually
19 done by SLED.

20 Q Okay. And the first lineup, that, you sent on the 14th. Is
21 that correct?

22 A Yes, sir. Of Mr. Brooks, yes, sir.

23 Q All right. And who did you send to do that lineup?

24 A I believe it was investigator Jordan.

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1 Q Okay. And you sent the lineup. And how did you get the
2 pictures, the six pictures that were in that photographic
3 lineup, how did you get them?

4 A You would have to ask a member of the crime scene unit. I
5 believe it's booking photos that they archive for members
6 of each race, Asian, African American, white. They archive
7 them and then they put them up together that way.

8 Q Did Mr. or Ms. Murphy, at any point in time, tell you that
9 the tall or tall black male that entered their home had
10 facial hair?

11 A I don't recall. I did not indicate it in my report. It's
12 possible she said that and that I forgot to put it, but I
13 do not recall her saying that.

14 Q Well, now, in getting the description of an individual
15 who's perpetrated a very violent and heinous crime, and if
16 the victim tells you that the person has facial hair, you
17 would not put that in your report?

18 A I feel like I would have. I am human. Sometimes I do
19 accidentally make mistakes, but I do feel like I probably
20 would have put that in my report.

21 Q And when you first observed Mr. Brooks, is there any
22 question that he had facial hair?

23 A (No verbal response)

24 Q When you first met him, on the 13th, I think it was?

1 A I'll be honest with you, sir. It was a year-and-a-half
2 ago. I don't remember if he had facial hair at that point
3 or not. I'd have to see a photograph.

4 Q Well, look at the photo lineup that you did.

5 A Well, that was a previous booking photo. I don't remember
6 if he did on that day or not.

7 Q Well, take a look at it for me anyway.

8 A Somebody would have to ---

9 Q I'll help you find it.

10 A Thank you.

11 Q Take a look at it.

12 A It does look like his is scruffy, scruffy-bearded, yes,
13 sir.

14 Q So, he had facial hair at least in the lineup that you
15 sent over there. Right?

16 A Yes, sir. As I said, they're previous booking photographs.
17 Before we show a lineup to everyone, we explain to them;
18 look at the face. Don't look at the hair, don't look at
19 the facial hair. Look at the face, because a month ago I
20 may have had a goatee that was down to here. So, I mean,
21 things change.

22 Q Well, so you're saying -- are you trying to indicate that
23 he grew the facial hair between the 3rd and the 13th when
24 you send out that photograph, the lineup. Is that what

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1 you're saying?

2 A No, sir. I'm saying I don't know what he had at that
3 point. I'm saying in this particular photograph, which
4 could have been taken a year ago, he had facial hair and
5 that's the only photograph we had of him. I don't know
6 what he had at that time. I cannot recall.

7 Q All right. Well, either way. You send, they come back, and
8 Mr. Murphy says well, I can't really say, but this person
9 looks more like the person than any of the other five
10 people in the lineup. Right?

11 A From what I was told, he pointed at number two and said I
12 think that's him. But we like to be a hundred percent sure
13 before we say, yes, that's a positive identification. So
14 as I indicated in my report, he could not be a hundred
15 percent sure, but he immediately went to that photograph
16 and said he thought that was him.

17 Q Well, did you say that he -- did you say that in your
18 report? Didn't your report say that he was unsure and that
19 he said that he resembled the man that he thought was
20 there?

21 A I believe that's what I put, yes, sir. I would have to
22 read it back, but I do believe it was something of that
23 nature.

24 Q Okay. Now, so when you started looking, you were looking

1 for an African American man that was probably six foot
2 tall or more?

3 A He said at least six foot tall, probably a little taller.

4 Q And there was never ever any discussion between you and
5 the Murphys about the complexion of the black, African
6 American male who was in that house?

7 A I believe I asked if they were dark skinned or light
8 skinned and they were not a hundred percent sure at that
9 time.

10 Q Is there anything in your report ---

11 A No, sir.

12 Q --- which says that either you asked them that or that
13 they told you that?

14 A No, sir.

15 Q Now, later you send a second set of photographs of Mr.
16 Campbell over to the Murphys. Right?

17 A Yes, sir, I did.

18 Q And just so -- let me back up for a second.. Now, Ms.
19 Murphy couldn't pick anybody out of the lineup?

20 A Not on that particular occasion. The first one, no, sir,
21 she could not.

22 Q Which would have been on the 14th?

23 A Yes, sir.

24 Q On the second -- and what day was the second lineup, the

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1 17th?

2 A I believe that's correct.

3 Q When you sent the second lineup, Ms. Murphy was trying to
4 pick out who? Who was she trying to pick out? Why were
5 y'all sending her another one to pick out? Because didn't
6 she tell you that she was face down and that she really
7 didn't see anything?

8 A Yes, sir. But we always like to give everyone the
9 opportunity to say -- you know, sometimes things come back
10 to you. And even when you're laying down, she was in shock
11 or I would not feel right if I didn't at least give her
12 the opportunity to try.

13 Q Okay. And she picked out, lo and behold, Mr. Campbell?

14 A Yes, sir. She didn't technically pick him out. She said
15 she thought he resembled the guy as well, but she wasn't a
16 hundred percent sure either.

17 Q Well, she said the same thing that her husband said about
18 picking out Mr. Brooks, right? That it looks more like
19 the guy who was there than any of the other ones?

20 A Yes, sir. But it is worth noting, her husband looked at it
21 and said, no, there wasn't -- he wasn't.

22 Q And then he said, no, that ain't one of them?

23 A Correct. I believe he actually said that first and then we
24 brought her in, if I remember correctly.

1 Q All right. Now, there was some -- during the course of the
2 investigation, there was some kind of a towel that was
3 found. Was it in the kitchen area?

4 A I believe the towel was originally in the kitchen area. It
5 was actually found in one of the bedrooms.

6 Q Okay. And you collected that towel?

7 A I did not. Members of the crime scene unit collected that
8 towel.

9 Q Okay. And did you send that towel to SLED? Because the
10 purpose of that was that it was your understanding that
11 that towel had been used by one of the perpetrators in
12 order to go through, rummage through the pocketbook of Ms.
13 Murphy?

14 A Yes, sir.

15 Q And through some other things in the house?

16 A Correct. That's what we were told.

17 Q All right. And so you, as the -- and I assume you were the
18 lead investigator for this?

19 A Yes, sir, I was.

20 Q Had that collected and the purpose of that was to send it
21 to SLED to try to get DNA of the perpetrator?

22 A Yes, sir. Yes, sir. That was sent.

23 Q Now, who was it that you were told by Ms. Murphy was the
24 person who had the towel? Would that have been the person

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1 with the gun or would that have been the person who did
2 the taping?

3 A What I was told was that the person who had the gun, after
4 they were secured, had taken the towel and started to
5 rummage through things.

6 Q Okay. And under your theory that would have been Mr.
7 Brooks?

8 A Yes, sir.

9 Q Okay. There was a young lady who testified, and I think
10 you talked to the Solicitor about this. You said that
11 there was a young lady who gave you some information that
12 there was a green Tahoe or something parked along the
13 highway and that there was a black male standing near it
14 or by it?

15 A Yes, sir. The lady who testified earlier, she did call me.

16 Q Well, the truth of it is, she actually told you that there
17 were two black males at that vehicle, did she not?

18 A I actually never spoke to her. I believe another
19 investigator did. As she testified before, I think she
20 said -- actually, you know what? I did call her. I
21 apologize. I did call her. I think she did say two. But I
22 believe she testified earlier to one, so I'm not a hundred
23 percent sure.

24 Q All right. But in your report that you did, which would

1 have been on 3/12, you said that she said it was two?

2 A Yes, sir, I believe so.

3 Q All right. Now, let's talk for a minute about Ms. McNeil.

4 When you found Ms. McNeil -- Ms. McNeil is the lady who
5 had the medallion, originally?

6 A Yes, sir.

7 Q She'd gotten it from Mr. Brooks, according to her?

8 A Correct.

9 Q And she came in to see you or you had her brought in to
10 see you and you talked with her about where she got, how
11 she got the medallion?

12 A Yes, sir. She was -- we searched for her and we were able
13 to make contact with her via telephone that we got from
14 Ms. Heyward, I do believe.

15 Q Okay. And you said that in the warrant you said that
16 according to her it was within hours?

17 A My exact words were several hours.

18 Q Several hours?

19 A Yes, sir.

20 Q Of the event?

21 A Yes, sir. That was put in there, because as I testified to
22 earlier, she originally said the 3rd, then she said early
23 on the 4th, which would have been within several hours.
24 Then at one point she did say later that night. Then she

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1 went back and forth. As you heard her testify, she was a
2 little confused. But she did later say the 3rd.

3 Q In fact, she was very confused because she told you that
4 she thought it was the month before, at one point?

5 A Yes, she did.

6 Q You took a taped statement from her and she said that she
7 thought that she'd gotten it from him the month before
8 this -- which would have been a month before the event
9 even occurred?

10 A Yeah. That would have been impossible.

11 Q Right. And that's exactly what you told her?

12 A Yes.

13 Q That look, it couldn't have happened that way, because it
14 hadn't happened a month ago. So, that's the only way it
15 could be is it had to have been sometimes after that and
16 even at the very end she was saying, well, I really don't
17 know. I really don't know. It had to be when I got my
18 check or some times after I got my check. I really don't
19 know?

20 A I believe what she said was she got her check that Monday,
21 which would have been the third and she said she thought
22 it was the same day at one point. She did change her story
23 at one point. She went back. I don't remember her exact
24 words but I know it was -- she kept going back to the

1 third.

2 Q And it couldn't have been the 3rd because the robbery
3 happened on the 3rd. And so she said it was the middle of
4 the night, 3:00 AM. So, at the earliest it could have been
5 would have been the morning of the 4th?

6 A Well, that's correct. But she said in the morning. A lot
7 of people refer to the same day as one or two o'clock in
8 the morning the actual next day, but that's what she kept
9 going back to, yes.

10 Q Right.

11 A And as I explained, I called not only my supervisors, but
12 the Solicitor's office, and I explained in detail to the
13 judge every aspect of this crime.

14 Q All right. When you -- and I apologize. Let me go back and
15 just ask you a question. When we were talking about the
16 facial hair with Mr. Brooks, when you first talked to him
17 on the 13th -- on the 13th, did he have facial hair at
18 that point?

19 A As I said, sir, I truly don't remember. I've interviewed
20 hundreds of people since then at work, probably over a
21 hundred some-odd cases since then. I don't remember
22 exactly what he looked like. I feel like he may have had
23 some slight facial hair, but I would not be able to
24 testify to that.

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- 1 Q Okay. All right. You have access to the booking reports
2 from the jail?
- 3 A Do you mean, can I pull up the booking reports on my
4 computer?
- 5 Q Uh-huh.
- 6 A Yes, I can. I don't have them with me, but I can.
- 7 Q All right. Okay. And when you booked him in, wouldn't they
8 make a report of that?
- 9 A Yes, sir. They would have taken his photograph.
- 10 Q Okay.
- 11 A Like I say, if I could see it, I could tell, but I don't
12 have it front of me.
- 13 Q Okay. Now, in your interview with Mr. Brooks on the 17th,
14 which is the taped statement you played ---
- 15 A Yes, sir.
- 16 Q --- for the jury earlier. How long would you say you were
17 with Mr. Brooks that day during that interview?
- 18 A I believe we were with him for a total of about an
19 hour-and-a-half. I believe you heard about an hour of that
20 interview.
- 21 Q Okay. And the information that you got in this case
22 actually came from Mr. Brooks, didn't it?
- 23 A Yes, sir.
- 24 Q Now, let's talk about that for a minute. Before you -- and

1 the basis for your arrest on Mr. Brooks was simply that he
2 had the medallion at some point in time and sold it to Ms.
3 McNeil and Ms. McNeil then sold it to Ms. Peaches and Ms.
4 Peaches was seen at the store with it?

5 A Yes, sir, that's correct.

6 Q And so that was the basis for arresting him, right?

7 A Yes, sir. As I said before, we did feel that it was
8 probable cause to make an arrest.

9 Q Well, then why didn't you arrest Ms. McNeil and Ms.
10 Peaches, because they had it, too?

11 A They did have possession of it. And as I said before, Ms.
12 Heyward, when we spoke to her, she immediately said, hey,
13 I got this from someone else. Ms. McNeil, when we showed
14 her that necklace, I got this from this guy. That wasn't
15 the case when we spoke to him.

16 Q Okay. So, because he wouldn't talk with you about it at
17 first when you talked to him, then when you decided that,
18 okay, well, then we need to go ahead and arrest him
19 because he won't tell us anything?

20 A Well, I believe it's also worth nothing that it wasn't a
21 small black female that committed the crime. It was a
22 taller black male.

23 Q Okay. So, now, here we go. So, this is really the crux of
24 it is, that he was an African American male. He's six foot

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1 tall. So, if you're six foot tall and you're an African
2 American male, then you're fair game for this particular
3 case. Is that right?

4 A If you were an African American male that met that
5 description, who was in possession of that medallion
6 within approximately twelve hours or so of that incident
7 taking place and we had a witness that said they saw you
8 in that type of vehicle, then, yes. We were going to try
9 to get a warrant for your arrest.

10 Q Well, what type of vehicle? Because the only type of
11 vehicle that I've heard about is that there was a, either
12 green Tahoe or a green Suburban or some kind of a green
13 SUV.

14 A Correct. When we spoke to Ms. McNeil she stated that she'd
15 seen him in that type of vehicle in the past. I do not
16 recall if she gave us a color. I would have to revert back
17 to my notes, but she did say she'd seen that type of
18 vehicle with him.

19 Q And did you know Ms. McNeil?

20 A Do I know Ms. McNeil?

21 Q Yes, before this incident occurred?

22 A Never met her before in my life.

23 Q Okay. But you checked on her I'm sure to find out about
24 her credibility and what her criminal history was before

1 you wanted to take her statement or find out what she was
2 about. Right?

3 A Yes, sir, I did. In fact -- well, we actually felt that
4 she may be involved. When we went to talk to her, I had
5 actually run a Fusion report and learned that she, as I
6 said before, had a vehicle like that registered to her
7 previously. When I saw that, we thought that maybe we had
8 something to go on. When we went to her house, there were
9 two black males there. One was her brother and one was a
10 friend of hers. We felt that they may have something to do
11 this as well because they were with her. So, we actually
12 brought all of them in for interviews, but we were
13 subsequently able to prove that they had nothing to do
14 with it. It wasn't like we just went ahead and got a
15 warrant for him. We spoke to other people.

16 Q Okay. Now, and Ms. McNeil, you say, told you about the
17 car. Right?

18 A Yes, sir.

19 Q But she gave you some other cars too, right, that she
20 thought -- I think she said a white ---

21 A I believe so, yes.

22 Q --- a white SUV. A white Chrysler. I've seen him in lots
23 of cars?

24 A Yes.

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- 1 Q So, it wasn't just like she said, well, I saw him. He
2 always drives a green Suburban or a green Tahoe. She was
3 just telling you the list of cars that she had seen him in
4 over a period of time. Is that correct?
- 5 A Yeah. That's correct.
- 6 Q In fact, she actually had owned a green Tahoe or Suburban
7 or something in the past?
- 8 A Yes, sir. But as I said, she got rid of that several years
9 before. I don't remember exactly, but it was sold.
- 10 Q Right. And you checked into that?
- 11 A Yes, I did.
- 12 Q Now, you ever find any green SUV that Mr. Brooks owned
13 anywhere?
- 14 A No, sir. But his cousin had one.
- 15 Q His cousin had one?
- 16 A Yes.
- 17 Q So, if my cousin has got a green SUV, then it must be
18 mine. Right? So, you can attach me to that because my
19 cousin has one?
- 20 A No, sir, but we can say that there's a good chance you've
21 been in it with him at the time.
- 22 Q What if I don't even know my cousin or don't even hang out
23 with him?
- 24 A Well, that wasn't the case in this case.

- 1 Q Okay.
- 2 A He knew his cousin.
- 3 Q All right. Now, let me ask you this with this green SUV.
- 4 You checked on the green SUV, right?
- 5 A What do you mean?
- 6 Q Well, in doing this case and in processing this case, you
- 7 would want to check to see who the registered owner of the
- 8 green SUV was?
- 9 A Yes, sir, I would.
- 10 Q And you did that, I'm sure?
- 11 A Yes, sir, it came back to be Gregory Campbell.
- 12 Q Came back to be Gregory Campbell. Didn't come back to be
- 13 Michael Brooks?
- 14 A No, sir.
- 15 Q All right. Now, you also went to the trouble of getting
- 16 the video from the bank. Right?
- 17 A Yes, we did.
- 18 Q And who was in the video?
- 19 A Gregory Campbell.
- 20 Q Gregory Campbell's in the video.
- 21 Q Michael Brooks in the video?
- 22 A No, sir. He was not in the video.
- 23 Q And when you go to do a -- did you search Michael Brooks'
- 24 home?

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- 1 A We actually did. His mother consented to us searching her
2 residence after he ran out the back. We searched it, but
3 we didn't find anything in the house.
- 4 Q Right. There was no jewelry in there. There was no robbery
5 stuff in there, no gun. You didn't find anything that you
6 could attach to him, did you?
- 7 A No, sir.
- 8 Q Not a single thing. And you were looking for it, right?
- 9 A Yes, sir. We looked. It is worth nothing the house was in
10 quite a mess. It's very possible something was there that
11 we did not find.
- 12 Q Well, but with the experience -- how many officers went to
13 do the search?
- 14 A I believe it was me and Investigator Williamson and maybe
15 Investigator Wynn. I do not remember off the top of my
16 head, but I think three of us, sir.
- 17 Q So, you had at least three officers out there searching.
18 And y'all searched -- she's consented to it, so you
19 searched as long as you wanted to?
- 20 A Yes, we did. But I would like to point out, something this
21 big can be hidden anywhere inside a house.
- 22 Q Well, now, how many search warrants have you executed in
23 your years with law enforcement?
- 24 A I wouldn't be able to count that -- quite ---

- 1 Q A lot of them, right?
- 2 A Yes, sir.
- 3 Q And you know what to look for and where to look?
- 4 A Yes, sir.
- 5 Q Because you know where people hide stuff?
- 6 A Yes, sir.
- 7 Q You know, if you're trying to hide stuff you know where to
- 8 look. In fact, when y'all went to Campbell's house you
- 9 didn't have no trouble finding tape. Right?
- 10 A Yes, sir.
- 11 Q Yeah. You didn't find no tape at Michael Brooks' house.
- 12 Right?
- 13 A No, sir.
- 14 Q You found tape, the very tape that, supposedly, was used
- 15 in this robbery. Right?
- 16 A Yes, sir.
- 17 Q And you confiscated that. Right?
- 18 A Uh-huh.
- 19 Q And took it and wanted to have it tested. Right?
- 20 A Uh-huh.
- 21 Q What else did you find at Michael Brooks' house?
- 22 A At Michael Brooks's house?
- 23 Q I'm sorry, at Mr. Campbell's house?
- 24 A I believe the only other thing we took was a mask.

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1 Q Okay. What kind of mask?

2 A It was a camouflaged, what I typically use or call as a
3 hunting mask. One that you wrap around your face to keep
4 the cold wind off of you.

5 Q Okay. And did you, did you search -- While you were out
6 there searching his house -- well, let me back up. Where
7 was the tape that you found? Where was it located in the
8 house?

9 A If you walk into the house, there's a living room and then
10 there's a kitchen area. There was a refrigerator and then
11 over the refrigerator, I believe -- I don't remember if it
12 was cabinets. I'd have to look at the picture again.
13 Cabinets or a shelf. I believe it was cabinets. And there
14 was a space between the cabinets and the ceiling. I'm not
15 a tall guy, but I had to get a chair, I do believe, to get
16 up there. It was without reaching -- no one could really
17 reach it, not easily accessible, and it was actually
18 behind bottles, I believe, liquor bottles that were up
19 there. So, in my opinion, I would say it was hidden.

20 Q Okay. So, this hidden -- so you do know where to look and
21 how to look. No matter how junky the house might be, you
22 know where to look and how to find stuff and you found it.

23 A Yes, sir. As I said, we typically find things. Sometimes
24 we miss them, but typically we do find them.

1 Q All right. All right. Now, at some point in time then you
2 -- when you went to the -- well, let me ask you this. When
3 you went to execute the search warrant on Mr. Campbell's
4 house, did you also search Mr. Campbell's vehicle?

5 A Yes, sir. I do believe we did.

6 Q Okay. And I'm sure that one of the things that you would
7 want to do is maybe take some prints in there to see if
8 you can put Michael Brooks' prints inside that green
9 vehicle that he owned. Right?

10 A I believe that was outside the realm of the search
11 warrant. I don't believe we actually asked for
12 fingerprints. We did not do it. Like I said, it was
13 outside the realm of the search warrant.

14 Q Well, let's talk about that. You could have asked for
15 anything in the search warrant you wanted. Right?

16 A Not always. But I get what you're saying, yes, sir.

17 Q Well, you can ask?

18 A Yes, sir.

19 Q You can ask the judge to approve a search warrant based on
20 probable cause for whatever it is you think you need in
21 order to help you with your case if you've got probable
22 cause.

23 A Correct.

24 Q And you chose -- if you didn't put it in there, it's

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1 because you chose not to put it in there. Right?

2 A We did not ask for it, yes, sir.

3 Q Okay. And when you were at the house, that is at the home
4 of the Murphys, you actually did or had your crime scene
5 people try to do latent lifts. Right?

6 A Yes, sir. At the scene of all major crimes we always try
7 to pull fingerprints, DNA, things of that nature.

8 Q And you were told by the Murphys that they didn't see any
9 gloves on these people?

10 A Yes, sir.

11 Q So, there might have been some prints. So, if you're
12 looking for prints and you want to show that Michael
13 Brooks was one of those people, you don't -- because at
14 that point, you didn't know, you had no idea what SLED was
15 going to find in terms of the prints or the latent lifts
16 that you guys had taken.

17 A Correct.

18 Q So, what you would want to do is then when you go to
19 search Michael Brooks' home -- not Michael Brooks' home --
20 Mr. Campbell's home or when you want to search Mr.
21 Campbell's car, you would want to find Michael Brooks'
22 prints in that car, because then that would place him in
23 the car at some point in time.

24 A I get what you're saying. And that actually, though, has

1 never once occurred to me. But I will say the reason it
2 hasn't is, we don't usually get great luck with
3 fingerprints inside a vehicle because there's so many
4 people that are in there, the services. Have they been
5 pulled in the past? Yes, they have but it's not very easy
6 to do.

7 Q Well, not just prints but also DNA. Now, because you had -
8 - according to you, you had Ms. McNeil who's telling you
9 that she's seen him, according to you, Ms. McNeil has seen
10 him in this green SUV on some frequent basis. So, not only
11 might his fingerprints be in there, his DNA may very well
12 be in there. If he's sweating or if he is sitting in a
13 place for a long period of time or he's touching stuff.
14 So, you could may have gotten that, as well, to tie him to
15 that green SUV.

16 A That's true. Had we have tried, we may have pulled
17 something from him. I could not answer that.

18 Q After you talked to Ms. McNeil and you go and you arrest
19 Mr. Campbell -- Mr. Campbell was arrested on what date,
20 the 20th?

21 A I believe that's correct.

22 Q The 20th or the 17th?

23 A The 20th, yes, sir.

24 Q The 20th?

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- 1 A I do believe so.
- 2 Q All right. Now, and his house was searched on the 20th or
- 3 the next day?
- 4 A No, his house was searched that day.
- 5 Q The 20th?
- 6 A Yes, sir.
- 7 Q Okay. Now, in your March 17th statement with Mr. Brooks,
- 8 he tells you that Mr. Campbell is his cousin. Right?
- 9 A Correct.
- 10 Q And that they look alike?
- 11 A Yes.
- 12 Q And that that was what his fear was, was that you were
- 13 going to blame him because Campbell looks a lot like him?
- 14 A Yes.
- 15 Q And he told you that?
- 16 A Yes.
- 17 Q And said he was concerned about that?
- 18 A Yes.
- 19 Q Okay. And your impression of him was, was that he was
- 20 trying to help you, but at the same time not give you
- 21 everything that existed on the case?
- 22 A Yes, sir. It's very common for individuals to give us
- 23 aspects of the crime and leave major parts out. In that
- 24 statement, there were things that did not make sense to me

1 that I felt he was leaving out. Also, the way he was
2 reacting. You can't see that, but there are things that
3 we're trained to look for that indicated deception to me.
4 Also, the fact it took him three days to come up with that
5 story.

6 Q Well, let me ask you about that. You said it took three
7 days. Now, were you working between the 14th and the --
8 because he was arrested on, what, the 13th?

9 A The ---

10 Q Or the 14th?

11 A I believe it was that Friday. It would be the 13th or
12 14th, I believe.

13 Q The 14th?

14 A The 14th, yes.

15 Q Was arrested on the 14th. And were you working the 15th
16 and the 16th?

17 A No, sir, I wasn't, but I always, at most time, keep my
18 work cell phone on me and if I had gotten a phone call
19 from the jail, I would have dropped whatever I was doing
20 and gone out there to speak to him on such a major case.

21 Q But he called you on Monday the 17th?

22 A Yes.

23 Q And sent for you, actually?

24 A Later that afternoon about 4:00, yes.

CROSS EXAMINATION OF JUSTIN HEAD BY MR. WILSON

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1 Q And then you had the conversation with him and it's the
2 recording that we played for the jury?

3 A Correct.

4 Q Let me ask you this: In regards to when Mr. Brooks is
5 giving you the statement about his cousin, he tells you
6 that his whole family is going to turn against him and
7 that they're going to be upset about it. Right?

8 A Yes, sir. I do believe he said that. Yes.

9 Q And you know that snitches don't fare well. Right? On the
10 street, especially?

11 A Typically not, yes, sir.

12 Q All right. And not only was he being a snitch for you, he
13 was also ratting out his cousin?

14 A Correct.

15 Q And a first cousin at that. Not just a cousin.

16 A He said his first cousin. I don't know if that's true or
17 not but, yes, that's what he said.

18 Q And do you know what Mr. Campbell's history is in terms of
19 his criminal history?

20 A Yeah. He actually -- he had a pretty good criminal history
21 as far as drugs go and a violent past. But it is worth
22 noting it had been many years since he had actually been
23 arrested or charged with anything and when I believe I
24 spoke to him and he said he was smart.

- 1 Q So, here he is, he's ratting out his cousin and he is
2 emotionally upset when he's doing this, because he's
3 telling you all this information. He's crying. He's upset.
4 Is he not?
- 5 A He was. Yes, it sounded like he was crying.
- 6 Q Okay. Well, I mean, did it sound like he was crying or was
7 he crying? I mean, I listened to that tape. I mean, I
8 don't want to dispute you, but I'm just asking you. You
9 were there. I wasn't there, but I heard the tape.
- 10 A He was emotional. I felt like a lot of it was put on to
11 try to make us feel sorry for him. I've seen people that
12 were really upset and he was upset, but not as it made it
13 sound on that tape.
- 14 Q Well, he was upset enough that he gave you this
15 information. And there's no question in your mind, right,
16 that he was being truthful about Campbell. Right?
- 17 A Yes, sir.
- 18 Q Is there any question in your mind that he was being
19 truthful about Campbell?
- 20 A No. He was being truthful about Campbell.
- 21 Q Is there any question in your mind that he was being
22 truthful about Terrance?
- 23 A No. He was being truthful about Terrance.
- 24 Q But what you want to do is, you want -- he's truthful with

CROSS EXAMINATION OF JUSTIN HEAD BY MR. WILSON

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1 you about those things but he can't be truthful with you
2 about the fact that he wasn't involved?

3 A No, sir. The evidence didn't point that way.

4 Q Okay.

5 MR. WILSON: If the Court will bear with me just one
6 second.

7 Q Let me ask you this. When you were trying to get Ms.
8 McNeil to come up with a date on this robbery, did you
9 tell her that if she didn't come up with a date or that if
10 she didn't give you the date and time that she did this,
11 that you were going to put her in jail for conspiracy?

12 A I believe what we said and I'll have to hear the
13 conversation again, I believe there were times when I did
14 tell her that if we found out she wasn't being truthful or
15 lying, she could be charged with conspiracy. I don't know
16 if it was technically worded as a threat like you just
17 made it sound. I don't think I said, and I may -- if I
18 did, I didn't mean it that way, that if she didn't tell
19 us, then she was going to be charged with conspiracy. But
20 I do believe I said if we could prove that she was lying
21 that she could be charged.

22 Q Okay.

23 A And that was at the time then when we felt that her
24 brother and the other individual who was there may have

1 been involved in this crime, as well. But as I said, it
2 proved that they didn't.

3 Q I don't think I have any other questions. Thank you.

4 THE COURT: Any redirect, Mr. Jepertinger?

5 MR. JEPERTINGER: Just very briefly.

6 REDIRECT EXAMINATION

7 BY MR. JEPERTINGER:

8 Q Mr. Wilson just asked you, in terms of the statement on
9 the 17th that, he asked you, did you think he was being
10 truthful about Campbell. In terms of -- I think he said in
11 his statement of Campbell having the gun. Did you feel he
12 was being truthful about that?

13 A No. I did not feel that he was being truthful about that.
14 What I felt was, that Campbell was involved, Terrance was
15 involved, and Michael was also involved. It's very common
16 -- in fact, I don't think in any major robbery that I've
17 ever worked that there's not a getaway driver, there's not
18 someone being the lookout. Two people go in and there's
19 typically a third person involved. Bank robberies, home
20 invasions, things of that. There's always someone who's
21 looking out for the police, looking for something. It was
22 Mr. Campbell's car. I felt that Mr. Campbell was probably
23 in the car. I felt that it was Mr. Campbell's idea. But I
24 do believe that Mr. Brooks was involved in this crime.

25 Q All right. Now, let me ask you this. He also asked you

REDIRECT EXAMINATION OF JUSTIN HEAD BY MR. JEPERTINGER

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1 about fingerprinting Campbell's vehicle. Isn't there --
2 did you already know that Mr. Brooks had some involvement
3 with the vehicle based on the statement of the 17th, about
4 reaching in and taking jewelry and being by the car?

5 A Yes, sir, that's very true. I didn't think about that, but
6 you are right. He did admit to reaching inside the car in
7 that statement.

8 Q All right. That's all I have.

9 MR. JEPERTINGER: Thank you, Your Honor.

10 THE COURT: All right. You may step down.

11 MR. HEAD: Thank you, sir.

12 THE COURT: You may call your next witness.

13 MR. RICHARDSON: Thank you, Your Honor. We call Scott
14 Williamson.

15 THE COURT: Before we do that, we're going to take about a
16 five-minute recess. Everyone remain seated as the jury exits
17 the courtroom. No discussion.

18 (Jury out at 11:32 AM)

19 THE COURT: We'll stand at ease for five minutes.

20 (Brief break)

21 THE COURT: We're ready for the jury.

22 (Jury in at 11:41 AM)

23 THE COURT: Mr. Richardson, Mr. Jepertinger, you're
24 recognized.

25 MR. RICHARDSON: Thank you, Your Honor. We call Scott

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1 Williamson.

2 THE COURT: Mr. Williamson, please come forward. Place your
3 left hand on the Bible and raise your right hand as the clerk
4 administers the oath.

5 (After being duly sworn by the Clerk of Court, SCOTT
6 WILLIAMSON testified as follows:)

7 THE COURT: Pull up real close to that microphone, speak
8 loudly, clearly, and slowly and let's start with your full
9 name, please, sir.

10 MR. WILLIAMSON: Gerald Scott Williamson.

11 THE COURT: Very good.

12 MR. RICHARDSON: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY MR. RICHARDSON:

15 Q Investigator Williamson, how long have you been with the
16 Florence Police Department?

17 A Approximately, eleven years.

18 Q And what have been your job assignments over that time?

19 A I originally started off in the patrol division. I served
20 some time there. Transferred to community services
21 division for a couple of years. I then transferred to
22 working crime scenes for a couple of years and the last
23 two years I've been in criminal investigations.

24 Q All right. And were you an investigator when this incident
25 took place in March of 2014?

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- 1 A Yes, sir, I was.
- 2 Q All right. And did you have the opportunity, along with
- 3 Investigator Head, to participate in obtaining a statement
- 4 from Michael Brooks back on March 17th of last year?
- 5 A We did.
- 6 Q All right. And was that at the detention center?
- 7 A Yes, sir.
- 8 Q And you had an opportunity to talk to him for,
- 9 approximately, an hour plus, or thereabouts?
- 10 A Yes, sir.
- 11 Q And in that statement, which we've already heard, there
- 12 was quite a bit of mention about a guy named Danny. Do you
- 13 recall that?
- 14 A I do.
- 15 Q And Mr. Brooks brought him up to you, brought Danny up?
- 16 A That's correct.
- 17 Q And on the tape I believe you had mentioned when you were
- 18 talking with Mr. Brooks at the detention center, that
- 19 you'd already spoken to Danny?
- 20 A Yes, sir.
- 21 Q Who is Danny?
- 22 A Danny is an individual that's -- he's either a maintenance
- 23 worker or a manager of the trailer park complex out at
- 24 Smith & Smith.
- 25 Q All right. And that was where Mr. Brooks lived?

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

1 A At one time, yes, sir.

2 Q At one time. All right. And when did you first make
3 contact with Danny?

4 A I first initially spoke with Danny on March 14th at the
5 request of Investigator Head. He had a partial name and a
6 street name of an individual and he asked that -- he was
7 busy doing the interviews and he asked that I follow up at
8 Smith & Smith, to try to get a full name, and I did.

9 Q What was the partial name and street name conveyed to you
10 to try to find out who the person actually was?

11 A I was given somebody named Mike and a street name or known
12 as name as "Main".

13 Q All right. So, It was your job to go out to Smith & Smith
14 and try to find out if anybody knew anybody with the
15 street name "Main" and first name, Mike, out there?

16 A That's correct.

17 Q All right. And who did you come across?

18 A I spoke to several individuals that actually lived there
19 and then I eventually made it to the manager's trailer,
20 which is somewhat in the middle of the complex at the
21 front, and spoke with Danny there.

22 Q All right. And after you spoke with Danny that first time,
23 did you call Investigator Head or another person with the
24 police department with a full name?

25 A I did. I relayed the information back. At the time,

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1 Investigator Head was still in the interview and I spoke
2 with Investigator Jordan.

3 Q All right. And what was the full name you obtained?

4 A Michael Brooks.

5 Q Okay. That day when you spoke with Danny, did you have any
6 conversation with Danny about Mr. Brooks' whereabouts on
7 the date of this incident or anything like that?

8 MR. WILSON: Your Honor, I object to any kind of
9 conversation that ---

10 THE COURT: Sustained.

11 MR. RICHARDSON: Very good, Your Honor.

12 Q Was the primary goal that day just to find out a name?

13 A His identification, correct.

14 Q Yeah. All right. Then on March 17th you spoke with Mr.
15 Brooks at the jail?

16 A Correct.

17 Q All right. And is it accurate that Mr. Brooks asked you to
18 go find Danny again?

19 A Yes, sir.

20 Q To talk to him about what Mr. Brooks deemed, his alibi?

21 A Yes, sir. He asked several times to go back and talk with
22 Danny, to go back and talk with Danny.

23 Q All right. After you finished the interview with Mr.

24 Brooks, did you go have another talk with Danny?

25 A Yes, sir, on the 18th.

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1 Q The next day?

2 A Correct.

3 Q Did you convey to Danny what Mr. Brooks told you and asked
4 him ---

5 MR. WILSON: Again, I object.

6 THE COURT: He can say what he told Danny. So, overruled.

7 Q Did you convey to Danny Mr. Brooks' concerns that Mr.
8 Brooks conveyed to you and what Mr. Brooks asked you to
9 do?

10 A I did.

11 Q All right. After your conversation with Danny on the 18th,
12 did you and the Florence Police Department maintain or
13 keep the same charges against Michael Brooks that we're
14 here on today?

15 A Yes, sir.

16 Q No further questions. Please answer any questions Defense
17 has for you.

18 THE COURT: Cross examination, Mr. Wilson.

19 CROSS EXAMINATION

20 BY MR. WILSON:

21 Q Let me ask you this: Did you file a report of this?

22 A I did not. I did not write a supplemental.

23 Q So, the first time that this has come up is today ---

24 A No, sir.

25 Q --- that you're telling this?

CROSS EXAMINATION OF SCOTT WILLIAMSON BY MR. WILSON

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1 A No, sir. Investigator Head indicated all my actions in his
2 supplemental.

3 Q All right. Show me that in any report ever filed anywhere.

4 A As far as me going to and the identification?

5 Q Yes. That you went to Danny on multiple occasions and had
6 conversations with him.

7 A It would be in his supplemental.

8 Q Whose supplemental?

9 A Investigator Head's.

10 Q Would you get it and show it to me?

11 A If there's a copy here. I don't see a copy here in front
12 of me.

13 MR. JEPERTINGER: Mr. Wilson.

14 MR. WILSON: Yes.

15 MR. RICHARDSON: Here's the report.

16 MR. JEPERTINGER: I think Mr. Wilson has been provided a
17 copy.

18 MR. WILSON: He's offering -- wait. I want to see it.

19 Q Is this your report?

20 A It states here that he indicated on the 17th that he
21 requested that I go out and meet with Danny to obtain the
22 partial information of a name, that I go out and meet with
23 him.

24 Q Okay. On the 17th.

25 A On the 17th.

1 Q Which is when you had the conversation with him. And what
2 I'm asking you is, where are the multiple times anywhere
3 in that report that you went out and met with Danny on
4 multiple occasions?

5 A I didn't meet with Danny on multiple occasions.

6 Q You said that you talked ---

7 A I met Danny on the 17th and I spoke with Danny again on
8 the 18th by telephone.

9 Q So, now you're saying you only had one conversation with
10 Danny and that would have been on the 18th?

11 A I had two conversations with Danny. One on the 14th and
12 then again on the 18th.

13 Q Okay. And where is anything in there about any
14 conversation on the 18th?

15 A It may not be in here.

16 Q Well, find it if it's there.

17 A I don't see it, sir.

18 Q It's not there. There is no indication of any report that
19 you met with Danny at any time, other than the request
20 that he asked you on the 17th to meet with Danny. There is
21 absolutely no indication that you ever met with Danny or
22 had a conversation with Danny in any report that I've seen
23 or that you can show me, is there?

24 A I don't see it, no, sir.

25 Q Thank you, sir.

DIRECT EXAMINATION OF SHANNON HILL BY MR. RICHARDSON

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1 MR. WILSON: No other questions.

2 THE COURT: Any redirect?

3 MR. RICHARDSON: No, sir.

4 THE COURT: All right. You may step down. All right.

5 MR. RICHARDSON: We'd call Shannon Hill.

6 THE COURT: All right. Mr Hill, please come forward. I'm
7 going to ask if you could to place your left hand on the Bible
8 and raise your right hand as the clerk administer's the oath.

9 (After being duly sworn by the Clerk of Court, SHANNON
10 HILL testified as follows:)

11 THE COURT: Mr. Hill, pull up real close to that
12 microphone. Speak, loudly, clearly, and slowly and let's start
13 with the full name.

14 MR. HILL: Shannon Hill.

15 THE COURT: All right. Mr. Hill. Mr. Richardson.

16 MR. RICHARDSON: Thank you, Your Honor.

17 DIRECT EXAMINATION

18 BY MR. RICHARDSON:

19 Q You're obviously with the Florence Police Department. How
20 long have you been there?

21 A Twenty-two-and-a-half years now.

22 Q All right. And what is your job at the Florence Police
23 Department?

24 A I am currently assigned to the crime scene unit of the
25 Florence Police Department.

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

1 Q And were you so assigned in March of last year?

2 A Yes, sir, I was.

3 Q And did you have an opportunity to respond to a home at
4 the intersection of Berkley and Marsh?

5 A Yes, sir, I did.

6 Q On March 3rd of 2014?

7 A Yes, sir.

8 Q What did you do when you got out there?

9 A When I arrived on scene, Investigator Head was already on
10 scene speaking to the victims of the incident. Sergeant
11 Myers was the lead crime scene investigator and what I did
12 was assist him in processing the scene for latent prints.

13 Q All right. Could you please explain to the jury first,
14 what latent prints are and how you go about trying to find
15 them?

16 A Latent prints are actually your fingerprints that are left
17 behind by somebody on any kind of surface. What my job was
18 that day was to go around the believed areas where the
19 suspects might have been, such as the point of entry,
20 Different cabinets and dressers and things that we found
21 the drawers had been pulled open or something that was out
22 of place, such as jewelry boxes or what not and we would
23 use multipurpose fingerprint powder, which is black in
24 color and we were trying to attempt to obtain any kind of
25 fingerprints from the surface of those items, whatever we

DIRECT EXAMINATION OF SHANNON HILL BY MR. RICHARDSON

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1 were processing.

2 Q And you did that in multiple rooms in the house?

3 A We did that at the believed point of entry where I was
4 told that the suspects entered, which was the garage door,
5 leading from the garage inside the house. Two vehicles
6 were in the garage so I processed those vehicles as well,
7 just to make sure that the suspects, as they went by, may
8 or may not have touched them, as well as different pieces
9 of furniture, jewelry boxes, and stuff upstairs and
10 downstairs in the house.

11 Q All right. And as you did that, you may have explained
12 this already, but you have some kind of powder or some
13 substance that you put down?

14 A It's multipurpose fingerprint powder, which is basically
15 black in color and it will adhere to the oils that may or
16 may not have been left behind by a suspect or an
17 individual.

18 Q In this particular case, did you recover any fingerprints
19 at all?

20 A From the areas I processed, I did not identify or locate
21 any identifiable latent prints.

22 Q Very good. Had you done so, would those have been sent to
23 SLED for any comparison purposes?

24 A If we would have identified any and collected them as
25 evidence, they would have been packaged properly and then

1 sent to SLED for further analysis.

2 Q All right. After you attempted to find fingerprints in the
3 home, what further involvement did you have in this case?

4 A Well, on the scene that day, that's all the involvement I
5 had. Later on in the investigation I was asked numerous
6 times by Investigator Head to do some audio transfers that
7 he had obtained at different times, at different points in
8 the investigation as well as some photographs he had
9 taken.

10 Q All right. So, as part of your job in the crime scene
11 unit, is it your job to take audio statements or things of
12 that nature and place them on disks that can be, you know,
13 put into evidence and played later?

14 A Yes, sir, that's correct.

15 Q All right. And you did that in this case?

16 A I did, yes, sir.

17 Q Thank you, sir. Please answer any questions the Defense
18 may have.

19 THE COURT: Mr. Wilson?

20 MR. WILSON: Thank you, Your Honor.

21 CROSS EXAMINATION

22 BY MR. WILSON:

23 Q Officer Hill, you said you'd been there, what, twenty-two
24 years?

25 A Yes, sir.

CROSS EXAMINATION OF SHANNON HILL BY MR. WILSON

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1 Q And how many of those years have been in crime scene
2 investigation?

3 A Eight years.

4 Q Ten years?

5 A Eight years.

6 Q And so you've done a lot of, lot of crime scenes over the
7 years?

8 A That's correct.

9 Q And I'm sure that you're trained even before you start
10 doing crime scenes so that you kind of know what to do and
11 how to do it?

12 A Yes, sir.

13 Q Where did you get your training from?

14 A The South Carolina Criminal Justice Academy.

15 Q Okay. And do you train with SLED or any other organization
16 as an on-going process?

17 A I have in the past, yes, sir.

18 Q Okay. And how many hours do you think that you have in
19 training hours, I guess, over the course of your ten years
20 in crime scene?

21 A Oh ---

22 Q A lot of it?

23 A Yes, sir. I wouldn't dare put a number on it.

24 Q Okay. And now when you went out to the crime scene, and I
25 assume this would have been on March the 3rd, right?

1 A Yes, sir.

2 Q And what time of day was it that you go out there?

3 A Between eleven forty-five and twelve o'clock in the
4 afternoon.

5 Q So, shortly after this incident occurred?

6 A Yes, sir.

7 Q And your purpose in going was to find evidence or just for
8 the purpose of latent lifts?

9 A On that particular scene, my role was secondary and it was
10 to process for latent prints. That's how I was assisting
11 Sergeant Myers.

12 Q Okay. All right. And you were looking specifically for
13 prints of the perpetrators, right?

14 A Yes.

15 Q Now, did you take any lifts, did you make any lifts at
16 all? That is, did you actually find some prints or
17 partial prints that you actually lifted to compare and
18 they weren't able to be compared because they weren't
19 sufficient in detail?

20 A No, sir. I didn't lift any or discover any.

21 Q Okay. So, you never saw any prints, whatsoever, or
22 potential prints or what we call latents?

23 A That's correct. Right.

24 Q In the entire house?

25 A On the areas I processed, that's correct.

CROSS EXAMINATION OF SHANNON HILL BY MR. WILSON

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1 Q Okay. And did you process the area in the front of the
2 house, that is, where the victims were laid on the floor?

3 Did you process that area?

4 A Yes, sir.

5 Q Okay. So, you didn't even find the victims' prints in the
6 house?

7 A No, sir. I did not.

8 Q Okay. And let me ask you this: You said also that you
9 searched, that you tried to get latent lifts from the,
10 from some jewelry boxes or some other items and you
11 weren't able to find any prints on those things, either?

12 A That's correct.

13 Q Okay. So, absolutely no latent lifts, whatsoever?

14 Certainly not none of Michael Brooks?

15 A None from me. No, sir.

16 Q All right. Now, let me ask you, did they ever ask you to
17 go and do latent lifts on a green Tahoe SUV?

18 A No, sir.

19 Q Nobody ever asked you to do that?

20 A No, sir.

21 Q So, if they did it, you don't know about it?

22 A That's correct.

23 MR. WILSON: No other questions.

24 THE COURT: Any redirect?

25 MR. RICHARDSON: No redirect.

1 THE COURT: All right. You may step down. Madam Forelady,
2 ladies and gentlemen of the jury, we're going to recess until
3 one-thirty. Do not discuss the case amongst yourselves or with
4 anyone else. Be back and be back on time. One-thirty, one-
5 thirty, sharp. Everyone remain seated as the jury exits the
6 courtroom.

7 (Jury out at 11:59 AM)

8 MR. JEPERTINGER: Your Honor, would you have any problem
9 with Mr. Hill being excused?

10 THE COURT: Any objection, Mr. Wilson?

11 MR. WILSON: No objection, Your Honor. No objection.

12 THE COURT: You're free to leave. All right. Anything from
13 the State before we recess for lunch?

14 MR. JEPERTINGER: No, sir.

15 THE COURT: Anything from Defense?

16 MR. WILSON: Nothing.

17 THE COURT: All right. We'll stand at ease until one-
18 thirty.

19 AFTERNOON - JUNE 17, 2015

20 THE COURT: Anything from the State before we proceed?

21 MR. JEPERTINGER: Not from the State, Your Honor.

22 THE COURT: Anything from defense?

23 MR. WILSON: Your Honor, just briefly. I'd made a motion
24 for a mistrial and the Court ruled that you were going to give
25 a curative instruction, which we accepted, but you didn't make

DIRECT EXAMINATION OF THOMAS MYERS BY MR. JEPERTINGER

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1 a ruling as to the mistrial.

2 THE COURT: All right.

3 MR. WILSON: And I think that ---

4 THE COURT: I think by my actions, I denied it.

5 MR. WILSON: Yes, sir.

6 THE COURT: And I'll officially deny that on the record.

7 MR. WILSON: All right, sir. Thank you, Your Honor.

8 (Jury in at 1:32 PM)

9 THE COURT: Mr. Foreman, ladies and gentlemen of the jury,
10 thank you for being here and being here on time. Mr.

11 Jepertinger.

12 MR. JEPERTINGER: Thank you, Your Honor. Sergeant Thomas
13 Myers.

14 THE COURT: Sergeant Myers, please come forward. Place your
15 left hand on the Bible and raise your right hand as the clerk
16 administers the oath.

17 (After being duly sworn by the Clerk of Court, THOMAS
18 MYERS testified as follows:)

19 THE COURT: Pull up real close to that microphone. Speak
20 loudly, clearly, and slowly in order that we can hear
21 everything that you have to say and your full name?

22 OFFICER MYERS: Thomas Myers.

23 THE COURT: Thank you, Mr. Myers.

24 DIRECT EXAMINATION

25 BY MR. JEPERTINGER:

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

1 Q Okay. Sergeant Myers, what do you do for a living?

2 A I am a supervisor of the crime scene unit for the Florence
3 Police Department.

4 Q All right. As part of your responsibilities there, what do
5 you do in terms of crime scene?

6 A I, along with my other technicians, respond to calls of
7 service. It could be anything from multiple car break-ins
8 to high nature assaults, homicides, and anything in
9 between.

10 Q How long have you been doing crime scene work?

11 A I've been assigned to the crime scene unit for eight-and-
12 a-half years.

13 Q All right. Did you have an occasion to be on duty on March
14 the 3rd, 2014?

15 A Yes, sir, I did.

16 Q Were you dispatched to respond to any location here in
17 Florence County?

18 A I was in the office, likely doing paperwork, which is the
19 other side of my position, and a call came out over the
20 central dispatch radio. Myself and another technician you
21 heard earlier, Corporal Hill, responded to Berkley Avenue
22 regarding a home invasion call that had come out on the
23 radio.

24 Q When you got out there, what did you find on scene?

25 A We met with Investigator Head and I believe Investigator

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1 Corporal Wynn and were initially given the details of what
2 they had learned at that point of the incident that had
3 taken place.

4 Q All right. Did you see the victims in this case?

5 A We did. We were introduced to the Murphys and our role is
6 a little different than the lead investigator role on the
7 scene. We are mostly concerned with any physical evidence
8 that may be there, whether it's obvious or not. So, we
9 were, while introduced to the Murphys, I didn't speak to
10 them in the way that the other investigators would have as
11 far as taking statements. You know, our role is to get the
12 bulk of the information that we need and then focus on
13 what evidence may be in or around the area.

14 Q Okay. What's the first step that you took on this case
15 after you spoke with Head and so on and so forth?

16 A After, or while being introduced to the Murphys and
17 getting the basic information, Ms. Murphy, her wrists were
18 still bound with duct tape. My initial step there was to
19 comfort her by releasing her from the bondage that she was
20 in with the duct tape. In doing so, I photographed as we
21 observed it initially prior to my doing anything different
22 with it, but that was the first thing that I did was
23 remove her, the duct tape from her wrists. I did
24 understand that her husband was able to free himself and
25 she was still bound at her wrists.

1 Q Now, these photographs that were taken in this case of the
2 inside of the residence, who took these photos?

3 A I took the photographs for the scene.

4 Q All right. So, you would have taken the pictures of her
5 with the duct tape on them?

6 A That's correct.

7 Q All right. So, you took the photographs before you removed
8 the duct tape?

9 A That's right. Just to show the placement of the tape. Of
10 course, once we remove it and package it in a way that we
11 need to, to preserve it, you know, we wanted to be able to
12 know what it looked like when I first saw it with my eyes.
13 And the only way to do that is to photograph it prior to
14 doing any kind of evaluation on it, just to photograph it
15 as is and then from that point I used a sterile-bladed
16 knife, essentially that we use in a different manner of
17 crime scene processing, to cut the tape and remove it from
18 her wrist, but it was photographed, initially.

19 Q After you took her picture, did you remove the duct tape
20 or did you take photographs all around the house first?
21 Tell us the procedure.

22 A At first, on this particular, my primary was to bring
23 comfort to her. It couldn't have been comfortable being
24 bound by the duct tape, so my initial was to preserve that
25 evidence and then I removed it from her wrist, allowing

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1 her to be more comforted, and then I began -- I continued
2 my photography throughout the entire house.

3 Q I'm going to show you State's Exhibit #16 that's been
4 marked for identification. It's a sealed box. Can you tell
5 me what is in that sealed box, please?

6 A According to the label, which is my handwriting that I've
7 written, these are sections of duct tape from, as I have
8 it written, female victim's wrists. I also indicate here
9 that they were cut by the male victim but removed by
10 myself. This is all that's indicated, just as a
11 description of what's inside. And at that point, I would
12 have sealed this with the red tape. You might be able to
13 see the red seal tape here.

14 Q Could you open ---

15 MR. JEPERTINGER: Your Honor, at this point could you allow
16 him to open this to show what is in the box?

17 THE COURT: Yes.

18 A (Witness complies)

19 Q And do you know what this white paper is?

20 A I would guess that it would be the paper that SLED would
21 have used. Because as I mentioned before, the red seal
22 tape that's on here is what I would have put on and then
23 transferred it to SLED for the analysis and then the SLED
24 technician would probably need to testify on that matter
25 what that was, like, testing equipment. This is sections

1 of actual tape.

2 Q Okay. Let me ask you. Did you put the duct tape just in
3 the box or did you put it in this large plastic bag?

4 A Actually, it's in the box, as well. This is waxed paper
5 typically used in your kitchen. The duct tape was actually
6 softly wrapped in the wax paper to prevent it from
7 sticking to itself or changing other methods of the way
8 that it appeared. So, I would have wrapped it in this
9 waxed paper and then placed it in this box in a manner to
10 keep it from moving as the box would move.

11 Q Okay. There's some writing on the waxed paper. Do you
12 recognize that writing? Is that yours?

13 A That looks like mine. This says right wrist and this one
14 says left wrist, just to indicate the differences, because
15 as I recall, she was separated -- instead of being bound
16 together, she was separate, but the wrists, her individual
17 wrists were still taped.

18 Q So, once you wrapped her wrappings in that waxed paper and
19 put it in this box and sealed it with the red tape, what
20 did you do with this object?

21 A This item, along with other items, would have been -- I
22 would have logged them into evidence to be preserved in a
23 secured -- in our secure facility. And periodically our
24 evidence custodians deliver these items to SLED along with
25 our requests to SLED for certain forensic analysis to be

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1 completed on the evidence.

2 Q And your evidence technician would have been here in
3 Florence?

4 A Yes. A member of our police department.

5 Q Would that be Amelia Miles ---

6 A Yes, sir.

7 Q --- who is sitting in the back of the courtroom?

8 A She is.

9 Q All right. And she would have taken custody of this box?

10 A That's correct. We would have logged this in and through
11 our police department procedures that evidence custodian,
12 either her, or someone assigned to that office, that
13 division, would have taken custody of it at that point,
14 signed it into -- logged it into evidence as official
15 evidence and then on their schedule, they would have
16 delivered it to SLED for the analysis to be completed.

17 Q Okay. Did you conduct any scientific experiment on --
18 personally, yourself, or anyone in the Florence Police
19 Department -- on the duct tape in this box?

20 A No, I did not. Aside from detailed photographs, I felt it
21 would be better for the evidence to send the entire piece
22 to the lab. There are occasions where we will do minor
23 processing of evidence and that kind of -- our purpose in
24 doing that is through training that we've had, that kind
25 of let's us narrow down the evidence before we send it to

1 the lab and that kind of saves us time, overall, but in
2 this case, I was not willing to take that chance of not
3 being trained specifically with duct tape processing. I
4 wanted that to be a SLED lab entity, overall.

5 Q Okay. What did you do after you cut the duct tape off her
6 wrists and apparently wrapped it in that paper and stuck
7 it in that box? What was the next step there at the house?

8 A At the house I continued photography more than likely
9 beginning at the entranceway that we were explained was
10 the suspects entry into the house and then just a
11 methodical process of photography around. While I was
12 doing that, Corporal Hill assisted me with latent
13 processing. That's something typically we will do to
14 relieve all of the work being on one technician on a scene
15 such as this. We will assist each other and that was his
16 role that day for me, was to assist me in specifically
17 latent processing so I could focus on the overall scene,
18 photography, and further processing that needed to be
19 done.

20 Q Okay. Now, I'm going to show you what's in evidence as
21 State's #3MM.

22 A These are photographs taken clearly in the kitchen area of
23 sections of duct tape that appear to have been used
24 sections. Just by these, I don't know where these would
25 have come from without, you know, one of the -- I mean,

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1 just without knowing if this was from her ankles or from
2 Mr. Murphy's wrists or ankles, but that's ---

3 Q Were you directed to a point where Mr. Murphy's bindings
4 were?

5 A I should have been, yes.

6 Q Okay. And did you collect those, as well?

7 A I did.

8 Q Okay. I'm going to show you State's Exhibit #17.

9 A It's a similarly packaged box. The label on this is duct
10 tape from male victim's wrists and ankles, removed by male
11 victim, in my handwriting.

12 Q Okay. And was it the similar situation to State's Exhibit
13 #16 where you put the objects in waxed paper and then
14 sealed them in a box?

15 A Yes. They would have been handled much the same way.

16 Q All right. If you could do me the kindness of opening that
17 box, as well?

18 A (Witness complies)

19 Q And if you could show us the objects in there, please?

20 A This is one section of gray or silver duct tape. Again,
21 this is going to be SLED lab testing procedures in that
22 package. And this is several more sections of similar duct
23 tape, clearly in a used state, along with waxed paper
24 wrappings.

25 Q And what information do you have on your wrappings?

1 A These wrappings may not have had anything specific,
2 because the initial, the earlier package, I wanted to
3 indicate which was left and which was right. This wouldn't
4 have been the case for these because as I collected them
5 from one area, there was, to me no way to tell if it was
6 from the right hand, left hand, ankle, or otherwise.

7 Q And who do your notes indicate that they came from
8 according to the box?

9 A Mr. Murphy, on the box.

10 Q Okay. All right. All right. In searching the house were
11 you, I guess, told by anybody about how the perpetrators
12 were manipulating objects in the house?

13 A I was. I was advised, as I recall, it could have been from
14 Ms. Murphy or from the investigators statement to me, that
15 a kitchen towel was used to open cabinets and that's, you
16 know, just -- which is not uncommon just to, you know, it
17 would be used in the place of gloves or socks that we've
18 seen many times, perpetrators will wear socks on their
19 hands. So, that was not uncommon to have heard. So, that
20 was just another area that we were kind of along a, maybe
21 a hyper-vigilant search for throughout the house as we
22 photographed and processed other items to see, you know,
23 if a kitchen towel was anywhere out of place.

24 Q Okay. I'm going to show you State's Exhibit #3N,
25 specifically the photo on the top. Is that a kitchen towel

1 there?

2 A There is a blue hand towel, kitchen hand towel, on the
3 floor in front of a wooden jewelry box in the upstairs
4 bedroom.

5 Q And did you recover that?

6 A Yes, it was collected.

7 Q All right. And I'm going to show you State's Exhibit #15,
8 for identification.

9 A The label is going to be within this right panel.

10 Q All right.

11 A There's a City of Florence evidence label that is printed
12 out and placed on after it's logged into evidence and this
13 indicates that it's a blue dish towel.

14 Q Okay. And is that the towel that you recovered on that
15 day?

16 A It would have been, yes, sir.

17 Q Okay. Now, did you do any testing on that towel?

18 A I did not. We again, I believe I earlier stated that we
19 will, on occasion typically with tee shirts, tennis shoes,
20 ball caps, we'll actually, in our own lab, take
21 preliminary samples, the swabs from items. Obviously, for
22 those items we would look around the neckline, somewhere
23 that's tight. On a hat, obviously, the brim, we're looking
24 for evidence or skin cell evidence. With a hand towel, I
25 felt very similar in the manner that I did with the duct

1 tape, that a typical sized hand towel, I did not want to,
2 myself, make a judgment on what areas that I would process
3 of that towel. We're limited in the number of swabs and
4 the number of items that we can submit to our lab and I
5 certainly didn't want to take that hand towel and try to
6 make an educated guess as far as what point was used. So
7 in cases like that, we will send the entire item to SLED,
8 which was what was done in this case. So, to directly
9 answer your question, no, I did not do any specific
10 testing on this more than detailed photographs and proper
11 packaging.

12 Q And then turned it over to Amelia Miles?

13 A Correct, with other items of evidence according to our
14 department procedures, logged them into evidence to be
15 preserved.

16 Q All right. Now, did you have an occasion at that time or
17 shortly thereafter to collect what are known as buccal
18 swabs from Larry and Cara Murphy?

19 A I did. Prior to my completing the scene we -- in my mind I
20 knew that we would be looking for DNA evidence, overall.
21 So, to eliminate and it's mere convenience that I was in
22 their kitchen and had access to both of the Murphys, both
23 being victims, that we collect a known standard, which is
24 required from our state lab anytime we submit evidence and
25 when we know that we are able to submit a known standard,

- 1 then we must. So, the convenience fact was that they were
2 still there in the house along with me at the same time.
3 So, at that time, prior to my departure, I collected a
4 saliva sample, which is taken from the buccal edge of the
5 cheek from each of them. I packaged them to be sent along
6 with these items to SLED.
- 7 Q Okay. When we talk about the swab, it's kind of like a
8 Q-tip. Is it not?
- 9 A It is like a long wooden-handled Q-tip.
- 10 Q All right. I'm going to show you State's Exhibits #14A and
11 #14B, if you can tell me what those are?
- 12 A This indicates that it is a buccal swab from L. Murphy.
13 And the rest of these are going to be part of SLED's
14 process.
- 15 Q All right.
- 16 A But that's what this one is?
- 17 Q And #12A and #12B, for identification, as well?
- 18 A This indicates a buccal swab from C. Murphy.
- 19 Q All right. Same deal?
- 20 A Same thing. Right. We send it as a sealed cotton tip swab,
21 sterile initially, and then SLED's procedures will break
22 that down, of course. We typically get more evidence back.
23 It's the "B" part of this evidence.
- 24 Q And the sealing officer, the one that sealed them in these
25 bags would have been who, with your department?

- 1 A The initial seal, again, the red tape on the paper
2 envelope is mine. And you might be able to see it through
3 here. Once it's turned over, that indicates that it is
4 properly sealed on our end, going into evidence. From that
5 point, when our evidence custodian, in this case, Sergeant
6 Miles, delivered it to SLED, they repackage it and this
7 would be her seal and initials for each of these.
- 8 Q And same on -- what number is that, #12A and #12B?
- 9 A Correct.
- 10 Q Okay. So, it's the same for both those items I've just
11 shown you?
- 12 A Yes, sir.
- 13 Q Okay. All right. Now, in your searching and photographing
14 and all of that, did you come across a lockbox while you
15 were there? A safety box or a security box at the Murphy's
16 residence?
- 17 A Yes. During photography at the residence there was a cash
18 box, a metal lock box, any description of that nature,
19 about the size of a large shoe box that was located, I
20 believe, on the floor near outside the closet. Just in the
21 number of scenes that I've been in, photographed, been a
22 part of, to me it looked out of place. You would trip over
23 it if you were just walking through the bedroom. So that,
24 you know, that, of course gave me some interest. So when I
25 asked about it, I was advised that that was stored well

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1 within the closet, whether it had been on a shelf or on
2 the floor, but it should have been well in the closet.
3 And, of course, the nature of a cashbox or a lockbox to me
4 would be storage compartment for valuables. This
5 particular one had the ---

6 Q Let's reference the item on the back. #3RR?

7 A This is Exhibit #3RR. This photograph indicates the
8 lockbox, which had a good bit of damage on the front. It
9 was a combination lockbox and there was a good bit of
10 damage near that. I asked the Murphys about it and Mr.
11 Murphy had advised me that at some point over the years
12 the combination had been lost and he performed the damage
13 to the box to get in it. But it was, in fact, their
14 storage box for valuable papers.

15 Q And I would ask you, did you put that box in -- that
16 lockbox in this State's Exhibit #18?

17 A I did. I collected it from the scene. We have far more
18 processing opportunities in our lab back at our office,
19 more so, than the scene.

20 Q If you could open that up for me, please?

21 A (Witness complies) So, this is an item that I left the
22 scene with.

23 MR. JEPERTINGER: And I believe that box in State's Exhibit
24 #18 contained also DVDs and CDs that I don't want to introduce.
25 However, if I could just move State's Exhibit #18, if it's okay

1 with the Court and court reporter, for identification, move in
2 State's Exhibit #18, just the blue metal box?

3 THE COURT: Any objection?

4 MR. JEPERTINGER: Just for identification, at this stage.

5 MR. WILSON: For identification?

6 THE COURT: Very good.

7 MR. JEPERTINGER: Okay. We just need to --

8 Q Okay. Now, did you process that box that we saw in the
9 photograph and that's here for latent prints?

10 A I did. Actually, in my lab the following day, I processed
11 this box. The method that I used was -- it's called
12 Cyanoacrylate, which is the common term for Super Glue. We
13 can heat Super Glue and the fumes will adhere more readily
14 to the oils left by fingerprints. That's the method that I
15 did as far as processing this. After that, it would have
16 been processed with the multipurpose fingerprint powder
17 for latent prints.

18 Q Okay. And can you tell us what is in State's Exhibit #13
19 in relation to that testing you did?

20 A Post-testing, I was able to recover two latent print lifts
21 from this box and I collected those on fingerprint cards
22 to be, in the future, looked at by SLED for analysis and
23 those came directly from this lockbox.

24 Q And what would you have done with those items, given it to
25 Ms. Miles?

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1 A They were sealed and logged in with the other evidence, as
2 well, and they would have been delivered to SLED along
3 with the other evidence that she would have delivered.

4 Q All right. And that was the only testing that you did on
5 any of the items that I've currently shown you or any of
6 the items?

7 A Correct.

8 Q Other than that lockbox, you did nothing else other than
9 collect evidence?

10 A Everything else was packaged for preservation and then
11 sent.

12 Q Okay. Now, I'm going to show you and to refresh our
13 recollection. Do you have your notes with you ---

14 A I have some.

15 Q --- in your collecting of evidence in this case?

16 A I do.

17 Q Okay. Did you have an opportunity to collect a buccal swab
18 from Michael Brooks in this case?

19 A I did. I received a court order to receive that evidence
20 and I did so on April 2nd of last year.

21 Q 2014?

22 A Yes, sir.

23 Q Okay. Now, what would you have done with that -- and I'm
24 showing you State's Exhibit #14D, for identification. What
25 would you have done with that object?

1 A The packaging on this indicates it's one buccal swab from
2 Michael Donta Brooks and my packaging would have been
3 basically the same as with any -- this, again, was a known
4 standard as were the Murphys' standards. So they would
5 have been individually packaged, sealed. This brown
6 envelope has a red tape across the opening, indicating my
7 seal on it. And it would have been -- that's for
8 preservation, then logged into evidence to be delivered to
9 SLED for analysis.

10 Q Now, what dates, particular dates are on all that
11 packaging?

12 A In my handwriting under Mr. Brooks' name, I've got his
13 date of birth [REDACTED] The other date that I see is -- I
14 recognize it as being a SLED lab number, which they assign
15 once they ---

16 Q Without the number. I'm just talking about dates in terms
17 of when it would have been put in the brown package.

18 A Okay. Let me see if I can see my ---

19 Q If you need to open it up to see, please do that.

20 A Okay. You can see how it's packaged. The red seal here is
21 an easily torn tape. It's called evidence tape. I sealed
22 this package on April 2nd, 2014, the day I collected it.

23 Q Okay. And what would you have done with that object?

24 A In this condition, I would have logged this into evidence
25 with my seal tape attached for transfer and delivery to

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1 SLED at whatever date that was. And indicated on this,
2 Amelia Miles signed it and sealed it at SLED due to their
3 requirements of their packaging. That date was April 17th
4 of 2014.

5 Q Okay. It would have been taken to SLED how, like this?

6 A Like that.

7 Q Okay.

8 A And then while in the SLED log-in area as they receive it,
9 they put their packaging on it. So Sergeant Miles would
10 have taken this and it would have been placed in this bag,
11 sealed and then she would have been required to seal it,
12 to sign the seal and turn it over officially to SLED.
13 That's when they accept it.

14 Q Okay. And that was item #14B?

15 A Correct.

16 Q Now, let me ask you, what did you do in regards to Gregory
17 Campbell? Did you do something similar at the same time?

18 A The same day I actually took a -- again with a separate
19 court order that was given to me to collect these samples.
20 That same day, April 2nd of 2014 at approximately four
21 twenty in the afternoon, I met with Mr. Campbell and
22 collected that sample and then a little bit later at four
23 thirty-five I collected Mr. Brooks' sample.

24 Q All right.

25 A Same method. Completely individual, individual packaging.

1 Of course, the individual swabs.

2 Q All right. Now, here recently it's my understanding that
3 Reginald "Boogie" Baker has been arrested. Is that
4 Correct?

5 A Terrance Baker. That's correct.

6 Q Yeah, excuse me. Not Reginald, but Terrance "Boogie" Baker
7 has been arrested. Have you gone through a similar process
8 just recently?

9 A I did. And I do not have those dates with me for Mr. Baker
10 but I actually met with him at a correctional facility in
11 Columbia with a court order issued to me to collect his
12 saliva sample, DNA sample, and collect it as in the same
13 fashion; a sterile cotton-tipped swab, packaged, sealed
14 it. The difference in that, while being in Columbia, I
15 delivered it directly to the SLED lab myself without
16 bringing it back here, logging it into my evidence and
17 having somebody else take it. I was a quarter mile from
18 our SLED lab and I took the required paperwork and just
19 delivered it to them for an expedited nature.

20 Q Okay. In terms of when you took the buccal swab from
21 Campbell, okay? Not Brooks, but Campbell. Did you do the
22 same thing on the packaging like you did on Brooks'?

23 A Yes. The packaging would have been identical, specific
24 with each of their individual information.

25 Q Okay. In terms of dates?

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1 A The date, it should have been sealed the same day. The
2 name and information on the package. It was logged in the
3 same day, which meant that it should have gone to SLED the
4 same day.

5 Q When you took the buccal -- you took the buccal swab from
6 them on the same day?

7 A Each of them the same day, Campbell and Brooks.

8 Q Okay. Let me ask you this so there's no confusion. You
9 didn't line either one of them up and, you know, just
10 quickly, you know, do Brooks' mouth and then quickly do
11 Campbell's mouth them and stick them into an envelope?

12 A No. No. They were collected fifteen minutes apart. We were
13 in separate -- they were brought to me at separate times
14 from the pod.

15 Q And you would have written -- you would have stuck one in
16 the envelope and wrote down which one?

17 A Labeled it.

18 Q Labeled it and did all that with one individual?

19 A Correct.

20 Q Before you went to the next individual. Is that correct?

21 A That's correct. The complete package would have been
22 sealed and then that would have been done prior to moving
23 onto anyone else. That was done with the Murphys, as well,
24 the individual nature.

25 Q Okay. And your reason for doing that that way?

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1 A Cross-contamination, mistakes. It throws all that out. I
2 change my gloves in between. Just there is no question of
3 any cross-contamination and, you know, no mistakes on my
4 part. We try to do our best. I think it was certainly
5 mentioned earlier we are human, but any opportunity that
6 we have we will take to check, to double check and to make
7 sure that things are done properly.

8 Q Thank you very much. Answer any questions that Mr. Wilson
9 may have for you.

10 THE COURT: Cross examination, Mr. Wilson.

11 MR. WILSON: Thank you very much.

12 CROSS EXAMINATION

13 BY MR. WILSON:

14 Q When you went to Mr. Brooks' you said you had a court
15 order in order to take samples. Is that correct?

16 A Yes, sir.

17 Q And you actually had him sign something?

18 A I do. I will take a copy for -- typically the suspect when
19 we have court orders and in front of them I will make a
20 note on the back of the court order, my copy and their
21 copy, the date, the time, typically the location and we
22 will each sign it. My purpose in that is just (A) to make
23 sure that they have a copy and they understand they have a
24 copy. (B) to make sure we were both there as I said that
25 we were.

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1 Q Okay. Now, let's go back to the Murphy's and your taking
2 the pieces of tape that you say you found at that time.

3 And I think those were Exhibits #14 and -- I'm sorry.

4 Exhibit #17 for Mr. Murphy and #16 for Ms. Murphy?

5 A Yes, sir.

6 Q All right. And those were the pieces of tape that you took
7 from them?

8 A Correct.

9 Q And then once you took those pieces of tape what you did
10 was package them so that you could then place them into an
11 evidence locker at some point in time?

12 A That's correct.

13 Q Now, the day you took these samples or pieces of tape or
14 pieces of evidence from Mr. & Ms. Murphy would have been
15 on the 3rd of March of 2014. Correct?

16 A That's correct. While I was at their house, yes, sir.

17 Q All right. And you took them on the 3rd of 2014. What date
18 did you actually log them into the evidence locker at the
19 department?

20 A On March the 4th, at 1630 or four-thirty in the afternoon.

21 Q Okay. So, within twenty-four hours or so, you took them
22 and you logged them in at the department?

23 A Within the day. I cleared their house at two forty-five
24 so, yes, just over twenty-four hours.

25 Q Okay. And the reason that you do that is is that -- for

- 1 safekeeping, to make sure that the pieces of evidence
2 don't get tampered with or that they don't get
3 contaminated or something happens to them. So, you
4 immediately want to take them, put them in the evidence
5 locker, make sure they're secure. Right?
- 6 A In between, we have our own secure storage within our lab.
7 That's where it would have been stored prior to evidence.
- 8 Q All right. And so you -- does your department have a
9 protocol as to what you do with samples once you secure
10 those samples from a crime scene? What you do with them
11 and how you handle them? Is there no protocol for that?
- 12 A I don't know if I understand your question.
- 13 Q Well, what I'm asking is, does your department have
14 procedures that you are supposed to follow once you garner
15 or once you receive any type of evidence?
- 16 A Secure it and log it into evidence.
- 17 Q Okay. And that's what I asked.
- 18 A Uh-huh.
- 19 Q So you did that, right? You secured it and you say you
20 took it and you put it in the evidence locker on the
21 following day?
- 22 A Correct.
- 23 Q Okay. Now, did you turn that over to Ms. Miles?
- 24 A We typically log it in. We have secure lockers within that
25 area and then the next custodian that checks the lockers

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1 actually signs it out. I do not recall whether I handed it
2 or put it in a locker. Either way, it would fit under our
3 protocol.

4 Q Okay. Did you have to do or fill out a custody sheet, a
5 chain of custody sheet showing when you logged it in?

6 A Yes. We call that an evidence impound form.

7 Q Okay. All right. And that would have been on the 5th that
8 you turned it in?

9 A The 4th, I turned it in.

10 Q Okay. Now, at some point in time you say then, as well,
11 that you got samples from Mr. Campbell and from Mr. --
12 well, let me backup. When did you send the pieces of tape
13 that you got from Mr. & Ms. Murphy, when did you send that
14 to SLED?

15 A I would not have been able to indicate the time that I
16 would send it. That is based on the evidence custodian's
17 standard procedure and schedule to deliver that. Once it
18 is logged into evidence, they assume custody of it and
19 then based on their road trip schedule to go to SLED,
20 that's when it would have gone.

21 Q Okay. So, you turned it in on the 4th. And then you really
22 don't know what happened to it after that?

23 A According to the evidence I've dealt with for a number of
24 years, it was secure in the evidence room.

25 Q Well, my question was, do you know what happened to these

1 pieces of evidence after you logged them in?

2 A They were secured in the Florence Police Department
3 evidence room.

4 Q And then what?

5 A Delivered to SLED on the appointed day, which according to
6 the initials on these packages they would have gone March
7 21st of '14. That's when Sergeant Miles initialed SLED's
8 packaging and that could not have been done anywhere
9 outside of SLED's evidence log-in area.

10 Q Okay. So the packaging -- all right. Well then, let me see
11 if I understand what you're saying. So, you're saying that
12 it would have been taken to SLED and then logged in by Ms.
13 Miles at SLED on the 21st. Is that what you're saying?

14 A According to the initials here, she would have to testify
15 according to her paperwork, but I'm going based on her
16 signature and log-in date on this package and that would
17 have gone in March 21st of last year and then SLED would
18 have assumed custody of those items.

19 Q Okay. Now, so you don't package it, you actually drive it
20 up to SLED as you had it? That you turned it over to them,
21 they drive it up to SLED just like it is and then once
22 they get there, then they package it. That's what you're
23 saying?

24 A No. I package it -- if I can pull this evidence #14D just
25 for reference? It's already open.

CROSS EXAMINATION OF THOMAS MYERS BY MR. WILSON

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1 Q Yes, sir.

2 A I package it like this. Note the seal is on it. SLED will
3 not take it if there is no seal or if the seal appears
4 damaged. Our evidence custodian, in this case, Sergeant
5 Miles, would have delivered this sealed with the
6 appropriate request paperwork to go to SLED. Once she
7 meets with a SLED log-in technician, then they package it
8 in a bag like this, heat seal the top and then it's
9 initialed and labeled as such. So, it still remains
10 sealed, it's just technically doubly sealed when SLED
11 takes responsibility of it.

12 Q All right. So, essentially what you're telling us is when
13 you left it, it would have been in a brown envelope or
14 manilla envelope like that with the red seal on the back?

15 A Yes, sir.

16 Q All right. And then the plastic packaging would have
17 occurred at SLED?

18 A At SLED. And it's labeled with SLED's logo as well.

19 Q Well, do y'all have -- does your department have those
20 bags, those plastic bags that you put evidence in when you
21 want SLED to analyze it so that you can actually put the
22 evidence in those bags and then take it up to SLED as
23 packaged in these sealed bags?

24 A Just as the Florence Police Department has evidence
25 procedures, so, too, does SLED and this is part of their

- 1 procedure. It is their packaging. I would not have
2 packaged this in a plastic envelope because it's DNA
3 evidence and we package it in paper allowing it to breathe
4 until it is a hundred percent, completely dry, which by
5 the time it makes it to SLED and gets sealed with them, it
6 would be. But we do not package DNA evidence in plastic.
- 7 Q All right. Now, let me ask you this: On April the 2nd, I
8 think that's correct, April the 2nd? On April the 2nd, you
9 go out to the jail and you get samples from Mr. Brooks. Is
10 that correct?
- 11 A April the 2nd of 2014 at 4:35, I got it from Mr. Brooks,
12 yes, sir.
- 13 Q Okay. Now, and then when did you log that in?
- 14 A The two swabs, one from Mr. Campbell and one from Mr.
15 Brooks were logged in on April 11th of 2014, at 3:15 in
16 the afternoon into our Florence Police Department evidence
17 locker room.
- 18 Q All right. Now, you took them on the 2nd. So what happened
19 to those items for nine days?
- 20 A They would have been secured in my individual locker in
21 our secure crime scene lab.
- 22 Q Do you have any chain of custody showing that those items
23 were placed in your locker on the 2nd or the 3rd and
24 stayed there and remained there until you removed them or
25 someone else removed them on the 11th?

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1 A Nobody else could have removed them. I'm the only one with
2 a key.

3 Q Well, where are any records showing that they were placed
4 in any kind of evidence locker between the 2nd and the
5 11th?

6 A Our procedures don't call for such paperwork.

7 Q So, you take evidence pursuant to a court order and you
8 take it from the Defendant, understanding that he's
9 charged. You take it and you say you put it in your locker
10 with no -- who has a key to that other than you?

11 A I do.

12 Q So, nobody has a key to the locker. Is there any way to
13 verify that it was, in fact, placed in that locker at any
14 point in time through any records that you have?

15 A Outside of my sworn testimony?

16 Q Yes, sir.

17 A No, sir.

18 Q All right. So, it stays there for -- now, as I understand
19 it, when you took the ones from Mr. & Ms. Murphy within
20 twenty-four hours, it was logged into evidence in the
21 department, but nine days go by before you log in the one
22 from the Defendant. Is there any particular reason that it
23 would take you nine extra days to do that?

24 A The only thing I could guess is my workload, the demanding
25 procedures that go with being a supervisor of a highly

1 technical unit and not having any control over my
2 schedule, whatsoever. Beyond that, I have no explanation.

3 Q Now, on the 20 -- You said, I think you said on the 21st.

4 If I make a mistake and if I'm wrong, please help me.

5 That's the day that you're saying that the tape, the
6 pieces of tape from Mr. & Ms. Murphy was sent to SLED. Is
7 that what you're saying?

8 A According to the initials and the SLED tamper evidence
9 tape, yes, March 21st.

10 Q Okay. So, then SLED's records should reflect that they
11 received it on March 21st?

12 A Yes, sir. As a chain of custody.

13 Q Right. Now, I'm a little confused. Let me show you this
14 and ask you to look at it. Do you know what that is?

15 A It's an evidence impound form.

16 Q For what?

17 A For my items numbers one through seven from this case.

18 Q Okay. And items one through seven are what?

19 A Item number one is a DVD with photos, one CD with photos,
20 one blue metal lockbox, item number two are two latent
21 print cards. Item number three is one blue dish towel.

22 Item number four is three sections of duct tape from male,
23 the victim's hands and feet. Item number five is two
24 sections of duct tape from female victim's hands. Item
25 number six is a buccal swab from L. Murphy. Item number

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1 seven is one buccal swab from C. Murphy.

2 Q Now, I asked you earlier when you logged it in with the
3 department and you told me it was on the following day,
4 which would have been the 4th, right?

5 A Correct.

6 Q Is that what that form says?

7 A This date is the -- when I logged it in, it was March 4th,
8 2014 at 1630 hours, which is 4:30 in the afternoon.

9 Q Okay. All right. And whose signature is that at the bottom
10 down there?

11 A That is Sergeant Amelia Miles.

12 Q All right. And when did she log it in?

13 A She logged it in, assuming custody on March 5th, 2014 at,
14 it looks like 1030 or 1036 hours.

15 Q Okay. So, now when you say you logged it in on the 4th.

16 You're logging in, in your private personal box or did you
17 log it in at the department?

18 A Okay. It's got an indication here its location is the
19 Florence Police Department evidence locker, which is
20 within our secure evidence room that we have access to log
21 things into secure lockers in that area.

22 Q All right. I apologize. I'm -- what I'm trying to figure
23 out here is you said that you logged it in on the 4th. Her
24 records say that you logged it in on the 5th?

25 A No.

1 Q Why not? That's not what it says.

2 A Her records don't indicate that I logged it in on the 5th.

3 Q Or she logged it in on ---

4 A Her records indicate that she logged it in.

5 Q That's what I said. You said you logged it in on the 4th.

6 And what I'm asking is, what is the discrepancy? If she

7 logged it in and she is the person who keeps the

8 department records and she's the custodian of the

9 evidence, where did you log it in with or who did you log

10 it in with on the 4th? That's what I'm trying to find out.

11 A Into a evidence locker, which is indicated on this as

12 location.

13 Q Okay. So, you didn't give it to the evidence custodian.

14 You put it in some locker?

15 A Correct. I think I indicated that earlier that sometimes

16 if they are available we can hand it to them. Sometimes

17 they're busy with case loads and we lock it in a secure

18 locker that they only have access to.

19 Q All right. So, then you turned it over to her on the 5th.

20 That's when she logs it in?

21 A I turned it over on the 4th.

22 Q You turned it over to her on the 4th?

23 A I turned it over to secure locker on the 4th.

24 Q Okay. All right. So, you turn it over to secure locker

25 with no person and then somehow on the 5th she gets it and

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- 1 logs it in for the department. Is that what you're saying?
- 2 A Correct.
- 3 Q All right. Well, how does she get in this secure locker if
- 4 nobody has the key but you?
- 5 A I have a secure locker in my lab and I keep things secure
- 6 in there until I put them in evidence and then she has --
- 7 evidence custodians are the only ones that have lockers to
- 8 their lockers in the evidence room, not in my crime scene
- 9 lab.
- 10 Q Okay. So, you did not -- All right. And that's fine.
- 11 A You want this back?
- 12 Q Yes, sir. So, let me ask you this question. Did you
- 13 personally deliver any items of evidence that you've
- 14 described here today? Did you personally deliver any of
- 15 it, package it, and deliver it to SLED, any of it?
- 16 A Of this evidence?
- 17 Q Yes, sir. Just the ones that we've been discussing since
- 18 you've been on the stand.
- 19 A Of just this, no, sir.
- 20 Q Okay. Now, you said that you took the samples from the
- 21 Defendant on April 2nd and that you put them in your
- 22 evidence locker for nine days. Then you took them out of
- 23 your evidence locker. Why take them out after nine days
- 24 and give them to her?
- 25 A That's our procedure. It has to be logged into evidence.

1 Mine is a secure temporary holding area. Her's is a
2 permanent evidence area.

3 Q Well, do y'all have any rules about how long you're
4 supposed to put it in this, are allowed to put it in this
5 temporary area or can you just keep in there as long as
6 you want to, until you get around to it?

7 A No, we -- our understanding is as quickly as feasible.
8 Again, I believe I mentioned earlier, our work schedule,
9 demands of our criminal investigation division. I don't
10 have an explanation why it was nine days rather than three
11 days or rather than twenty days.

12 Q Okay. The other thing that I notice here is that, again,
13 and I don't know what exhibit -- just let me show you this
14 again, this document.

15 A Okay.

16 Q And ask you if that's a document that you've seen before.

17 A Yes, it is.

18 Q All right. And is that a document that you keep from your
19 department?

20 A Blank or filled out?

21 Q Filled in.

22 A I would keep it in my case file.

23 Q Okay. And so you would have a copy of that?

24 A I do. I have a copy right here. Could I ---

25 Q Sure.

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1 A My copy ends with my signature going into evidence. I
2 don't have a copy after she receives it on her end. So my
3 copy would stop with my signature.

4 Q Okay. And your -- may I see your copy, please, sir?

5 A Yes, sir.

6 Q Is there any copy showing -- and this is where I'm a
7 little -- Is there anything showing where she received it
8 from you? And that's what this is on the 5th? Is that what
9 you ---

10 A That would be her signature and we also have a log book
11 that's available as we are logging items in, which is
12 essentially just a back up copy so they can make sure log
13 numbers are correct and the items that I have on that list
14 are actually in the book. We fill it out, basically,
15 twice. Once on the form, once in the book.

16 Q All right. Looking at your form again, your copy -- may I
17 see it again, please, sir?

18 A (Hands document to Mr. Wilson)

19 Q If you look at the number three on there, where it says on
20 your copy, item number three -- I'm sorry. Item number
21 four. And then it says quantity, three. Do you see that?

22 A Yes, sir.

23 Q Now, looking at that, the numbers on that section had been
24 changed. Do you know who changed them? The three?

25 A I likely would have initially just planned on putting one

1 miscellaneous sections of duct tape, but was able to
2 solidly lay them out into three separate sections. So, for
3 accuracy, I would have changed that to three over one.

4 Q Well, do you have any recollection of that or that's just
5 your surmise as to what happened?

6 A I recall dealing with the evidence tape prior to official
7 packaging.

8 MR. WILSON: Bear with me just one second, please, sir.

9 THE COURT: Yes, sir.

10 Q I've just got a couple more questions.

11 A Sure.

12 Q At some point in time, did you receive a roll of duct tape
13 in this case?

14 A I did not.

15 Q So, you never had possession of it at any point in time?

16 A No, sir.

17 Q All right. And let me ask you one other question regarding
18 the prints. You said that you tried to process the lockbox
19 for prints. Is that correct?

20 A That's correct.

21 Q All right. And you were unable to get any prints -- or you
22 got two, did you not?

23 A I lifted two from the box.

24 Q All right. And so who do those two prints belong to?

25 A They were -- I have the SLED report here if I could look

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1 at it. But I don't believe it came back to anyone, which
2 is not uncommon at all. If you'll give me a moment to look
3 at the SLED reports I've got. I'll be able to verify that.
4 I do not have a copy of the SLED report on the latents but
5 as I recall it would have unidentifiable or inconclusive
6 is a very typical report that we get back and that's
7 purely based on the quality of the print.

8 Q Okay. I'd asked you earlier about a roll of duct tape and
9 you said -- did you say that you did not have it or you
10 never received it?

11 A The roll?

12 Q Yes, sir.

13 A Not that I recall, no.

14 Q Let me show you this. Just see if that's your signature
15 down there.

16 A It appears that I logged it out to be appropriately
17 packaged to go to SLED.

18 Q Okay. So, what does that mean? So, you did have it at some
19 point. You took it out of evidence at some point. Correct?

20 A According to this, I did.

21 Q Okay. And what did you do with it?

22 A I packaged it for SLED.

23 Q All right. And what does that mean?

24 A More than likely I would have put it in a box. Depending
25 on how it was initially logged in by Investigator Head, I

1 may have put it in a box so that it could not be
2 contaminated any further and that would also have included
3 doing SLED's paperwork that they require for receiving.

4 Q But I thought when we talked earlier you said to me that
5 when it says packaged, that that's done at SLED when
6 they're putting it in those plastic bags and you can only
7 do that when you're at SLED?

8 A This is a package and I did this. SLED seals it.

9 Q Okay. So, packaging doesn't necessarily mean that it was
10 done at SLED?

11 A Right.

12 Q It could have been done at the department?

13 A If I send it to SLED, it's packaged.

14 Q Well, I understand that. But that's not my question. My
15 question is when you say that it can be packaged -- when
16 we had our discussion earlier, did you not tell me that
17 the packaging occurs at SLED? That you take it down there
18 like with that envelope, that you would take it down there
19 and you get to SLED and then one of their people at SLED
20 would help you and assist you and put it in one of those
21 sealed up bags and then SLED would take charge of it?

22 A No.

23 Q You didn't say that?

24 A No, sir. We package evidence in a secure fashion. When
25 SLED receives it, they doubly seal it. Sometimes it means

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- 1 putting a small item in a bag and heat sealing the bag.
- 2 Sometimes it means taking my package and placing their
- 3 evidence tape across mine, so now it becomes their sealed
- 4 evidence and not my sealed evidence.
- 5 Q Okay. Now ---
- 6 A But they do not re-package my evidence.
- 7 Q All right. Now, what is the date on there that you
- 8 packaged the roll of duct tape to send to SLED?
- 9 A April 11th, 2015.
- 10 Q April the 11th. Is that correct?
- 11 A That's what this says.
- 12 Q All right. And this would have been nine days after you
- 13 got the samples from Mr. Brooks?
- 14 A I believe that was on the 3rd.
- 15 Q On April the 2nd?
- 16 A The 2nd. That's correct.
- 17 Q All right. So, you held Mr. Brooks' samples and then you
- 18 did the search warrant and you got the duct tape and the
- 19 on the 11th when you got the roll of duct tape, that's
- 20 when you sent Mr. Brooks' samples to SLED. Right?
- 21 A Well, on the 11th, I packaged the duct tape. It does not
- 22 indicate that I sent anything to SLED, the swabs or any
- 23 other, but what that would have been for the packaging and
- 24 the SLED paperwork. Then I would have returned it back to
- 25 evidence. I don't have a date on when that did go to SLED.

1 Q All right. So, even though it says packaged 4/11, packaged
2 for SLED, you don't know when it actually went to SLED,
3 that's what you're saying?

4 A That's out of the responsibilities of my office.

5 Q All right. So once you got it out of evidence and you
6 packaged it, what did you do with it?

7 A I would have returned it to evidence to be stored until
8 they went to SLED.

9 Q Okay. So who -- do you have any documents showing who you
10 turned it over to once you had packaged it for it to go to
11 SLED?

12 A It's likely that was documented in the computer system.
13 And if you'll give me a second, I can look and see. It
14 appears that it went to SLED on the 17th of April.

15 Q Okay. So it was taken out, packaged and then seven days,
16 six days later, it was then sent to SLED?

17 A That's according to the computer printout from our in
18 house system, that's correct.

19 Q Okay. But there's no question that for nine days it sat in
20 someplace until on 4/11 when the roll of duct tape was
21 also processed?

22 A The roll of duct was packaged not processed.

23 Q Packaged, if you will. But they were both out and
24 available on 4/11?

25 A That's likely, according to the dates.

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1 Q Okay.

2 MR. WILSON: I don't have any other questions.

3 THE COURT: Redirect.

4 MR. JEPERTINGER: I'd like to have this marked for
5 identification, Jo.

6 (Whereupon, State's Exhibit #19 was marked for
7 identification.)

8 REDIRECT EXAMINATION

9 BY MR. JEPERTINGER:

10 Q I show you what's been marked State's Exhibit #19. Can you
11 identify that, please?

12 A A white pasteboard box with -- in my handwriting, it's got
13 the case number and it says roll of duct tape.

14 Q Okay. Is that the one he's talking about in this case?

15 A It must be.

16 Q Okay. And that, according to your records, was sent to
17 SLED on April 17th, 2014?

18 A According to the printout I have, Sergeant Miles delivered
19 it to SLED on the 17th.

20 Q All right. Now all this other duct tape that you got from
21 the scene, from the Murphys ---

22 A Uh-huh .

23 Q -- that was taken to SLED on March the 21st. Isn't that
24 correct?

25 A According to initials and dates on these packages, yes,

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1 that's correct.

2 Q So, whatever SLED did with this stuff between March the
3 21st and by the time they got this package in State's
4 Exhibit #19, you don't know one way or the other. Correct?

5 A Correct. Right.

6 Q But that had nothing to do -- this duct tape that you're
7 aware of that you took to SLED ---

8 A I just put in this package.

9 Q That's all you did.

10 A And did the paperwork, but I did not deliver it to SLED.

11 Q Okay. That would have been Amelia Miles?

12 A Correct.

13 Q All right. And I want to show you what's marked State's
14 Exhibit #3BBB, like the better business bureau?

15 A This looks like the top of this box. It says duct tape
16 from male victim's wrist, removed by male victim. And
17 below is a picture, is a photograph of three distinct
18 separate sections of used duct tape.

19 Q All right.

20 MR. JEPERTINGER: I would like to move this into evidence.

21 MR. WILSON: I don't have any objections to it.

22 THE COURT: That's denominated as ---

23 MR. JEPERTINGER: #3BBB, three Bs, better business bureau.

24 THE COURT: Very good. All right. That's into evidence.

25 (Whereupon, a photograph is entered into evidence as

REDIRECT EXAMINATION OF THOMAS MYERS BY MR. JEPERTINGER

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1 State's Exhibit #3BBB, without objection)

2 Q Okay. Now, let me ask you, how many pieces of tape do you
3 see there?

4 A Separate and distinct pieces, I see three.

5 Q Is that where you would have gotten the idea to put
6 instead of one miscellaneous, three on item four that you
7 submitted?

8 A Yes, sir.

9 Q Thank you.

10 MR. JEPERTINGER: That's all the questions I have.

11 THE COURT: You may step down.

12 MR. MYERS: Thank you.

13 THE COURT: Thank you, sir. Mr. Foreman, ladies and
14 gentlemen of the jury, we're going to take a mid-afternoon
15 break. I ask that you return to the jury. They will assist you
16 with some refreshments, but do not discuss the case. Everyone
17 remain seated as the jury exits the courtroom.

18 (Jury out at 2:47 PM)

19 THE COURT: All right. We'll stand at ease for five
20 minutes.

21 THE COURT: All right. We're ready for the jury.

22 (Jury in at 3:05 PM)

23 THE COURT: Mr. Jepertinger, you're recognized.

24 MR. JEPERTINGER: Thank you, Your Honor. The State would
25 call Thomas Darnell to the stand.

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL DONTA BROOKS

1 THE COURT: Mr. Darnell, please come forward. Place your
2 left hand on the Bible and raise your right hand as the clerk
3 administer's the oath.

4 (After being duly sworn by the Clerk of Court, THOMAS
5 DARNELL testified as follows:)

6 THE COURT: Pull up real close to that microphone and speak
7 loudly, clearly, and slowly in order that we can hear
8 everything that you have to say and let's start with your full
9 name, please, sir.

10 MR. DARNELL: My name is Thomas Edward Darnell. It's
11 spelled D-A-R-N-E-L-L.

12 THE COURT: Mr. Jepertinger.

13 DIRECT EXAMINATION

14 BY MR. JEPERTINGER:

15 Q Mr. Darnell, where do you work?

16 A I work at the State Law Enforcement Division, more
17 commonly referred to as SLED.

18 Q How long have you worked at SLED?

19 A A total of about twenty-four years.

20 Q Okay. And what are your responsibilities at SLED?

21 A I'm currently a latent print examiner or a forensic
22 scientist in the latent print laboratory, which is located
23 in Columbia.

24 Q Have you ever worked in evidence collection for SLED, as
25 well?

DIRECT EXAMINATION OF THOMAS DARNELL BY MR. JEPERTINGER

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1 A Yes, I have.

2 Q How long did you work in evidence collection for SLED?

3 A Earlier in my career I was involved in processing crime
4 scenes and collecting all sorts of evidence. I did that
5 for about nine years.

6 Q What special training do you have for both latent print
7 analysis and evidence collection analysis?

8 A I have my college degree from the University of South
9 Carolina. I graduated with a Bachelor of Science Degree in
10 Criminal Justice in 1982. Throughout my career I've
11 attended numerous courses, not only within our state
12 academy, but also out of state as well, in all the
13 different areas of forensic science, crime scene
14 processing, latent print processing. I've done footwear
15 evidence, tire evidence, blood stain analysis. I've taken
16 courses at the FBI Academy in Quantico, Virginia, as well.
17 And also prior to attending a lot of these classes, I had
18 to complete an in-house training program at SLED, which
19 was conducted and lead by court-qualified examiners. That
20 training lasted about twelve months.

21 Q Have you ever testified as an expert before in the fields
22 of latent print analysis and evidence collection?

23 A Yes, I have.

24 Q Have you been qualified as an expert every time in those
25 fields?

1 A To the best of my knowledge, yes, sir.

2 Q And how many times have you testified in court
3 approximately, sir?

4 A I would have to say simply in excess of a hundred times
5 over this state as well as some out-of-state testimony.
6 I've also -- I've had the occasion to testify -- most
7 often, I testify for the prosecution, but I've also
8 testified for the defense as well.

9 Q Okay.

10 MR. JEPERTINGER: At this time I would move to have Mr.
11 Darnell qualified as an expert in the fields of latent print
12 analysis and also evidence collection analysis.

13 THE COURT: Any query with regard to his qualifications?

14 MR. WILSON: Absolutely none, Your Honor. We'd stipulate
15 that he is an expert.

16 THE COURT: All right. Mr. Foreman, ladies and gentlemen of
17 the jury, a lay witness can only testify as to things they
18 hear, see and feel. However, there's an exception to that rule
19 for witnesses we categorize as expert. If I qualify a person as
20 an expert in some field of study, then they can render opinions
21 in that field. Just by virtue of the fact that a person is
22 qualified as a witness doesn't mean that you have to believe --
23 qualified as an expert, does not mean that you have to believe
24 what they say. You evaluate it like you would any other
25 evidence. If you believe that their opinions are not based on

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1 adequate facts or education, you can disregard it as you see
2 fit. You would evaluate his testimony like you would any other
3 evidence and give it the weight you think it deserves. Mr.
4 Jepertinger.

5 MR. JEPERTINGER: Yes, sir.

6 Q Did you have an occasion to receive what's been marked for
7 identification, items 16 and 17 from the Florence Police
8 Department?

9 A Yes, sir, I did.

10 Q Okay. Do you have a verified chain with you, sir?

11 A I do.

12 Q Okay. And can you tell us when you would have received
13 those items?

14 A I received these items on May the 8th of 2014.

15 Q When did they come into SLED's custody?

16 A They first came in touch with SLED on March 21st, 2014.

17 Q And is there a signature of someone on your verified chain
18 of who would have brought them in from Florence Police
19 Department?

20 A Yes, sir. That would be Amelia Miles.

21 Q Okay. And can you tell the ladies and gentlemen of the
22 jury when Amelia Miles brought these items in, what would
23 be the process there once they arrive at SLED Headquarters
24 there in Columbia?

25 A Yes, sir. Anytime a department brings in physical evidence

1 for examination, the evidence could be going to a number
2 of departments. We have several different types of
3 departments within our laboratory. So, everything has to
4 come into the laboratory. It has to be properly sealed and
5 packaged and then there's an evidence control section
6 where the evidence starts, where the process starts. The
7 technicians there will log in the evidence. They will
8 assign it a laboratory number and they will assign it an
9 item number and all of that is entered into our laboratory
10 computer.

11 Q And who was the person checking in, the technician
12 checking this stuff in?

13 A It looked like, according to this, it was Patricia Crooks,
14 Pat Crooks. Actually, yes. I'm sorry. Pat Crooks is the
15 one that received it.

16 Q All right. How about ---

17 A I'm sorry. If I could correct myself. It was first in
18 contact with Doris Yarborough. Pat Crooks comes in later.
19 Yarborough is the one that actually received it from
20 Amelia Miles.

21 Q All right. And the -- out of your own knowledge, do you
22 know what they do once they check this stuff in? You said
23 you didn't see it until, like, May the 8th. Do you know
24 what they do with the stuff once they check it in at SLED?

25 A Once they check it in they will -- they, being the

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1 forensic technicians in our evidence control department --
2 they will secure it in a large evidence room, a vault,
3 which is where all the evidence goes in once it comes into
4 the laboratory. It's a huge room and they keep everything
5 tracked in there and it will remain in that evidence vault
6 until such time as it needs to be transferred to the next
7 department. In this case it went to the, what they refer
8 to as their latent evidence intake storage and then from
9 there it's received by a technician and then, ultimately,
10 travels upstairs to our department on the 2nd floor and
11 it's then placed in another secure vault, which is where I
12 actually got it from. In other words, there's an evidence
13 vault or evidence room for the entire laboratory and then
14 each department has their own individual vaults within
15 their department, which is the case here.

16 Q Okay. So, Andrena Harrison, forensic scientist, would she
17 have received the stuff from Patricia Crooks?

18 A Yes, sir. It looks like she received it on the 27th of
19 March. And then she brought it upstairs. And Andrena, by
20 the way, is actually a forensic scientist in our
21 department, as well. She works with me. So, she would have
22 been the one that picked it up on the 27th of March and
23 then she secured it in our incoming latent print evidence
24 room and then that's where I actually got it from, was
25 from the incoming vault.

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1 Q So, it would have sat from March the 27th until May the
2 8th, until you tested it. Correct?

3 A That is correct, yes, sir.

4 Q Okay. Now, in terms of your -- if you could look at both
5 boxes here and I'll show you State's Exhibit #17 first.
6 Can you tell us what your notes reflect where that would
7 have come from?

8 A State's #17 is a number of pieces of evidence tape -- I'm
9 sorry, of duct tape that has my initials on the package
10 where I packaged it once I finished processing it and this
11 item came in from Amelia Miles on March 21st, 2014. And it
12 traveled through Ms. Yarborough, to latent's intake, to
13 Pat Crooks, to Andrena Harrison, to our incoming evidence
14 vault in our department and then I actually received this
15 box, which was in a sealed condition with the evidence
16 tape and so forth. So, I received this box on May the 8th.

17 Q All right. And did you conduct any tests for fingerprints
18 on those items?

19 A Yes, I did.

20 Q And did you find anything of -- or what were your results
21 in terms of fingerprints?

22 A In terms of fingerprints, I was unable to develop any
23 prints of value. In other words, I was able to develop
24 fingerprints, but I was not able to develop those I could
25 identify to anyone. It was simply not enough detail there,

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1 not enough quality for me to be able to compare it to
2 anyone. I could simply say that someone touched it. I
3 don't know who that person would have been based on the
4 fingerprint evidence that I was able to develop.

5 Q And likewise on State's Exhibit #16?

6 A State's #16 is also assorted pieces of duct tape. Again,
7 it's in a sealed bag with my initials on it. I received
8 this box in the same fashion as I did State's #17. When I
9 processed this item, it was determined to be that there
10 were no fingerprint evidence observed. In other words, I
11 didn't develop anything on the items within State's
12 Exhibit #16.

13 Q All right. Now, both of these items I see are now sealed
14 in this huge glassine bag. How can we tell that this was
15 secure when -- I guess while you had it? After you tested
16 it, did you put it back in the glassine bag or was it in
17 another bag or ---

18 A Well, when I received it, it was not in that plastic bag.
19 When I received it, it was in sections and it was packaged
20 inside this box and it actually had some waxed paper
21 between it, between the pieces of tape, and I would
22 presume to keep that from sticking together. So, that's
23 how I received it. When I finished processing the tape,
24 I'm the one that put it back in that plastic bag and
25 sealed it up and dated it and so forth. I'm the one that

1 basically repackaged the tape and then I would have put it
2 back in the same box and then sealed the box up again in
3 the same way that I received it.

4 Q Okay. Now, you didn't -- in State's Exhibit #17, you found
5 a fingerprint not sufficient for comparison and on #16, no
6 fingerprint?

7 A That's correct.

8 Q That was your latent print expert analysis in regards to
9 those items. Correct?

10 A That is correct.

11 Q Did you just -- we're not going to do anything more with
12 this tape. What did you do in terms of your evidence
13 collection analysis in regards to items #16 and #17?

14 A State's #16 and #17 both came in with two requests on
15 them. It came in for latent print processing and it also
16 came in for touch DNA. We're -- I'm not a DNA analyst, but
17 I am certainly trained to be able to properly collect that
18 type of evidence as I did in this case. When we get
19 evidence in that has two requests, it has a DNA request
20 and a latent print request, you know, sometimes it gets a
21 little complicated. You've got to decide how you're going
22 to do both. You know, how can I -- if I swab the entire
23 area of the tape, I may not leave anything to give me a
24 chance to develop fingerprints. So, I have to make a
25 choice based on my experience, based on this type of

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1 evidence, what's going to give me the best chance of
2 obtaining some valuable forensic science evidence. In this
3 case, what I chose to do was to swab the non-adhesive side
4 of the tape just as it was when I received it. In other
5 words, the tape was all stuck together and I didn't want
6 to separate the tape until after I had a chance to swab
7 it. And even prior to swabbing, I did a visual examination
8 with magnification and so forth to make sure I didn't see
9 any obvious fingerprint evidence. If there were, I would
10 have had those photographed and gone from there. In this
11 case, I chose to swab the entire section of the non-
12 adhesive side of the tape in hopes that I might obtain
13 some touch DNA evidence with this type of evidence. Again,
14 I mean, it gets a little complicated sometimes when you
15 get two requests on the same piece of evidence. Obviously,
16 I can't swab the entire -- I mean, I'm trying to get both,
17 quite frankly. I'm trying to get latent prints and I'm
18 also trying to get some touch DNA and that's what I did in
19 this case.

20 Q I'm going to show you State's Exhibit #14B, for
21 identification. Can you tell us what those little manilla
22 envelopes are in the back of State's #14B?

23 A Yes, I can. These are -- I've got three small envelopes
24 here and it has the case number written on the envelopes.
25 I actually wrote on these envelopes. These are the

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1 envelopes that I packaged the swabs that I made from the
2 tape. And if I could back up just one second, whenever I
3 swab these items, these swabs are sterile. They're inside
4 of a sealed package. I'm wearing latex gloves. I'm wearing
5 a laboratory coat. I'm inside of what we call our clean
6 room, the laboratory where we do all of our DNA swabbing.
7 We have to keep it sterile and keep it clean and we can't
8 be in there coughing and, you know, sneezing over it. So,
9 that's the type of environment I'm working in. And then
10 once I make those swabs, I allow them to air dry. They
11 have to air dry before I package them and then I package
12 them in these small envelopes and I put on there the item
13 numbers and I put on there where it came from and I've got
14 on here the date that I collected it and it is collected
15 by me, has my full name and my initials, as well.

16 Q And each of those three, can you read what you wrote on
17 each of those three small manilla envelopes, please?

18 A Yes, sir. On one envelope it has the lab number. It has
19 the item number which is 4.1, which 4.1 is the swab that
20 came off of the duct tape in State's Exhibit #17. And my
21 words, it has swabs collected from the non-adhesive side
22 of duct tape prior to separating. On the next envelope
23 which is marked 5.1, that came off of the duct tape in
24 State's #16. And it simply reads the same thing, swabs
25 collected from non-adhesive side of duct tape prior to

1 separating.

2 Q And there's another one 8.1?

3 A There is an 8.1 and it was swabs collected from the non-
4 adhesive side of duct tape roll. And, as I said, once
5 these are air dried then I can package them inside these
6 coin envelopes. I seal them up with evidence tape. I
7 package them in our SLED evidence bags, heat seal it, date
8 it and initial it and then it goes, it moves on to the lab
9 from there.

10 Q All right. Now, with each of these swabs, since you did
11 not do the DNA analysis, the touch DNA analysis on it, can
12 you tell us how it proceeded to get from you to DNA, based
13 on your chain of custody report?

14 A Yes, sir. All three of these envelopes, all three of these
15 that contain the swabs, each envelope was sealed and each
16 envelope was packaged in the same evidence SLED, plastic
17 evidence bag. That bag traveled, it traveled from me to
18 Doris Yarborough. I actually took it down stairs and gave
19 it to her in our evidence control department. So, Doris
20 Yarborough gets it. She puts it on the DNA intake shelf,
21 which is inside the great big evidence room that I
22 mentioned previously. That's where she placed it. About
23 six months later it gets picked up by Amy Stephens. Amy
24 Stephens is also within the evidence control department.
25 She gets it out of the evidence control department and

1 then she transfers it to Jennifer Bartman who works in our
2 DNA laboratory.

3 Q Okay. All right. Did you have an occasion to look at
4 State's Exhibit #18 and State's Exhibit #13 for -- these
5 are for identification at this point -- and do any
6 analysis on those items?

7 A The envelope, which is marked 13, is an envelope that
8 contains two latent lifts that were submitted for
9 comparison. I did not see State's #18. This item did not
10 come into the laboratory. It's marked as the blue metal
11 lockbox.

12 Q Okay. You would have only gotten State's Exhibit #13?

13 A Yes, sir.

14 Q Okay. And your analysis in regards to State's Exhibit #13
15 would be what?

16 A State's #13, it contained two fingerprint lifts that were
17 submitted from the Florence Police Department and I took
18 both of them and I examined them and I determined that
19 they were both of no value for comparison. There was a
20 limited amount of fingerprint evidence on the lifts and it
21 just wasn't enough to be able to include or exclude
22 anyone. All I can say is that there, there was some
23 fingerprint evidence there, but I just -- I have to have a
24 certain level of quality and so forth to be able to make a
25 comparison.

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1 MR. JEPERTINGER: I beg the Court's indulgence.

2 Q Please answer any questions Mr. Wilson may have for you.

3 THE COURT: Mr. Wilson, you're recognized. Cross
4 examination.

5 MR. WILSON: Thank you very much, Your Honor. I think I'll
6 be very brief.

7 CROSS EXAMINATION

8 BY MR. WILSON:

9 Q Let me ask you just a couple of things. In regards to the
10 two prints that you found, your testimony is that they
11 were of no value so you're not assigning, you're not
12 saying who they belong to and you're saying that you
13 really couldn't make a match because there wasn't enough
14 detail to do that with?

15 A That would be correct, yes, sir.

16 Q So, they could have belonged to anybody, including the
17 people in the house?

18 A Absolutely.

19 Q All right.

20 MR. WILSON: I don't think I have any other questions.

21 THE COURT: Very good. Any redirect?

22 MR. JEPERTINGER: No, nothing else.

23 THE COURT: Very good. You may step down and you may be
24 excused.

25 MR. JEPERTINGER: The State would call Jennifer Bartman to

1 the stand, Your Honor.

2 THE COURT: Ms. Bartman, please come forward. You can set
3 your paperwork down, place your left hand on the Bible and
4 raise your right hand as the clerk administer's the oath.

5 (After being duly sworn by the Clerk of Court, JENNIFER
6 BARTMAN testified as follows:)

7 THE COURT: Have a seat in that witness chair. Pull up real
8 close to that microphone. Speak loudly, clearly, and slowly in
9 order that we can hear everything that you have to say and
10 let's start with your full name.

11 MS. BARTMAN: My name is Jennifer Bartman.

12 THE COURT: Very good.

13 DIRECT EXAMINATION

14 BY MR. JEPERTINGER:

15 Q Okay. Ms. Bartman, where do you work?

16 A I work at the South Carolina Law Enforcement Division,
17 commonly known as SLED.

18 Q And how long have you worked for SLED?

19 A I've worked at SLED for approximately two-and-a-half
20 years.

21 Q And your responsibilities at SLED, Ms. Bartman?

22 A I'm currently assigned to the DNA casework department
23 where I receive evidence from crimes that occur throughout
24 the State of South Carolina and I can perform a screening
25 testing on these items for bodily fluids and then generate

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1 a DNA profile.

2 Q Okay. Do you have any special training in regards to
3 forensic DNA analysis?

4 A I have a Master's Degree from Virginia Commonwealth
5 University with an emphasis in forensic DNA analysis. And
6 I have also completed approximately a year of on-the-job
7 training with a court-qualified analyst in the proper
8 procedures and techniques of SLED's DNA Laboratory.

9 Q In that regard, how many times have you been qualified as
10 an expert in forensic DNA analysis?

11 A Five times.

12 Q Five times. And how many times have you tested samples
13 submitted to you in your two-and-a-half years doing this?

14 A Hundreds of samples.

15 MR. JEPERTINGER: At this time, Your Honor, I would like to
16 qualify Ms. Bartman as an expert in forensic DNA analysis.

17 THE COURT: Any query with regard to her qualifications?

18 MR. WILSON: Subject to examination, cross examination,
19 Your Honor.

20 THE COURT: Well, the question is whether or not -- if you
21 have any questions concerning her qualification. I know you can
22 cross examine her. We need to know whether you want to ask her
23 questions about her qualifications.

24 MR. WILSON: Not at this point, no, sir.

25 THE COURT: Okay. Well, she is indeed qualified as an

1 expert in this area of DNA analysis and allowed to render her
2 opinions in that field. I'll charge you the law in greater
3 detail at the conclusion of the case. Mr. Jupertinger.

4 Q First of all, I would like to ask you if you could tell
5 the jury, to give us in a layman's terms, if possible,
6 what is DNA? We hear about it all the time? Can you tell
7 us what DNA is?

8 A DNA stands for deoxyribonucleic acid. It's a chemical that
9 is found in our body that basically makes us who we are.
10 We receive half our DNA from our mother and half our DNA
11 from our father and with the exception of identical twins,
12 no two people have the same DNA.

13 Q So, cousins wouldn't share the same, wouldn't have the
14 same DNAs, is a better way to put it, I guess?

15 A They would have similar DNA.

16 Q Would they have identical DNA?

17 A Not in the typical type of testing that we do. There is a
18 separate type of testing, YSTR testing, where that type of
19 DNA is male specific and it's passed down through the male
20 bloodline. So, if those two cousins are related on the
21 father's side, then they would have the same YSTR profile,
22 but they would not have the same STR profile.

23 Q Okay. In this particular case, Ms. Bartman, did you
24 receive several samples of things to be analyzed in this
25 case?

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1 A Yes, I did.

2 Q Okay. Do you have your verified chain with you?

3 A I do.

4 Q Okay. And can you tell us who you got the stuff from that
5 you analyzed?

6 A I analyzed items 3.1.

7 Q What is that? And what was that?

8 A Which is a swab from a blue kitchen dishtowel.

9 Q Okay. Let me show you something here. I'm going to show
10 you State's Exhibit #15. Can you identify that, please?

11 A I'm looking at our SLED yellow bar code sticker. So, it
12 has this case associated with it. And it's item #3.

13 Q Okay. And that would be a blue kitchen towel, I take it?

14 A According to the chain of custody.

15 Q Okay. And you took a swab from that?

16 A I personally did not. We have a section of the DNA
17 casework department called our evidence processing
18 department and a technician in that section did the swab.

19 Q Can you identify that person?

20 A Yes. Ashley Bell.

21 Q Okay. Thank you. And that swab was sent to you. Correct?

22 A That's correct.

23 Q All right. And what else did you receive?

24 A I received SLED item 4.1, which is swabs collected from
25 the non-adhesive side of duct tape.

- 1 Q Okay. And 4.1 would have been what, ma'am, do you know?
- 2 I'm going to show you items #17 and #16. Maybe you can
- 3 help me if this is item 4.1 in State's Exhibit #17, for
- 4 identification?
- 5 A This is SLED item #4.
- 6 Q Okay. And what would #4 contain?
- 7 A According to the packaging, it contains duct tape from
- 8 male victim's wrist and ankles.
- 9 Q All right. And would 4.1 be included in this in terms of
- 10 what you analyzed?
- 11 A It came from the item that was packaged in there, but I
- 12 never had custody of this box.
- 13 Q Okay. Let me show you now State's Exhibit #14B. And I'm
- 14 showing you the -- #14B is on the back with the small
- 15 manilla envelopes. Do you see item 4.1 there?
- 16 A Yes, I do.
- 17 Q And what would that be from that?
- 18 A It would be a swab that was taken from item #4.
- 19 Q And that would be, according to your report, is that swabs
- 20 collected ---
- 21 A Yes. Swabs collected from non-adhesive side of duct tape
- 22 prior to separating.
- 23 Q Okay. And I think Mr. Darnell just testified that he took
- 24 those swabs, did he not?
- 25 A Yes.

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- 1 Q All right. What else did you receive now?
- 2 A Item 5.1, SLED's item 5.1, which are also swabs collected
- 3 from non-adhesive side of duct tape prior to separating.
- 4 Q Okay. And that is in items #14B, State's Exhibit #14B. Is
- 5 that included in that #14B?
- 6 A That's correct.
- 7 Q Okay. And what else, ma'am?
- 8 A Item 8.1, which are swabs collected from non-adhesive side
- 9 of duct tape roll.
- 10 Q Okay. And that's included in State's Exhibit #14B, for
- 11 identification. Is that correct?
- 12 A That's correct.
- 13 Q All right. Now, you received those items from Ashley Bell
- 14 and Thomas Darnell. Correct? At SLED?
- 15 A They made the swabs. I didn't get them directly from those
- 16 two.
- 17 Q Okay. They were placed through technicians in secure
- 18 places and then you got them that way, did you not?
- 19 A That's correct.
- 20 Q It was a secure facility?
- 21 A That's correct.
- 22 Q That's what I'm trying to get at. Thank you. Okay. Did you
- 23 receive any samples from individuals in this case, ma'am?
- 24 A Yes. I received SLED item 6, which is a buccal swab from
- 25 Larry Murphy.

1 Q Okay. I'm going to show you. All right. And you received
2 #14A, correct, that buccal swab?

3 A Yes, that's correct.

4 Q All right. And what else did you receive, ma'am?

5 A I received SLED item 7, which was a buccal swab from Cara
6 Murphy.

7 Q And I'm going to show you items #12A and #12B. Can you
8 identify those items, please?

9 A State's Exhibit #12A is our SLED item 7, which is the
10 buccal swab from Cara Murphy.

11 Q All right. And I'm going to show you item -- State's
12 Exhibit #14D, excuse me.

13 A This is SLED item #10, which is a buccal swab from Michael
14 Donta Brooks.

15 Q All right. And I'm going to show you what's been marked as
16 State's Exhibit #14C, for identification. Can you identify
17 that, please?

18 A Yes, this is SLED item #9, which is a buccal swab from
19 Gregory Bernard Campbell.

20 Q All right. Now, what type analysis did you do on these
21 items to make any comparison for this jury today? What
22 did you do?

23 A I performed two different types of testing. The first
24 testing I did was called STR testing, which I mentioned
25 earlier.

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1 Q Now, STR means what, for this jury?

2 A STR stands for short tandem repeat. And basically that
3 just means we're looking at small sections of DNA that
4 repeat over and over again and then the number of times
5 that that section repeats is what differs between
6 individuals.

7 Q All right. And we're going to start with the swab that you
8 collected from the blue -- or the swab that was collected
9 on the blue kitchen dish towel, item #3.1, okay? What
10 analysis did you perform on that and what result did you
11 come up with in terms of item #3.1? This comes from the
12 dish towel.

13 A Yes. I did STR testing, which I just explained. And I'll
14 read from the results of my DNA report. The DNA profile
15 developed from item #3.1 is a mixture of at least three
16 individuals. Larry Murphy, Cara Murphy and Michael Donta
17 Brooks cannot be excluded as possible contributors to this
18 mixture. The probability of randomly selecting an
19 unrelated individual who could have contributed to that
20 mixture is approximately one in 10. Gregory Bernard
21 Campbell is excluded as a possible contributor to this
22 mixture.

23 Q Okay. Now, the language was, "cannot be excluded". What
24 significance does that have for you?

25 A When we have a mixture, which just means that multiple

1 people have donated DNA to the profile that we developed,
2 we use the terminology "cannot be excluded," because there
3 are multiple people there.

4 Q All right. Let's go to item #4.1, the swabs collected from
5 the non-adhesive side of the duct tape on item -- I guess
6 that would be #17, duct tape from male victim's wrist.
7 Okay? Did you develop a result or come to a result within
8 a reasonable degree of DNA forensic analysis certainty of
9 that analysis?

10 A The DNA profile that I developed from item #4.1, from that
11 duct tape, was a mixture of at least two individuals. In
12 mixtures, we can either have about the same amount being
13 donated by each person who's contributing DNA or sometimes
14 one person is contributing more DNA than a second person.
15 So, in this case, I had a contributor that was
16 contributing more DNA. The DNA profile of the major
17 contributor to the mixture matches the DNA profile of
18 Michael Donta Brooks and has been entered into the
19 combined DNA index system, which is called CODIS.

20 Q Okay. All right. Now, you came up with a statistical
21 figure in terms of the probability of randomly selecting
22 an unrelated individual having a DNA profile matching
23 Michael Brooks in this case. What was that statistical
24 analysis?

25 A The probability of randomly selecting an unrelated

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1 individual having a DNA profile matching that major
2 contributor to the mixture is approximate 1 in 18
3 quadrillion.

4 Q Now, let me see if I've got this straight. You said
5 quadrillion. We've got a million and a thousand millions
6 equal a billion, right? And a thousand billion, a
7 trillion?

8 MR. WILSON: Your Honor, he's testifying now.

9 THE COURT: I'll allow him to -- well, ask her if she can
10 explain what quad -- whatever it is, quadrillion, somewhat
11 beyond a trillion.

12 Q What would follow that trillion?

13 A Quadrillion will follow the trillion.

14 Q Quadrillion would follow trillion?

15 A That's correct.

16 Q What's the probably again on that?

17 A 1 in 18 quadrillion.

18 Q All right. Now, the partial -- was there another partial
19 DNA. You have major. So I would take it if there's a major
20 there's a minor?

21 A That's correct.

22 Q Okay. And could you tell me a little bit about that?

23 A Yes, the partial DNA profile of the minor contributor is
24 from an unidentified individual and had been entered into
25 the State DNA CODIS System.

1 Q All right. Now, were certain people excluded from the swab
2 from that piece of duct tape that was on Mr. Murphy's
3 wrist?

4 A Yes.

5 Q And who was excluded?

6 A Larry Murphy, Cara Murphy, and Gregory Bernard Campbell
7 are excluded as possible minor contributors to the
8 mixture.

9 Q All right. Now, let's move on to swabs collected from the
10 non-adhesive side of duct tape in item 5.1?

11 A The partial DNA profile developed from item #5.1 is a
12 possible mixture and is not suitable for a comparison.

13 Q All right. So that would have been on the swabs from Ms.
14 Murphy in item #16. Is that correct? Here's that ---

15 A Yes. Yes, that's correct.

16 Q Okay. Now you did a YSTR profile of the swab on the -- the
17 swab from the towel, did you not?

18 A Yes, I did.

19 Q What's the distinguishing factor between the YSTR and the
20 regular STR?

21 A YSTR testing only looks at male DNA that is present.

22 Q All right. And did you come to a conclusion in terms of
23 YSTR testing?

24 A The YSTR profile was also a mixture of at least three
25 individuals. Due to the inability to perform a statistical

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1 calculation no conclusive statement could be made
2 regarding the inclusion or the exclusion of Larry Murphy
3 or Michael Donta Brooks.

4 Q Okay. How about Gregory Campbell?

5 A Gregory Bernard Campbell is excluded as a possible
6 contributor to the mixture.

7 Q And this was the swab from the kitchen towel, right?

8 A That's correct.

9 Q All right. Same question as to what came from the duct
10 tape that was around Ms. Murphy, the YSTR in terms of
11 that?

12 A That profile was also a possible mixture and was not
13 suitable for comparison.

14 Q All right. Now, did you examine the swab from the duct
15 tape roll?

16 A Yes, I did.

17 Q And that would be item #8.1, Correct?

18 A That's correct.

19 Q Now, did you do a partial YSTR testing on that swab.

20 A I did do YSTR testing and I got a partial profile.

21 Q So, and what were your results within a reasonable degree
22 of forensic certainty in terms of that?

23 A The YSTR profile was a partial profile and it was a
24 mixture of at least two individuals. And due to the
25 inability to perform a statistical calculation, no

1 conclusive statement could be made regarding the inclusion
2 or the exclusion of Gregory Bernard Campbell. Larry Murphy
3 and Michael Donta Brooks are excluded as possible
4 contributors to that mixture.

5 Q All right. Okay. Now, has SLED recently changed their
6 procedure in how you come up with these statistical
7 amounts?

8 A Yes, that's correct.

9 Q Did I ask you to re-run the statistical figures that you
10 have told the jury existed in this case?

11 A Yes, you did.

12 Q And when you re-ran the figures, what statistical figure
13 did we come up?

14 A The reported value stayed the same.

15 Q So, we're still talking about 1 in 18 quadrillion?

16 A That's correct.

17 Q Okay. I thank you. Please answer any questions that Mr.
18 Wilson may have for you.

19 THE COURT: Mr. Wilson.

20 CROSS EXAMINATION

21 BY MR. WILSON:

22 Q Ma'am, that 1 in 18 quadrillion is almost an unbelievable
23 number is it not?

24 A It's a big number, yes.

25 Q It's a huge number. And a person would have to -- you

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- 1 would have to have -- you would have to have almost a
2 perfect sample in order to get that kind of a match and
3 then come up with those kinds of numbers, would you not?
- 4 A A sample that can be identified as a single source, yes.
- 5 Q And now do you know anything about the facts in this case?
- 6 A Briefly. A little bit.
- 7 Q All right. And let me ask you this, because what you're
8 testifying to is, is that you didn't find the DNA of Mr.
9 Murphy on the tape that Mr. Murphy took off of himself.
10 His own DNA wasn't on there that you could find. Right?
- 11 A From the STR profile, yes. No conclusive statement could
12 be made regarding the YSTR profile.
- 13 Q And this is the tape that was tied around his arms and his
14 feet and was taken off of his body, sent to you for
15 testing and none of his DNA is on there but the Defendant,
16 Michael Brooks' DNA was on there, on the outside of the
17 tape? Not on the sticky side, but supposedly on the
18 outside of the tape. Right?
- 19 A That's correct.
- 20 Q That's correct. You also examined the tape that was on the
21 hands and the feet of Ms. Murphy and you did not find one
22 shred of DNA of hers on that sticky tape?
- 23 A The DNA profile that was developed was not suitable for
24 comparison.
- 25 Q Not suitable for comparison. But somehow on the outside of

1 the tape, you find the DNA of Michael Brooks and not
2 anybody else?

3 A That's incorrect. I did have a mixture.

4 Q Well, a mixture. But we don't know who the other belonged
5 to. Right? At least from your report?

6 A No, that's correct.

7 Q All right. So now, let me ask you this. With this tape --
8 now, wouldn't you agree with me being an expert as you are
9 and having done this and having testified multiple times,
10 that it would be a lot more likely that if the tape is
11 around my legs on my skin and on my arms and on my skin
12 and I take it off with my hands and the police send it to
13 you, that you're a lot more likely to find my DNA on that
14 sticky side of that tape than you would be if I just
15 touched the roll at some point?

16 A I would expect to find the victim's DNA or the person who
17 was taped up on the sticky side of the tape, yes.

18 Q Do you not find it incredible that you don't find either
19 Mr. Murphy's or Ms. Murphy's DNA on the tape, the sticky
20 side of the tape that was on them, but you find a perfect
21 sample of the Defendant's DNA supposed on the outside of
22 the tape?

23 A I did not do any testing on the sticky side of the tape. I
24 only did DNA testing on the non-adhesive side of the tape.

25 Q Well, wouldn't you agree with me that when you're trying

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1 to examine this tape, that if I'm taping them up, that
2 it's a lot more like if I grab that tape and I'm pulling
3 it off the roll that my fingerprints, that my finger's are
4 going to touch the sticky side of that tape as I get ready
5 to tape them up? Wouldn't you agree?

6 A That's possible.

7 Q Yeah. And so it would -- and not only that, the sticky
8 side of the tape would certainly be stuck to their sweat
9 glands in their hands and in their arms, which would be
10 more likely to provide DNA for you to look at. Right?

11 A The sticky side would most likely be the victim's.

12 Q Yeah. Most likely. But it could also be the person who's
13 tying them up because that person's got to handle the
14 tape. He's got to tear it off. He's got to tie it on them.
15 And then he has got to tear that off once he ties it. So
16 he's got to handle it an awful lot and not one piece of
17 this Defendant's DNA was found up under the sticky side.
18 Of course, you said that you didn't examine that at all,
19 the sticky side?

20 A That's correct.

21 Q All right. But now Mr. & Ms. Murphy, if they untied
22 themselves, you would expect that they had to handle the
23 tape. Right?

24 A Yes. They would handle it. That's correct.

25 Q But you didn't find their DNA on there?

1 A No, I did not.

2 Q Let me ask you this: How long -- if we have a roll of tape
3 and do you have that roll of tape out? How long -- if I
4 touch the outside of this tape, and let's say my hands are
5 sweaty, just so we can make it interesting and I touch the
6 outside of this tape, how long would that sweat stay on
7 there? A day, a week, a month, a year? How long?

8 A It really depends on the storage conditions and what
9 happens to it after.

10 Q So, if it's placed in a dry place under regular, normal,
11 cool conditions, my DNA might stay on there, what, six
12 months?

13 A Sure.

14 Q Yeah. And that's possible. So, if I had touched this roll
15 six months earlier on the outside and it was in optimal
16 conditions, then six months later my DNA would still be on
17 there?

18 A That's possible.

19 Q Okay.

20 MR. WILSON: I don't have any other questions.

21 THE COURT: Any redirect?

22 MR. JEPERTINGER: No, sir.

23 THE COURT: All right. You may step down and you're free to
24 leave. You may call your next witness.

25 MR. JEPERTINGER: We would call Teresa Hines.

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1 THE COURT: All right. Ms. Hines, please come forward.

2 MR. JEPERTINGER: And I think Mr. Darnell and Ms. Bartman
3 and Ms. Hines rode together. So, at the end I would ask they be
4 excused.

5 THE COURT: All of them can be excused after they testify.

6 MR. JEPERTINGER: Yes, sir.

7 (After being duly sworn by the Clerk of Court, TERESA HINES
8 testified as follows:)

9 THE COURT: Ma'am, have a seat in the witness chair. Pull
10 up real close to that microphone. Speak loudly, clearly, and
11 slowly in order that we can hear everything that you have to
12 say and let's start with your full name.

13 MS. HINES: Teresa Lynn Hines. Last name H-I-N-E-S..

14 DIRECT EXAMINATION

15 BY MR. JEPERTINGER:

16 Q Okay. Ms. Hines, where do you work?

17 MR. WILSON: Your Honor, may we approach?

18 THE COURT: Yes.

19 (Brief bench conference off the record)

20 Q Ms. Hines, I think you said you work for SLED?

21 A I do work for SLED, yes, sir.

22 Q Okay. And what are your responsibilities at SLED?

23 A I am a senior analyst in the DNA Database Department. I've
24 been there approximately ten years, including my
25 internship. My main responsibilities are to analyze

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1 evidence kit DNA samples. Those DNA samples consist of
2 samples that have been collected for certain crimes,
3 mainly felonies or offenses defined by five or more years.
4 There are three misdemeanors that we do also collect for
5 and my main responsibilities are to analyze those
6 profiles, put those profiles into CODIS, perform searches
7 and report out any preliminary associations between
8 unknown profiles and known profiles in the database.

9 Q Have you ever been qualified as an expert in DNA database
10 analysis?

11 A Yes, sir, I have.

12 Q Okay. Have you testified in court before as to that?

13 A Yes, sir.

14 Q Okay.

15 MR. JEPERTINGER: At this time, I would have Ms. Hines
16 qualified as a DNA Database Analyst.

17 THE COURT: Any Query?

18 MR. WILSON: I have no objection.

19 THE COURT: All right. She is so qualified and allowed to
20 render opinions in that area.

21 Q You heard Ms. Bartman testify, Correct?

22 A That is correct.

23 Q Okay. And specifically as to item 4.1, swab collected from
24 the non-adhesive side of the duct placed on the male
25 victim's hands in this case. Correct?

1 A That is correct.

2 Q All right. And when she was testifying she said that there
3 was a minor contributor from an unidentified individual
4 and it was entered into the State DNA index system. Have
5 you, in your DNA database analysis, come up with a hit
6 notification on that minor contributor?

7 A Yes, I have.

8 Q And who was the minor contributor?

9 A I'll just read from my CODIS, NDIS letter. During a search
10 of the State DNA index system, NDIS, because there are
11 several different levels to the database, but this is
12 NDIS. Preliminary association was made between the short
13 tandem repeat as STR PCR DNA profile developed from the
14 minor contributor to item 4.1. and the DNA database
15 offender Terrance Baker and the South Carolina SID Number,
16 SID being, state identification number, and that is
17 SD00869435. Any possible connection or involvement of the
18 individual to this case must be determined through further
19 investigations.

20 Q Thank you very much.

21 MR. JEPERTINGER: That's all the questions I have for this
22 witness.

23 Q Please answer any questions Mr. Wilson may have.

24 THE COURT: Mr. Wilson?

25 MR. WILSON: Very briefly.

1 CROSS EXAMINATION

2 BY MR. WILSON:

3 Q Ma'am, in your report you say that any possible connection
4 or involvement of the individual in the case must be
5 determined through further investigation. Is that what you
6 say in this report?

7 A That is correct.

8 Q And has that further investigation been done?

9 A That is outside of my area of expertise. We pretty much
10 send out the CODIS identifications and then it's left up
11 to the investigators to continue their investigations.

12 Q Okay. All right. And I notice that I don't see any
13 statistical information as to whether or not this is one
14 in one million or one in four hundred trillion or whatever
15 the numbers are that they use these days. So, why is that
16 not in this report?

17 A That's a very good question. In the DNA database
18 department, I stated that we basically analyze samples
19 that are from offenders, either convicted offenders or
20 arrested. These samples that we maintain in the database,
21 they do not have a chain of custody with them. So, when we
22 do send out a CODIS identification and it does state on my
23 CODIS hit letter that you do need to submit an additional
24 standard with a proper chain of custody for court
25 purposes. Because this is an investigative lead, it

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1 doesn't solve the case. It just provides a lead.

2 Q Okay. And were you asked to continue to the investigation
3 and send additional information?

4 A That would not be something that I would be responsible
5 for doing. Once we issue the CODIS hit letter, it's then
6 left up to the investigator.

7 Q So you work specifically in CODIS with CODIS?

8 A That is correct.

9 Q All right. And you don't actually go in the lab and do
10 these other tests?

11 A Oh, no, sir. I'm in the lab all the time. We actually --
12 whenever I say analyze, I'm speaking of -- they're what we
13 refer to, again I'm working with forensic samples and
14 there are standards. So I conduct analyses all the time,
15 but I do not handle evidence.

16 Q All right. I don't have any other questions. Thank you,
17 ma'am.

18 THE COURT: Any redirect?

19 MR. JEPERTINGER: No, sir. And ask if she could be excused.

20 THE COURT: You may step down and you're free to leave.

21 MR. RICHARDSON: Your Honor, our next witness will be
22 Amelia Miles.

23 THE COURT: Ms. Miles, please come forward. I'd ask if you
24 could to place your left hand on the Bible and raise your right
25 hand as the clerk administers the oath.

1 (After being duly sworn by the Clerk of Court, AMELIA
2 MILES, testified as follows:)

3 THE COURT: Pull up real close to that microphone, speak
4 loudly, clearly, and slowly and let's start with your full
5 name.

6 MS. MILES: Amelia Anne Miles.

7 THE COURT: All right. Ms. Miles. Mr. Richardson.

8 MR. RICHARDSON: Thank you, Your Honor.

9 DIRECT EXAMINATION

10 BY MR. RICHARDSON:

11 Q Ms. Miles, would you please tell us where you work?

12 A I work for the Florence Police Department and have been
13 there for over thirty years.

14 Q All right. And what area of the Florence Police Department
15 do you work?

16 A For the past six years I have been assigned as the
17 evidence custodian.

18 Q And that would obviously be inclusive of March of 2014,
19 would it not?

20 A By myself to be -- as a matter of fact, I had no
21 assistance during that time frame.

22 Q All right. So the days that we're talking about in this
23 trial, you were the ---

24 A I was the sole custodian at the time. I have a boss, but
25 he was busy so I had -- I was running everything. We had

DIRECT EXAMINATION OF AMELIA MILES BY MR. RICHARDSON

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1 lost a person so I was by myself for quite a while.

2 Q All right. So, the evidence that we've talked about in
3 this case that was collected by the Florence Police
4 Department, at some point, you had it?

5 A I did.

6 Q All right. Now, could you explain to the jury about how
7 the Florence Police Department's evidence locker system
8 works and how people drop things off and how you retrieve
9 them?

10 A Okay. We have a secure locker that the officers have to
11 sign a key out at the desk. They come up and they unlock
12 the outer room, and it's a small room with about twenty-
13 one or twenty-two different lockers with locks that go on
14 them. Each case is put into its own locker and locked and
15 the evidence custodian is the only one who has keys to get
16 into those lockers once they are locked up. The evidence
17 room, itself, is back behind another, actually, two more
18 sets of locked doors with an alarm.

19 Q All right. So ---

20 A They log it in a log book, and then they put it in a
21 locker. They fill in the log book and then, if it's during
22 work hours, sometimes I get to it that day. If I'm busy,
23 it may be the next morning before I get to log that
24 evidence in, which was the case in this case. It was the
25 next morning before I logged it in.

1 Q Okay. So, I believe you were in the courtroom when
2 Investigator Myers testified he put some items in your
3 locker like on the 4th of March.

4 A Uh-huh .

5 Q And you got it out on the 5th?

6 A He put it in, in the afternoon and I signed it in, to the
7 book and into evidence, at 10:30 in the morning, the next
8 morning.

9 Q Okay. So, those items would have just sat in that secure
10 locker overnight until you came and opened it the next
11 day?

12 A Correct.

13 Q And only you could have gotten it out?

14 A That's it.

15 Q All right. Very good. Now, I guess as we've established, a
16 number of items of evidence were collected in this case.
17 Is that right?

18 A A good bit.

19 Q All right. And did you take those items to SLED?

20 A I did. I made two separate trips.

21 Q Okay. Could you explain to the jury the process you go
22 through when you take an item to SLED?

23 A I sign it out on the evidence sheet. I have to pre-log it
24 to go to SLED because it's better for them and me if I
25 have it pre-logged for them. And I take it to SLED and

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1 they have four intake people. I sit in front of whichever
2 intake person calls me up to their door and in these
3 cases, these separate envelopes would have been sealed by
4 Myers and if they were not sealed, I wouldn't have
5 accepted them. I'd been calling him back because I don't
6 accept anything that's not sealed.

7 Q Now, by envelopes are you referring to ---

8 A The brown envelope.

9 Q Yes, ma'am.

10 A So, when I go -- in this particular case, I know I had
11 some boxes and then I had a bunch of brown envelopes
12 inside of one huge large plastic bag, and that was to keep
13 the whole entire case together. I put -- they do one case
14 at a time for me. I put the evidence for that one case in
15 front of them and they start packaging it. They take each
16 brown envelope and check it by the paperwork that I'm
17 taking them. They seal it inside of another plastic bag in
18 my presence and then they initial it and then I date and
19 initial it the day that I take it up there and that's when
20 they're accepting it. If it was, if it had been tampered
21 with in any way, they wouldn't have accepted it. If it had
22 been tampered with in any way, I wouldn't have taken it. I
23 would have been calling the investigator back or whoever
24 logged it in and they'd be re-doing it.

25 Q Now, when you take something out of the Florence Police

- 1 Department's evidence locker that's been put in there by
2 Bo Myers or Shannon Hill or any other officer, do you do
3 anything at all to manipulate, repackage, write things,
4 anything on those items or do you transfer them as you
5 receive them to SLED?
- 6 A I transfer them just like they are. I don't want my hands
7 on anything.
- 8 Q Yes, ma'am.
- 9 A I'm in the chain of custody as it is.
- 10 Q All right. Now, do you have notes or a log with you that
11 contains a list of items that you took to SLED in this
12 case?
- 13 A I do. I have our computer printout that shows everything
14 that was logged in and everything I took to SLED and that
15 was brought back from SLED.
- 16 Q Okay. All right. We'll start with State's #18, for
17 identification only, at this point. Would you take a look
18 at that?
- 19 A We have a lockbox. Let me find which item it is. I don't
20 have that. It went straight to SLED.
- 21 Q So that box ---
- 22 A Went straight to SLED.
- 23 Q Went straight to SLED without your involvement?
- 24 A Uh-huh.
- 25 Q Okay. I show you now item #17, State's item #17, which is

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1 for identification only at this point. Would you take a
2 look at that?

3 A I took that to SLED on March the 21st and signed it out at
4 9:45 AM.

5 Q And what is this?

6 A It is three sections of duct tape from victim's hands.

7 Q All right. And you took that directly from the evidence
8 locker to SLED?

9 A Myself.

10 MR. RICHARDSON: Your Honor, at this time, I'd move State's
11 #17 into evidence.

12 THE COURT: Any objection from Defense?

13 MR. WILSON: Subject to the objections I previously made,
14 Your Honor.

15 THE COURT: All right. It's into evidence over objection.

16 (Whereupon, duct tape from the male victim's hands is
17 entered into evidence as State's Exhibit #17, over objection)

18 Q All right. I show you now what's marked State's #16.

19 A And it's three sections of duct tape from female victim's
20 hands and I took those to SLED on March the 21st and
21 signed them out at 9:45 AM.

22 Q All right. So straight from here to -- straight from the
23 police department to SLED?

24 A Myself.

25 Q All right.

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1 MR. RICHARDSON: Your Honor, I'd move State's #16 into
2 evidence.

3 MR. WILSON: Same objection.

4 THE COURT: All right. Over objection. It's into evidence
5 over objection.

6 (Whereupon, duct tape from the female victim's hands
7 is entered into evidence as State's Exhibit #16, over
8 objection)

9 Q I'll ask you to take a look at State's #15?

10 A It is a blue dish towel. And I signed it out on March 21st
11 at 9:45 and took it to SLED myself.

12 Q Very good.

13 MR. RICHARDSON: We'd ask to move State's #15 into
14 evidence.

15 MR. WILSON: Same objection.

16 THE COURT: Into evidence over objection. State's #15.

17 (Whereupon, a dish towel is entered into evidence as
18 State's Exhibit #15, over objection)

19 Q Now, I show you State's #13. If you could ---

20 A Is latent print cards. Two latent print cards. I signed
21 them out on March the 21st, 2014 at 9:45 and took them to
22 SLED myself.

23 MR. RICHARDSON: We'd move State's #13 into evidence.

24 THE COURT: Any objection from Defense?

25 MR. WILSON: No objection.

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1 THE COURT: It's into evidence without objection, State's
2 #13.

3 (Whereupon, latent print cards are entered into evidence
4 as State's Exhibit #13, without objection)

5 Q I show you now what's been marked as State's Exhibits
6 #14A, B, C, and D. Four separate items listed under
7 State's #14. If you could take a look?

8 A Buccal swabs from L. Murphy, and Gregory Campbell and
9 Michael Brooks. Number six was taken on March the 21st,
10 2014 at 9:45 to SLED by myself.

11 Q Now, what's your number six, what is that?

12 A Oh, it's every -- when they log items in they have to give
13 them item numbers under our count also and we put labels
14 on them. It's just our way of keeping up with how many
15 items each case has. This particular case has twenty-three
16 items logged in under it. So, I'm looking at my item
17 number to look it up on my paper work. So ---

18 Q So, #14A through D is your item six?

19 A Yeah. It would be item six and my eighteen and nineteen,
20 my item eighteen and nineteen is buccal swabs from Gregory
21 Campbell and buccal swab from Michael Brooks. Now they
22 were taken to SLED on April 17th. I signed them out at
23 9:30 in the morning and took them to SLED myself, both of
24 them.

25 Q Very good.

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1 MR. RICHARDSON: Your Honor, at this time we'd move State's
2 14A, B, C, and D into evidence.

3 THE COURT: Any objection from Defense?

4 MR. WILSON: The only one that I have an objection to is --
5 I'm not sure what her item number on that is, but it's the roll
6 of tape. The others, I don't have an objection to, but I do
7 have an objection to. ---

8 THE COURT: The roll of tape is which one?

9 MR. RICHARDSON: I haven't gotten to that one yet.

10 THE COURT: Okay.

11 MR. WILSON: She said that was ---

12 THE COURT: The ones that you have itemized are into
13 evidence without objection from Defense.

14 (Whereupon, buccal swabs are entered into evidence as
15 State's Exhibit #14A, #14B, #14C, and #14D, without objection)

16 Q I'll show you what's marked State's #12A and B?

17 A Item number seven under my list is buccal swab from C.

18 Murphy and they were signed out by me and taken to SLED on
19 March the 21st, 2014 at 9:45 AM.

20 Q All right.

21 MR. RICHARDSON: We ask that State's #12A & B be moved into
22 evidence.

23 THE COURT: Any objection?

24 MR. WILSON: No, sir.

25 THE COURT: They're into evidence.

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1 (Whereupon, buccal swabs are entered into evidence as
2 State's Exhibit #12A and #12B, without objection)

3 MR. RICHARDSON: I beg the Court's indulgence one moment.

4 Q I ask you to look at State's #19 for identification at
5 this point.

6 A A roll of duct tape that I signed out, let's see, on March
7 the 17th at 9:30 AM and took it straight to SLED.

8 Q Very good.

9 MR. RICHARDSON: We'd ask State's #19 be entered into
10 evidence at this time.

11 THE COURT: Any objection?

12 MR. WILSON: Yes, sir. Yes, sir, I do have an objection in
13 regards to that.

14 THE COURT: All right. You can come forward.

15 (Brief bench conference was held off the record.)

16 MR. WILSON: Thank you very much, Your Honor.

17 THE COURT: Very good.

18 MR. RICHARDSON: Your Honor, I'd ask that State's #19 be
19 placed into evidence.

20 THE COURT: Over objection.

21 (Whereupon, a duck tape roll is entered into evidence
22 as State's Exhibit #19, over objection)

23 Q Thank you, ma'am. Please answer any questions that the
24 Defense may have for you.

25 CROSS EXAMINATION

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1 BY MR. WILSON:

2 Q I just have a couple of questions. Now, Detective Head is
3 the individual that you received this from?

4 A He was the initial investigator, yes, sir.

5 Q And let me show you this property report and ask you if
6 that's a copy of a property report that you guys keep in
7 the Florence Police Department?

8 A It is.

9 Q All right. And is your signature at the bottom of that?

10 A Yes, it is.

11 Q All right. And along with whose other signatures?

12 A Beneath mine is Thomas Myers.

13 Q Okay. And up at the top of that form, does it give you a
14 date as to when that form was completed?

15 A Not this particular copy, but this is not the first one
16 that got logged in. But, no, this particular copy, it's
17 missing.

18 Q Okay. And this is the report for the roll of duct tape and
19 the mask and a South Carolina DMV registration. Correct?

20 A Uh-huh.

21 Q All right.

22 A Yes.

23 Q All right. And according to the -- do you have a copy of
24 that there with you?

25 A No. I have my computer printout is all I've got.

CROSS EXAMINATION OF AMELIA MILES BY MR. WILSON

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- 1 Q Okay. All right. And on your computer printout does it
2 show that on March the 21st that you received this item?
- 3 A The roll of duct ---
- 4 Q Or rather, I should say these items.
- 5 A --- I logged in -- this does not tell me.
- 6 Q Would you like to look at this again to help refresh your
7 memory?
- 8 A Yeah. This one doesn't tell me the date that I actually
9 signed it in. I signed it in on March the 21st at 3:30 in
10 the afternoon.
- 11 Q And when you signed it in on March 21st of 2014, it stayed
12 with you until when?
- 13 A Until I took this to SLED, which the roll of duct tape
14 went on April the 17th at 9:30.
- 15 Q Well, let me see that form again. Because at the bottom of
16 this form it says that on 4/11, that it was checked out by
17 Officer Myers, does it not?
- 18 A Yes, it was checked out by -- it went out to Myers on --
19 it did go out to Myers on 4/11 but I don't indicate that
20 he left the room with it. He must have packaged it in our
21 office.
- 22 Q Well, he had custody of it and according to ---
- 23 A It didn't leave our area. He packaged it in our area.
- 24 Q Well, how do you know that? There's nothing on that form
25 which indicates that he ever turned it back over to you.

- 1 And until the 17th ---
- 2 A It didn't leave our area.
- 3 Q How do you know that?
- 4 A Because I recall it now.
- 5 Q So, you have a recollection from a year-and-a-half ago
- 6 about what happened but there's absolutely ---
- 7 A I remember this particular case because of all of the duct
- 8 tape.
- 9 Q Okay.
- 10 A That's highly unusual.
- 11 Q Show me any documentation that you have that shows he did
- 12 it in your area and that he turned it back over to you and
- 13 left it with you on the 11th.
- 14 A I don't have documentation. I just know that it did not
- 15 leave my office. I remember him packaging it in our area.
- 16 Q In fact, it's six days later before this product, this
- 17 tape surfaces again and that's when it's taken to SLED?
- 18 A It didn't leave my area. It was packaged -- it was in my
- 19 area. He came and packaged it to go to SLED and I took it
- 20 to SLED.
- 21 Q You took it to SLED on the 17th?
- 22 A Yes.
- 23 Q And it was -- he came and packaged it on ---
- 24 A The 11th.
- 25 Q --- the 11th, according to you?

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- 1 A Yes.
- 2 Q And according to that report. Is that right?
- 3 A Yes. But I can't go to SLED the same day the evidence
- 4 always comes in. I was the only evidence custodian during
- 5 this time frame and I have to go when I'm available to go.
- 6 Q Isn't the protocol that if a item is taken out of evidence
- 7 for any reason, that when you put it back, you should log
- 8 in the time you take it out, which is why it was logged
- 9 out? He logged it out because he had to handle that
- 10 evidence. So, when he finished with it, he was supposed to
- 11 log it back in. Is that not correct?
- 12 A It is correct. But he didn't leave our area with it. I
- 13 remember -- he went to sign it out and he decided to
- 14 package it right there and I remember it because it's duct
- 15 tape. I don't recall having duct tape logged in before.
- 16 Q All right. And let me ask you this: You're the evidence
- 17 custodian for the department?
- 18 A Uh-huh.
- 19 Q So, now as I understand it, you have a locker for which
- 20 you are the primary custodian and you have the key?
- 21 A I have multiple lockers.
- 22 Q Okay. Multiple lockers. But now your officers have their
- 23 own individual lockers. Right?
- 24 A No.
- 25 Q No, they don't have individual lockers?

1 A Crime scene has individual lockers. No one else has
2 individual lockers.

3 Q So, no other officer has a locker that he can lock things
4 in and hold for nine days until he brings it to you for
5 you to long in?

6 A Crime scene has their own secure facility and lockers that
7 they sometimes have to lock items in. No one else does.

8 Q So, nobody else has that?

9 A No. They come and they log evidence in and they're put in
10 our lockers that we are the only ones that have keys to.

11 Q What reason would there be for crime scene to hold an item
12 for nine days before they turned over to you?

13 A They're still working on something dealing with the case.
14 There's multiple things.

15 Q Do you have a key to the crime scene locker?

16 A No.

17 Q Now, when Officer Myers did the -- on the -- I'm sorry.
18 Would you hand me that form back so I don't get the dates
19 wrong? I apologize. On April the 11th ---

20 A Uh-huh.

21 Q Now, this was in your custody from March the 21st until
22 April the 11th, when it was supposed to have been taken
23 out of your custody by -- it says received by Officer
24 Myers and packaged for SLED.

25 A He packaged it in my presence. It was in my custody until

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1 I took it to SLED.

2 Q All right. And at no other time did it show -- well, then
3 if he's packaging it in your presence, why log it out?

4 A He was going to log it out and he decided to package it
5 there. I had all he needed to package it right there. So
6 he decided to package it right there.

7 Q Okay. All right.

8 MR. WILSON: One second, please, Your Honor.

9 Q Just one other question, this roll of tape, how was it
10 packaged from -- because he came to package it for SLED on
11 April the 11th and you had had it since March 21st. So,
12 how was it packaged or was it packaged in any ---

13 A Everything was all in one big box and except for the items
14 already packaged separately for SLED he came and he
15 reopened the box that it was in, took it out and
16 repackaged it a separate box to go to SLED.

17 Q All right. And when you say all of the items, you're
18 referring to the three items on this list or are you
19 referring to some other items?

20 A There's twenty-three items that got logged in. I do not
21 recall what box this particular roll of duct tape was
22 actually in. When he came to get it, I pulled everything
23 out. He got the duct tape out. He resealed the evidence
24 box. He packaged this in a separate box to go to SLED. In
25 my presence.

1 Q Well, this form that y'all do doesn't show twenty-three
2 items. It shows three items.

3 A You don't have all the forms there. I don't know why you
4 don't have all the forms. That's just one. There's twenty-
5 three items that got logged in. You picked the one that
6 didn't have anything -- that just happened to have the
7 date and time missing.

8 Q All right. But it's your form ---

9 A I don't know where you got it from, but there's twenty-
10 three items. There's probably six or seven of those.

11 Q So, those items weren't listed on this form?

12 A They didn't all come in at the exact same time and all of
13 them wouldn't have fit on the same form.

14 Q Well, but if he's checking out the box with twenty-three
15 items in it, shouldn't all twenty-three items be listed on
16 the form?

17 A He didn't check out the twenty-three items. He came to me
18 to get the duct tape. Instead of signing out the duct tape
19 and taking it with him, he decided to repackage it in my
20 presence. It never left evidence.

21 Q And that's my question. How was the duct tape packaged ---

22 A It was all in a box.

23 Q Let me finish my question, please, ma'am?

24 A It was all in one box and what was left, what wasn't
25 already packaged for SLED and he separated the duct tape

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1 and then he packaged it in a separate box to go to SLED.

2 And I put it with the SLED items. We have a SLED cabinet.

3 Everything that's going to SLED gets put in this cabinet

4 until I go. So, the rest of the stuff that was going to

5 SLED had already been packaged and was in the SLED cabinet

6 awaiting my trip.

7 Q Can I ask a question?

8 A I'm waiting.

9 Q What I'm simply asking you, ma'am, is this, is, this form

10 simply says that there were three items. And I understand

11 you ---

12 A That's not the only form. That's what I'm trying to tell

13 you.

14 THE COURT: Let him finish his question and then you can

15 answer yes, no, and explain until your heart's content. But

16 listen to what he's got to say.

17 Q I understand that there were twenty-six items or twenty-

18 three items. What I'm simply asking about is the roll of

19 duct tape. Was it separate with these two items or was it

20 in the box with everything else?

21 A The roll of duct tape was with the items not going to SLED

22 until he came to my office that day.

23 Q Okay. And those items are not listed on here, other than

24 the mask and the SCDMV?

25 A The sheet you have only has three items on it. There are

1 twenty-three total.

2 Q So, there should have been twenty more items listed on
3 this form?

4 A No. Well, they wouldn't have all fit on one form. There's
5 multiple forms. There's multiple ones of those.

6 Q Okay. So he took the roll of duct tape out of the box that
7 had twenty-three items in it?

8 A It had the items not going to SLED in it. It wouldn't have
9 had the whole twenty-three because a bunch of them had
10 already been marked for SLED and already in the SLED
11 cabinet. Everything that had already been marked for SLED
12 was in the SLED cabinet. What was left, I can go through
13 and tell you what wasn't going to SLED: My item number
14 one, a DVD wasn't going. My item number eight, number
15 nine, number eleven, number twelve, number thirteen,
16 number fourteen, number fifteen, number sixteen, number
17 seventeen, number twenty, twenty-one, and twenty-two and
18 twenty three did not go to SLED.

19 Q Okay. So, on the 11th when he came and he checked out the
20 duct tape, the duct tape would have been in the box with
21 those other items that you've just named out?

22 A Yes.

23 Q Is that what you're saying?

24 A Yes.

25 Q Okay. All right. And he took the duct tape out, packaged

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1 it and then seven days later or six days later, you took
2 the duct tape to SLED?

3 A I took the box that he had sealed with the duct tape to
4 SLED, yes.

5 Q All right. Okay.

6 MR. WILSON: No other questions, Your Honor.

7 THE COURT: Any redirect?

8 MR. RICHARDSON: Briefly, Judge.

9 REDIRECT EXAMINATION

10 BY MR. RICHARDSON:

11 Q Ms. Miles, you testified earlier the dates that you took
12 certain things?

13 A Yes.

14 Q I want to show you State's #17, which is in evidence.

15 You've already looked at this once. If you could take a
16 look at it again and tell us what that is.

17 A It's three sections of duct tape from the victim's hands.

18 Q Does it say which victim or do you have a list that
19 state's which victim?

20 A It does not say on my computer. On this box it says, male
21 victim.

22 Q All right. What day did you take that stuff to SLED?

23 A March the 21st, 2014 at 9:45.

24 Q So, by the time you got that roll of duct tape packaged by
25 Bo Myers and sent it to SLED, that stuff ---

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1 A Had already gone.

2 Q --- had already gone to SLED? Thank you, ma'am. That's
3 all the questions I've got.

4 THE COURT: All right. You may step down. And you're free
5 to leave. You may call your next witness.

6 MR. RICHARDSON: Thank you, Your Honor. We call Nicole
7 Bethea.

8 THE COURT: Ms. Bethea, if you could please come around.

9 MR. WILSON: Your Honor, if we could approach while she's
10 doing that?

11 THE COURT: Yes.

12 (Brief bench conference off the record)

13 THE COURT: Mr. Foreman, ladies and gentlemen of the jury,
14 I'm going to ask that you retire to the jury room.

15 (Jury out at 4:36 PM)

16 MR. WILSON: The Solicitor is attempting to offer the
17 Defendant's prior criminal conviction for a violent offense and
18 I'm not sure that it's absolutely necessary. The Defendant, I
19 mean, we stipulate for the purposes of sentencing, anyway, that
20 he does have that record. I don't think there's any question
21 about that and I think it's highly, highly prejudicial if it's
22 introduced to the jury before they enter any kind of a
23 decision. So, I would ask the Court to allow us to stipulate to
24 that for the purposes of sentencing and if there is any issue
25 about whether or not he has, in fact, a violent felony, we'd

1 waive that. We'd waive that.

2 THE COURT: All right. One of the things that -- of course,
3 what you -- in order to do that, you would have to stipulate
4 that there is indeed a prior violent crime and that's
5 essentially what they're going to prove. I don't see how that
6 softens the blow at all. I mean, that's stipulating to what
7 they're tendering. They aren't going to say burglary second.
8 They're going to say a violent crime. How is stipulating to it
9 less prejudice than ---

10 MR. WILSON: I don't know if it's less prejudicial, but I
11 think just to have the clerk get up and do it, I think, adds to
12 the ---

13 THE COURT: All right. I think they're probably entitled to
14 do that. But this is what I'm going -- I'm convinced they're
15 entitled to do that, but what I'm going to charge them with
16 regard to this offense is that evidence of a prior offense
17 committed by the Defendant was not offered to prove the
18 Defendant has bad character. The prior offense may be
19 considered by you only for the purposes of determining whether
20 or not to satisfy the element of the offense requiring that he
21 has been convicted of a violent crime. I think they're entitled
22 to do it. You're wanting to stipulate to it. And I understand
23 that your objection is that you be allowed to stipulate to it
24 rather than the Clerk testifying to it?

25 MR. WILSON: That is correct.

1 THE COURT: All right.

2 MR. JEPERTINGER: I don't think we're willing to stipulate.
3 I think it will take five minutes to put her up.

4 THE COURT: Very good. And really what she's going to say
5 is what you're going to be willing to -- would be willing to
6 stipulate to. I don't see how that adds any prejudice to it.

7 MR. WILSON: Well, I don't want it in period, but I ---

8 THE COURT: Right.

9 MR. WILSON: --- if it's going to come in, I would much
10 rather ---

11 THE COURT: Well, that's very unusual.

12 MR. WILSON: I understand the Court's ruling.

13 THE COURT: It's a statute that requires -- I mean, it's
14 different than a DUI where you've got predicate offenses. I
15 think it's an element that they have to prove. So, I'm going to
16 allow them to do so.

17 MR. WILSON: Very well. Thank you.

18 THE COURT: All right. We're ready for the jury.

19 (Jury in at 4:40 PM)

20 THE COURT: Ms. Bethea, put your left hand on the Bible and
21 raise your right hand as the clerk administers the oath.

22 (After being duly sworn by the Clerk of Court, NICOLE
23 BETHEA testified as follows:)

24 THE COURT: Ms. Bethea, pull up real close to that
25 microphone. Speak loudly, clearly, and slowly and let's start

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1 with your full name.

2 MS. BETHEA: Allison Nicole Bethea.

3 THE COURT: Very good.

4 MR. RICHARDSON: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MR. RICHARDSON:

7 Q Ms. Bethea, could you please tell us where you work?

8 A For the Florence County Clerk of Court.

9 Q All right. And what are your specific job duties with the
10 Florence County Clerk of Court's Office?

11 A We're the records keepers.

12 Q All right. And do you work specifically in General
13 Sessions, also known as the criminal division?

14 A Yes, I do.

15 Q All right. And that's exclusively your area where you
16 work?

17 A Yes.

18 Q All right. And as a part of your job, do you keep official
19 court files for General Sessions Court and all the items
20 contained within those files?

21 A Yes, I do.

22 Q And as a matter of course in criminal cases, do you keep
23 what we know as sentencing sheets ---

24 A Yes.

25 Q --- as a part of the Court's records?

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1 A Yes.

2 MR. RICHARDSON: If I could have this marked, please?

3

4 Q Ms. Bethea, I want to show you what's been marked as
5 State's Exhibit #20 for identification purposes only.

6 Could you take a look at that and tell me if that is a
7 record kept in your ordinary course of business?

8 A Yes, it is.

9 Q All right. And what kind of a document is that?

10 A It's a General Sessions sentencing sheet.

11 Q Okay. And what is -- what defendant's name is on that
12 sentencing sheet?

13 A Michael Donta Brooks.

14 Q All right. And what is the date of that sentencing sheet?

15 A December 4th, 2012.

16 Q On that sentencing sheet, is there anywhere that tells you
17 whether an offense for which someone is convicted is
18 listed as violent or non-violent?

19 A Yes, it does.

20 Q What does that sheet say as it relates solely to violent
21 versus non-violent?

22 A Violent.

23 Q Okay. Is there like a checkbox next to the word,
24 "violent"?

25 A There's an X in the box beside "violent".

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1 Q Okay. Very good. That's all I've got for you, ma'am.

2 Please answer any questions Defense may have.

3 MR. WILSON: I don't have any questions.

4 THE COURT: You may step down Ms. Bethea.

5 MR. JEPERTINGER: Your Honor, that would be the State's
6 case.

7 THE COURT: All right. Mr. Foreman, ladies and gentlemen of
8 the jury, we're going to retire for the evening. We're going to
9 stay here and take care of some legal matters during your
10 absence. We'll be ready to proceed forward with this trial in
11 the morning at nine-thirty. I'm going to ask that you be here
12 and be here on time. Do not do any independent investigation.
13 Do not discuss the case amongst yourselves or with anyone else.
14 Everyone remain seated as the jury exits the courtroom.

15 (Jury out at 4:44 PM)

16 MOTIONS

17 THE COURT: All right. I'll be happy to entertain motions
18 at this time.

19 MR. WILSON: Your Honor, at this time, the Defense would
20 move for a directed verdict on all of the charges, which would
21 include in this case the armed robbery, the burglary first
22 degree, kidnaping, possession of a weapon during a violent
23 crime and felon in possession.

24 I think that in this particular case there has not been
25 any credible -- and I think that's the key word. I don't think

1 there's any credible evidence in this case that this Defendant
2 was, in fact, the perpetrator of these offenses. I understand
3 that, for instance, like with the DNA that was introduced in
4 this case, the question is not so much whether his DNA was on
5 the tape, but did it get there during the course of this
6 robbery or the course of this burglary and I don't see that
7 there's any evidence which shows that. In fact, the evidence is
8 to the contrary because the victims both testified that they
9 never saw him touch that roll of tape at any point in time
10 during the time that he was there, that only the person who
11 tied them up, which would have been -- because the theory, the
12 whole theory of this case is that this Defendant would have
13 been the person with the weapon and that that person never tied
14 them up and that they never saw this person handle the tape at
15 all. And so it would be inconsistent if he didn't handle the
16 tape at all, but his DNA is the only DNA, really, on the tape.
17 It just doesn't make any real sense to me.

18 There are the witnesses, the eyewitnesses testimony, which
19 would have been that of Mr. & Ms. Murphy, I mean it's clearly
20 at best confusing. Mr. Murphy does say that at some point in
21 time that, I think that was on March, I think it was the 14th,
22 when the police come out to him, that he points to number two
23 and said well, that's the guy that most resembles the
24 perpetrator. And I understand that. But again, he admits that
25 he wasn't a hundred percent certain. Then a few days later they

1 come back out with a second set and Ms. Murphy couldn't pick
2 anybody out. Then they come back a few days later with a second
3 set of photographs and then they confused thinking Mr.
4 Campbell, he is actually the person. I just that think that
5 when you take all of that in total, that it's just really not
6 enough to allow it to go to the jury. So, I would ask the Court
7 to grant us a directed verdict on all of the charges.

8 THE COURT: My initial inclination -- I'm going to hear
9 what the State has to say about that, but it seems to me as if
10 it at least rises to the level of a scintilla and I think that
11 all of the things that you mentioned are factual questions that
12 should be placed before the jury. I'll allow the State to
13 respond.

14 MR. JEPERTINGER: Your Honor, I think there's both direct
15 and circumstantial evidence that Michael Brooks is a
16 perpetrator in this crime. I think there was an identification
17 by both Larry Murphy, a visual and what he heard at the bond
18 hearing, identifying the voice. The same for Cara Murphy, even
19 though she couldn't recognize the perpetrator, she recognized
20 the voice and she testified that that was Brooks' voice at the
21 bond hearing.

22 Your Honor, in terms of circumstantial evidence, Your
23 Honor, I know what they saw and what they didn't see, but it
24 doesn't take a rocket scientist to say he could have
25 manipulated the tape, held the tape, given the tape to Boogie

1 Baker or Boogie, whatever his last name is, before they got
2 into the house. I mean, it's just -- there's circumstantial and
3 direct evidence linking this gentleman to the crime. Also, Your
4 Honor, we know that he, himself, said he had the jewelry
5 because he, in his statement on March 17th, said I have the
6 property that came from that crime scene. Later in the day he
7 tells someone to keep their effing mouth shut, apparently, Your
8 Honor, in a type situation where he wanted to not have himself
9 implicated in this crime. I think all those things are direct
10 and circumstantial evidence. They're admissions of guilt.

11 You also have the letter that was redacted, if you recall,
12 where he said I'd be willing to say I was in the house duct
13 taping them, which would -- I don't know which exhibit number
14 it is, but it's there, Judge. And I think those are all -- and
15 there's an admission or they could be taken as such and I would
16 ask that you deny the Defense's motion.

17 THE COURT: All right. The motions for directed verdict are
18 denied. I think it's a factual question for the jury.

19 MR. WILSON: Thank you.

20 THE COURT: Anything further at this time?

21 MR. JEPERTINGER: Your Honor, I think it would be
22 appropriate, since we're going to start with the Defense's
23 case, if there is going to be a Defense case, if Mr. Brooks is
24 going to testify, if you could go over his Constitutional
25 rights.

1 THE COURT: I'm fixing -- I'm asking for motions. My
2 question is, do you have any more ---

3 MR. JEPERTINGER: Oh, not from the State. No, sir.

4 THE COURT: You don't have any motions or any concerns, Mr.
5 Wilson?

6 MR. WILSON: I have no more motions, but I agree with the
7 Solicitor.

8 FIFTH AMENDMENT RIGHTS

9 THE COURT: Mr. Brooks, I'm going to ask if you could
10 stand, please, sir?

11 MR. BROOKS: (Complies)

12 THE COURT: Mr. Brooks, at this time I'm going to explain
13 to you certain of your rights.

14 MR. BROOKS: Yes, sir.

15 THE COURT: If you do not understand anything I say, please
16 let me know.

17 MR. BROOKS: Yes, sir.

18 THE COURT: If you want me to explain anything in more
19 detail, let me know and I'll be happy to do so. Do you
20 understand me?

21 MR. BROOKS: Yes, sir.

22 THE COURT: All right. We have now reached the stage of the
23 trial where you may present your defense. You have the right to
24 claim the protections given to you by the Fifth Amendment to
25 the Constitution of the United States of America, which

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1 provides in relevant part: No person shall be compelled in any
2 criminal case to be a witness against himself. This means that
3 you cannot be required to testify in this case. You have the
4 right to testify on your own behalf. However, no one can make
5 you testify. This is a personal right and no one can waive this
6 right except you. If you decide to testify, you'll be subject
7 to the same rules that govern other witnesses and you may be
8 examined and cross examined on any relevant issue in this case.

9 In addition, if you have any convictions involving
10 dishonesty or false statements for crimes punishable by
11 imprisonment for more than one year and this Court determines
12 that the probative value of admitting this evidence outweighs
13 its prejudicial effect to you, the Solicitor will be able to
14 introduce your record to attack your credibility. If you decide
15 to testify, this decision on your part must be freely,
16 voluntarily, and intelligently made with knowledge of the
17 protections given to you by the Fifth Amendment and the
18 consequences of your decision to testify.

19 If you decide not to testify, I will instruct the jurors
20 that they cannot give the fact that you did not testify any
21 consideration, whatsoever, that there is to be absolutely no
22 prejudice to you because you did not testify. It is left
23 entirely up to you whether or not to testify. You may talk with
24 your attorney, your family members, friends or anyone else, but
25 the final decision will be left entirely up to you. Do you

1 understand what I've explained to you, Mr. Brooks?

2 MR. BROOKS: Yes, sir. I have.

3 THE COURT: Do you have any questions about what I've
4 explained to you?

5 MR. BROOKS: No, sir.

6 THE COURT: Have you discussed this matter with your
7 lawyer?

8 MR. BROOKS: Yes, sir, I have.

9 THE COURT: Do you wish to talk with your lawyer anymore
10 about it or have you made your decision?

11 MR. BROOKS: I've made my decision.

12 THE COURT: Do you wish to testify?

13 MR. BROOKS: Yes, sir.

14 THE COURT: Very good. All right. You may be ---

15 MR. WILSON: Your Honor?

16 THE COURT: Yes?

17 MR. WILSON: On another matter, and I apologize.

18 THE COURT: You may be seated Mr. Brooks.

19 MR. WILSON: Your Honor, at this point I would like to
20 renew any motions or any objections that I made during the
21 course of the trial. And I specifically would like to renew my
22 motion for a mistrial that I think I made at some point during
23 the course of the trial.

24 THE COURT: You're protected on the record in that regard.

25 MR. WILSON: Thank you, Your Honor.

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1 THE COURT: All right.

2 DISCUSSION OF PRIOR CRIMINAL CONVICTIONS

3 MR. JEPERTINGER: Your Honor, based on his wanting to
4 testify in this case, could we go over his rap sheet?

5 THE COURT: Yes, let's do that now.

6 MR. JEPERTINGER: To see what we can go over, Judge. I'll
7 just start it off and you tell me and we'll provide it.

8 THE COURT: All right. You tell me -- let's start at the
9 first one.

10 MR. JEPERTINGER: The beginning.

11 THE COURT: In the beginning and then we'll take them one
12 at a time and we'll hear what Mr. Wilson has to say about that.
13 Tell us the date and the offense.

14 MR. JEPERTINGER: Yes, sir. The first one it looks like we
15 have, he was sentenced on October the 1st, 1999 to an attempted
16 burglary third degree, first offense and he received a YOA
17 sentence, two years suspended, jail forty-six days, and court
18 costs and probation for two years and public service of ninety-
19 six hours.

20 THE COURT: What is your position on that, Mr. Wilson?

21 MR. WILSON: Your Honor, my position would be that that is
22 very, very old. In fact, that's fifteen years ago, sixteen
23 years ago and I just think that that's too old and too remote
24 in time in order to be used against the Defendant in this
25 proceeding.

1 THE COURT: I agree. And we will not use that one.

2 MR. JEPERTINGER: The next one is of similar age, Your
3 Honor. I'm just going to cross this one out. It was a larceny
4 of bicycles. Fined \$428.00 and thirty days and that was in
5 1999. The only reason I brought that up, I know it doesn't
6 carry a year. However ---

7 THE COURT: It's a crime of moral turpitude.

8 MR. JEPERTINGER: --- it goes to the honesty, yes, sir.

9 THE COURT: Mr. Wilson.

10 MR. WILSON: Same objection, Your Honor, in terms of the
11 age of it. I don't think there's any question that larceny is a
12 crime of moral turpitude, but I think that the fact that it is
13 so old is what I have trouble with.

14 THE COURT: I believe it's too remote. We won't discuss
15 that one.

16 MR. JEPERTINGER: There was a driving under suspension in
17 1999. I'm not going to go into that, Your Honor.

18 THE COURT: Very good.

19 MR. JEPERTINGER: We have an assault and battery of a high
20 and aggravated nature, conviction for that. Sentenced YOA three
21 years and court costs and that was back in March the 29th,
22 2001. He received for that -- as well as that attempted
23 burglary third at the same time. It looks like that may have
24 had a violation of his probation on that attempted burglary he
25 had back in '99. The question I have on that one, it's 2001,

1 but he received a three-year sentence beginning March the 29th,
2 2001. Theoretically, if he did three years, that would have
3 been March the 29th, 2004 when he got out.

4 THE COURT: I think that's the operative date is 2004. I
5 mean, I think that's the way you calculate it is when he gets
6 out.

7 MR. JEPERTINGER: When he finished the sentence.

8 THE COURT: That's correct.

9 MR. JEPERTINGER: So, I don't know when he finished the
10 sentence.

11 THE COURT: Oh, okay. Well, I'm -- it is close but I'm
12 going to rule that it's remote and the prejudicial value would
13 outweigh the probative value.

14 MR. JEPERTINGER: Okay. He had a resisting arrest in 2003
15 but that does not carry more than a year.

16 THE COURT: It's the one-year, section (a).

17 MR. JEPERTINGER: That's correct. He got a possession of
18 cocaine first. He was sentenced to nine months in jail. The
19 court date on that was June the 20th, 2003. Theoretically, Your
20 Honor, if he did all the nine months that would fall under the
21 category of going into 2004 when he got out. 6/20/2003.

22 THE COURT: Mr. Wilson, what do you have to say about that?

23 MR. WILSON: I don't see anything on here where it says how
24 much time he actually served on that. It does say that the
25 sentence was nine months and that would ---

1 THE COURT: Which quite often means like three months.

2 MR. WILSON: Yes, sir.

3 THE COURT: And that would have been June of 2003. So, I
4 don't know that it would have gone into -- because normally, I
5 mean, on a non-violent offense, you max out at two-thirds. So
6 he would have maxed out in six months. Even if you had to do
7 most of the nine months, you'd max out at six months, so that
8 wouldn't be ---

9 THE COURT: That's close, but I'm not going to allow it.
10 I'm not going to allow that.

11 MR. JEPERTINGER: There was a simple possession of
12 marijuana. I'm not going into that.

13 THE COURT: Okay.

14 MR. JEPERTINGER: The next one was 2005, trespassing. We're
15 not allowed to go into that, I understand. He was received into
16 the Department of Corrections in 2006 for a strong arm robbery.
17 Your Honor, that carries more than a year. It's within ten
18 years.

19 THE COURT: I'm going to allow -- what do you have to say
20 about that, Mr. Wilson.

21 MR. WILSON: Well, it's within the ten years. I mean, I
22 can't dispute that. And ---

23 THE COURT: It is more than one year.

24 MR. WILSON: It's a crime of moral turpitude, which is
25 robbery and it carries more than one year.

1 THE COURT: Well, I'm going to allow that one to be delved
2 into on cross examination.

3 MR. JEPERTINGER: We have a possession of cocaine, second
4 offense in 2008. Your Honor, I think I would -- because I
5 couldn't use the prior possession of cocaine, I would just
6 refer to it as possession of cocaine in 2008.

7 THE COURT: Right.

8 MR. JEPERTINGER: He was sentenced to jail for three years,
9 suspended ninety days and court costs and probation one year.

10 THE COURT: Mr. Wilson?

11 MR. WILSON: I wouldn't -- I don't want it in, but I
12 understand ---

13 THE COURT: I think it's clearly within the statute. I'm
14 going to ---

15 MR. WILSON: Yes, sir, it is.

16 THE COURT: --- I'm sorry. Go ahead.

17 MR. WILSON: No, sir. I agree. It's within the statute and
18 it's ---

19 THE COURT: Or the rule?

20 MR. WILSON: Yes, sir.

21 THE COURT: All right. Well, I'm going to allow that one
22 in.

23 MR. JEPERTINGER: I don't think financial transaction
24 fraud, less than five hundred and six months. What does that
25 carry? Six months. No, I'm not going to use that.

1 THE COURT: Right.

2 MR. JEPERTINGER: It is moral turpitude, though, but it
3 does not carry more than ---

4 THE COURT: We aren't going to go into that one...

5 MR. JEPERTINGER: Trespassing, no. He had a malicious
6 injury to personal property and I know that was under \$2000.00.
7 That was in August 8, 2012. And I don't know if malicious
8 injury is a crime of moral turpitude or dishonesty.

9 THE COURT: We aren't going to go into that one.

10 MR. JEPERTINGER: Okay. And we have the burglary ---

11 THE COURT: What was the date on that one again?

12 MR. JEPERTINGER: That was 12/4/2012.. And the way I would
13 cross examine him is we've heard from the clerk that you have
14 had a conviction for a violent crime on December 4th, 2012.

15 THE COURT: Very good.

16 MR. JEPERTINGER: And the reason I do that is because he is
17 charged with burglary in this particular case.

18 THE COURT: I agree. That is my ruling. You want to be
19 heard on that Mr. Wilson?

20 MR. WILSON: No, sir, other than, as I said, I wouldn't
21 want it to be admitted at all. And we wanted to -- but if he
22 takes the stand, I think it's certainly relevant. That is
23 without question.

24 THE COURT: All right.

25 MR. JEPERTINGER: So just to make sure that I'm -- we're

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1 all up to par here: the strong arm robbery from 2006, a
2 possession of cocaine from 2008, and this burglary that should
3 have been a violent offense in 2012.

4 THE COURT: That's correct.

5 MR. WILSON: That's three. Is that three?

6 MR. JEPERTINGER: That'd be three things.

7 THE COURT: That's correct. All right. We will stand at
8 ease until nine-thirty in the morning. Nine-thirty. And we'll
9 start at nine-thirty in the morning.

10 MORNING - JUNE 18, 2015

11 MR. JEPERTINGER: Good morning, Your Honor.

12 THE COURT: Good morning. Anything from the State before we
13 proceed?

14 MR. WILSON: Good morning, Your Honor.

15 THE COURT: Good morning.

16 MR. JEPERTINGER: Nothing from the State.

17 THE COURT: All right. Very good. Anything from Defense
18 before we proceed?

19 MR. WILSON: No, sir.

20 THE COURT: All right. We're ready for the jury.

21 (Jury in at 9:33 AM)

22 THE COURT: Mr. Foreman, ladies and gentlemen of the jury,
23 good morning. Everybody looks alert, ready to hear testimony.
24 Thank you for being here and being here on time. Pay very close
25 attention. These are very important matters, important to

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1 everybody concerned. The State has completed their case and at
2 this time, the Defendant is given an opportunity to present any
3 defense if they elect to do so. Mr. Wilson, you're recognized.

4 MR. WILSON: Thank you very much, Your Honor. Your Honor,
5 we'd call Michael Brooks.

6 THE COURT: Mr. Brooks, please come forward. I'm going to
7 ask if you could to place your left hand on the Bible and raise
8 your right hand as the clerk administers the oath.

9 (After being duly sworn by the Clerk of Court, MICHAEL
10 BROOKS testified as follows:)

11 THE COURT: Have a seat in the witness chair, Mr. Brooks.
12 Pull up real close to that microphone. Speak loudly, clearly,
13 and slowly in order that we can hear everything that you have
14 to say and let's start with your full name.

15 MR. BROOKS: My name is Michael Donta Brooks.

16 THE COURT: Very good.

17 DIRECT EXAMINATION

18 BY MR. WILSON:

19 Q Michael, how old are you?

20 A Thirty-three.

21 Q All right. And you need to speak loud for me so that
22 everybody can hear you and hear what you're saying.

23 A I'm thirty-three years old.

24 Q All right. And where do you live?

25 A South Florence.

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- 1 Q All right. And how long have you lived at South Florence?
- 2 A Almost my whole life.
- 3 Q Okay. And are you married?
- 4 A I was. I'm divorced now.
- 5 Q Okay. Do you have any children?
- 6 A Yes, sir.
- 7 Q And how many children do you have?
- 8 A Three.
- 9 Q And where are those kids now?
- 10 A With their mother.
- 11 Q Does she live in Florence?
- 12 A Yes, sir.
- 13 Q Now, Michael, you're in jail now. Is that correct?
- 14 A Yes, sir.
- 15 Q All right. And you've been in jail since March of last
- 16 year. Is that correct?
- 17 A Yes, sir.
- 18 Q All right. Now, do you have other family who live in
- 19 Florence, other than your wife and your children?
- 20 A Yes, sir.
- 21 Q And who are they?
- 22 A My family, my brothers, cousins, aunts, uncles, nieces.
- 23 Q What about your mother and your father?
- 24 A Yes, sir.
- 25 Q All right. Now, I want to talk with you a little bit about

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1 these charges which have been brought against you and your
2 arrest in this case. So, let's go back and let's start at
3 the outset and let's go back to March the 2nd, which would
4 have been the day before this incident occurred and let me
5 ask you, if you would, to tell me what you did the day,
6 that is March 2nd, leading up to March 3rd.

7 A I was at my trailer house out there in Smith & Smith. I
8 was doing my taxes with Danny. I was trying to file my
9 taxes, get my taxes together.

10 Q Okay. Now, on the day of the 3rd, which would have been
11 the day that this incident actually occurred, do you
12 remember that day?

13 A Yes, sir.

14 Q All right. And I want you to tell us, that morning on
15 March the 3rd, what you did that morning.

16 A Well, I woke up roughly around ten-something. Like I said,
17 I didn't have no lights in my trailer. My family had moved
18 with their mom. We was waiting on our tax money come in.
19 If she got hers first, she was going to get the new place.
20 If I got my first, I was going to get the new place. So I
21 was basically still staying there until my money came in
22 and hers came in and I walked next door to Danny. He was
23 the manager of the trailer park at the time. He was the
24 one that was doing my taxes and stuff. So, we was checking
25 online. We checked online every morning for going to the

1 IRS and checking to see if the taxes come in, little bars
2 and stuff like that. So, I was sitting over there with
3 him. And ---

4 Q Danny is the person that you were telling the police that
5 you were with that morning?

6 A Yes, sir.

7 Q All right. And Danny was the manager of the mobile home
8 park that you lived in?

9 A Yes, sir.

10 Q All right. But he was also helping you with your taxes?

11 A Yes, sir.

12 MR. JEPERTINGER: I would object to any leading, Your
13 Honor.

14 THE COURT: Sustained.

15 Q So, tell me what your relationship was with Danny.

16 A He was a good friend. I mean, he's a good person and my
17 friend. You know, he's a good friend. You know, he means a
18 lot -- he's a nice person.

19 Q How long did you live out there in the mobile home park
20 where Danny was the manager?

21 A See, I done stayed out there a couple of times before, but
22 at this time I had probably not been out there but about,
23 maybe about, two or three months.

24 Q Okay. All right. And now let's go back to the 3rd, the
25 morning of the 3rd. So, you say you get up about what

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1 time?

2 A Ten-something.

3 Q All right. And what do you do once you get up out of the
4 bed, around ten-something, what do you do?

5 A Go to Danny's to check my taxes.

6 Q All right. So, is that the first thing you did after you
7 got up, was to go to Danny's?

8 A Yes, sir.

9 Q All right. Now, where does Danny -- now, you were living
10 in the mobile home park at that time. Is that correct?

11 A Yes, sir.

12 Q All right. Now, where was Danny's home or office or
13 whatever from where you were living?

14 A Well, Danny stays towards the back, but the office is
15 straight across from my trailer. I stayed at that second
16 trailer coming in and the office is, like the first
17 trailer straight across, coming in.

18 Q Okay. So, you get up and so you walk over to Danny's.

19 A Yes, sir.

20 Q All right. So, what time do you think it was that you got
21 over to Danny's after you'd gotten up and got dressed?

22 A After ten-thirty.

23 Q Okay. All right. So, tell me what happens once you get
24 over to Danny's.

25 A I plugged my phone into the charger to let it charge up.

1 Like I said, I didn't have any lights. So, I plugged the
2 phone in the charger. I went online, checked my taxes,
3 smoked a cigarette, just wasting time letting the phone
4 charged up.

5 Q Well, now, who's checking the taxes? You're checking them
6 or is Danny checking them?

7 A Well, he has the laptop. So, we go over there, pull it up.
8 And you had to put in your amount you're expecting and all
9 this information. A bar come up and show you exactly where
10 your taxes are at as you're waiting on it.

11 Q All right. And this computer belongs to whom?

12 A Danny.

13 Q All right. So, what else happens between you and Danny
14 that morning?

15 A Not much.

16 Q Okay. So, how long were you there with Danny? You said you
17 got there around ten thirty-ish. So, what time did you
18 leave Danny, if you did?

19 A I stay over an hour and some change. Walked to the store.
20 I went to the four-way stop, got me something to eat.

21 Q All right now, the four-way stop, where is that in
22 relationship to the mobile home park where you live?

23 A Down National Cemetery Road on the corner of Church and
24 next to the cemetery.

25 Q All right. How far from where Danny's ---

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- 1 A Probably about a mile.
- 2 Q Okay. And how did you get there?
- 3 A I walked. Like I say, I had no lights in my...
- 4 Q All right. You went to the store. What did you get from
- 5 the store, if you remember?
- 6 A A couple hotdogs, chips and a soda.
- 7 Q All right. Then what did you do?
- 8 A Came back home.
- 9 Q All right. Did you go back to your trailer or did you go
- 10 back to Danny's place?
- 11 A I came back to mine.
- 12 Q All right. All right. So, when you get back from the store
- 13 what time of day is it at this point?
- 14 A It's in the afternoon.
- 15 Q Okay. Do you have any idea as to the time?
- 16 A Close to two o'clock, I would say.
- 17 Q Okay. All right. So, you left Danny's. You said you were
- 18 with Danny for an hour or a little bit better or an hour
- 19 and some change, I think was the term you used.
- 20 A Yes, sir.
- 21 Q And you got to Danny's around ten-thirty?
- 22 A Uh-huh .
- 23 Q All right. And then you left Danny's and you walked to the
- 24 store, which is about mile. Is that what you're saying?
- 25 A Yes, sir.

1 Q All right. And then you went back -- then after the store,
2 then you go back home?

3 A Yes, sir.

4 Q All right. Now, the hotdogs and chips or whatever you
5 bought, did you eat them at the store or did you ---

6 A I ate them on the walk back.

7 Q I'm sorry?

8 A I ate them on the walk back.

9 Q Okay. All right. Now, so you go back home. And tell us
10 when you get home, is anybody else home with you? And
11 you're saying this is in the early afternoon now. Is that
12 correct? You say around two o'clock?

13 A Yes, sir. Probably about one something. Close to going
14 onto one or two, but I went back over to Danny's and
15 stayed with Danny for a little while. Like I said, because
16 I mean, it wasn't any of my lights. It wasn't no lights
17 on, nothing in my trailer. So I was basically just trying
18 to be out, basically, trying to be out.

19 Q All right. And so, then you're back home around two-ish.
20 Is that what you're saying?

21 A Yes, sir.

22 Q All right. What do you do then when you get home?

23 A Just hang around and sit on my porch. I was just trying to
24 stay out. Like I say, I had no lights. So it wasn't -- I
25 just tried to do that. Sit on my porch. I talked to some

1 guys in the neighborhood, stuff like that.

2 Q Okay. So, go ahead and tell me what happened the rest of
3 the afternoon, then.

4 A Well, I was sitting on the porch and I noticed a green
5 truck coming by. And I thought to myself, said, that looks
6 like my cousin truck, you know. So I seen him and he
7 turned in and came down. I seen him. I spoke to him. And
8 when I spoke to him, he turned into the yard. And when he
9 turned into the yard, he said, what's going on? I said,
10 what up man, you know. I'm standing there talking. And he
11 explained to me that they had -- what really hit me was
12 like, man, I just had a lick. I said, what happened? And
13 then he explained to me that he was at the bank and he had
14 seen -- I know now, Mr. Murphy -- and he said he seen him
15 getting money out the bank and that he had followed him.
16 And him and Terrance had, I guess -- I thought from what
17 I'm understanding, he didn't give me any details, but he
18 was, like, basically he was saying they had a lick.

19 Q A lick. What does that mean when somebody says they hit a
20 lick?

21 A At the time I didn't know, because when I seen the jewelry
22 -- like I said, they had jewelry. I was thinking they
23 probably broke into the house. I didn't really know the
24 whole details, but I was just like, you know, I didn't --
25 it was different things. It's hard to explain.

1 Q So, they come up and they're in a green SUV.

2 A Yes, sir.

3 Q And you're having a conversation with them. Go ahead and
4 tell us what happened.

5 A So, as we are talking I noticed that -- I noticed that the
6 guy on the passenger side, which I always called him
7 Boogie. You know what I'm saying. I didn't know his last
8 name at the time. He had jewelry on his lap. And so I
9 asked to look at it and he was, man, you don't want this.
10 And they was telling me, they was asking me, you know, was
11 there a trash dump in the back. I said, yeah, there's a
12 trash dump back there in the back. I figured that's why
13 they was coming, they was going there for that. Because I
14 think Campbell stayed there at one time before and they
15 was going to the dumpster. So, I asked to look at it. And
16 while I was looking at it, when they wasn't paying
17 attention, I noticed they was looking around, they were
18 fidgeting and stuff like that, but we talking, that's when
19 I pocketed some of these little things. I kind of held it
20 my hand and didn't give it back. And so I was like, well,
21 they went to talking and man, we got to go. So, they left.
22 Q How long would you think it was from the time they pulled
23 up, after you waved at them, they pulled up, how long a
24 conversation did you have with them? The time that you
25 were standing there talking to them, what length of time

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1 was that?

2 A Ah, man, it wasn't -- I wouldn't say ten minutes.

3 Q Okay. Okay. Now, what items did you take from them? You
4 said that you reached in and got some items. What did you
5 get?

6 A It was a necklace. It was like two necklaces, I think. A
7 couple of necklaces.

8 Q Okay. All right. And what did you end up doing with the
9 two necklaces that you got?

10 A Well, later on that night, I'm in my trailer and like I
11 said, I have no lights and it's cold. It was very cold. So
12 I said, you know what? I'm going to get rid of this.
13 Really, I had intentions to give it to my girlfriend, my
14 ex-wife, you know what I'm saying, but I was like, no,
15 I'll get me a motel room. So, that's when I went next door
16 to my neighbors house, Tasha McNeil, my neighbor, and I
17 sold it to her. And she ---

18 Q How much did you get for it from Tasha McNeil?

19 A She said it was a hundred-fifty, but it was like eighty
20 dollars.

21 Q And now let's go back. When they were in, at the house,
22 when they were at the trailer park and you were having
23 conversation with them, did either of them have a weapon
24 of any type that you saw?

25 A I seen -- you know, the first time when I walked up to the

- 1 truck, I walked up to my cousin's side of the truck,
2 because I didn't hardly know the passenger like that. I
3 knew of him. I didn't know him. And I walked up to the
4 driver's side and I was speaking to my cousin. I noticed
5 on his lap he had, like, a shirt over, like, a gun, but
6 all I could really tell was -- I could tell it was a gun
7 but I couldn't really, you know, give like a full
8 description of a gun. You know, like he had it, had it
9 like this, you know, in his lap and I was talking to him
10 and I knew he had a gun in his lap.
- 11 Q Now, after you -- and let me, let me go back. What time of
12 day or night was it that you went to Tasha McNeil to sell
13 her the jewelry items that you had?
- 14 A Probably about twelve, one o'clock.
- 15 Q Okay. And how many pieces of jewelry did you have, did you
16 get from them?
- 17 A Two.
- 18 Q Two pieces? All right. Let me show you what's been marked
19 as State's Exhibits #3D and #3A. Take a look at those for
20 me.
- 21 A Yes, sir.
- 22 Q Do you recognize either of those?
- 23 A Yes, sir.
- 24 Q Which one or both?
- 25 A Both.

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1 Q Okay. And are those the two pieces of jewelry that you got
2 from them and sold to Tasha McNeil?

3 A It looks like it. That's about it. That's it.

4 Q Now, let me ask you. After -- and I was asking you
5 earlier, what time of day or night was it that you went to
6 Tasha McNeil to sell her the jewelry?

7 A Probably about -- it was late at night. It was probably
8 close to twelve or one o'clock, maybe two o'clock. It was
9 late in the night, though. Probably close about to twelve
10 or one o'clock. I'm going to say between that time.

11 Q Between two o'clock or two-ish, as you say when you got
12 back from the store until the time that you met with the
13 people in the green vehicle, did you go anywhere else?
14 Did you leave the house or go anywhere other than in the
15 yard?

16 A Like I said, I stepped in to go to Danny's. I stayed over
17 there for about probably about thirty, forty-five minutes.
18 I don't really recall how long but not even -- probably
19 about, you know, twenty or thirty minutes, I'd say.

20 Q Okay. Did you ever leave the trailer park ---

21 A No, sir.

22 Q --- anytime after that?

23 A No, sir.

24 Q All right. So, then after you get the jewelry, what do you
25 do the rest of the evening between the time that you get

1 he jewelry and the time that you go to sell it to Tasha
2 McNeil?

3 A I stay in the trailer park.

4 Q All right. You stayed at your place?

5 A Yes, sir. I go to certain friends house, stuff like that.

6 Q All right. Now, let me ask you about your cousin Greg
7 Campbell.

8 A Yes, sir.

9 Q And who -- well, let me back up. Who was the driver of the
10 green vehicle that came to your house on March 3rd?

11 A Campbell.

12 Q All right. And who was the passenger with Mr. Campbell?

13 A Terrance.

14 Q All right. And you knew him as Boogie, that's what you
15 said?

16 A That's what everybody called him on the street, Boogie.

17 Q All right. Now, tell me about Mr. Campbell. Are y'all
18 related and if so, how?

19 A First cousins.

20 Q You're first cousins?

21 A Yes, sir.

22 Q All right. And how are you first cousins?

23 A His mom and my grandma are sisters.

24 Q His mom and your grandma are sisters? Okay. And so did
25 y'all grow up together? Do y'all live in close proximity

1 to each other?

2 A We grew up together, you know, but not living together. We
3 grew up together, though.

4 Q Okay. And you grew up in the same community?

5 A No, he grew up in North Florence. I grew up in Savannah
6 Grove.

7 Q Okay. Now, had you had any contact with Greg Campbell
8 before this incident on March 3rd?

9 A Yes, sir.

10 Q Okay. Tell us about that.

11 A Well, I'd say the end of February he came by my house and
12 he had just got some tax money from one of his females and
13 he was like he wanted me to hook up his speakers and stuff
14 in his truck, an amp and stuff like that. That's what I
15 like to do. I hook up electronics you got, you know,
16 speakers and stuff, people that don't understand, assist
17 them. Tint your windows, stuff like that and that's what,
18 that was probably the last week of February, I would say.

19 Q Okay. All right. So, he came to you to hook up some
20 speakers. And that would have been in February, you think?

21 A Yeah. I know it was in February.

22 Q All right. And tell me about that. What did y'all do?

23 Well, first tell me where did this take place and then
24 tell me what you did.

25 A It took place at my trailer right there. Like I said, he

1 had just bought some speakers. One of his girls had gave
2 him -- they'd got their tax money and he was wanting him
3 some speakers and other stuff and, you know, I'm pretty
4 good at that. So, we played around in the yard for a few
5 hours and I hooked up the speakers. The only time that I
6 can recall ever coming in contact with the tape that they
7 found at his house, because he had that tape that day and
8 that's what we was using.

9 Q All right. To wire the -- to put on the on ---

10 A Well, when you running wires from the front to the back,
11 you want to hold them together and stuff like that. So,
12 that's why I was asking could they check his truck,
13 compare it to that, but you said it's too late for that.

14 Q Okay. So, you used the tape to wire his truck?

15 A Yes, sir.

16 Q All right. And that was whose tape?

17 A Campbell's.

18 Q And had you -- other than doing that with the tape, had
19 you had any other contact with that tape, whatsoever?

20 A No, sir.

21 Q Now, let me ask you to go back with me, back to March 3rd.
22 Did you ever go with Greg and/or Terrance to the bank on
23 March 3rd?

24 A No, sir.

25 Q Did you ride in the car with Greg and/or Terrance on March

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1 3rd?

2 A No, sir.

3 Q Did you ever go to the home of Mr. & Ms. Murphy on March

4 3rd?

5 A No, sir.

6 Q Now, let's go forward a little bit. At some point in time,

7 the police came to you to arrest you. Is that correct?

8 A Yes, sir, they did.

9 Q And that would have been around March 14th?

10 A Yes, sir.

11 MR. JEPERTINGER: Your Honor, he is leading his witness.

12 THE COURT: I'll sustain.

13 MR. WILSON: I was just trying to move things along.

14 Q But let me ask you this. Do you know when it was that the

15 police came to you and arrested you?

16 A It was March 14th at my mother's house. I was still

17 waiting on that tax money so I just got -- I was tired of

18 staying in the trailer like it was, trying to wait on my

19 tax money, so I went and stayed at my moms, because she

20 was at her mom's and I don't get along with her mom like

21 that, but she all right. But shacking up under her roof, I

22 just felt like I got to go to my mama house and we'll go,

23 proceed from there.

24 Q All right. So, tell me about when the police came to

25 arrest you on March the 14th.

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1 A I thought it was for child support myself, really. Because
2 I had got a summons, some child support papers probably a
3 few days or a week before and I was waiting on my tax
4 money. So, I didn't want to go to jail until I get my tax
5 money. You know what I'm saying? I didn't want to go --
6 you know, I knew if I could get my tax money I could pay
7 it off or whatever was going on. So, when I seen them, I
8 ran. But then when I thought about it, I said -- then I
9 could hear them. I said, man, hold on, man. Something --
10 this is, you know, I could hear other polices. So, I'm
11 like, man, let me come out of these woods. See what's
12 going on. So, that's when I came out the woods and I
13 approached, I think that was Bannister and I was telling
14 him that it's for child support. Hey, I'm -- you know,
15 let's get this over with.

16 Q So now -- and they arrested you at that point?

17 A Yes, sir, they did.

18 Q All right. Now, when you got arrested on the 14th, did the
19 police ask you about talking to you about the medallion
20 and about whether you knew anything about the robbery?

21 A Yes, sir, they did.

22 Q Okay. All right. And did you tell them at that time that
23 you knew anything about it or not?

24 A No, I didn't. I didn't. I was figuring I didn't say
25 anything. You know, I didn't want to, basically, tell on

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1 my cousin. They asked me. I said, I ain't never seen it
2 before. I didn't want nothing to do with it. I was like, I
3 ain't seen it. And then -- and they didn't -- see, at this
4 time they never told me what they had me for. They never
5 gave me any warrants. They never -- I kept asking, what's
6 going on? They never told me and then they showed me these
7 pictures and they kept asking me all these questions and
8 I'm like, man, I don't know what y'all talking about, man.
9 And I do -- but I'd seen it and I knew then, but I was
10 like, man, the only thing they can charge me with is
11 receiving stolen goods, but I wasn't going to say nothing
12 about my cousin. So, I just left it alone. And then they
13 took me to the jail. When I got to the jail, I was looking
14 at them charges. I say, I can't go down for this. I'm not
15 -- I mean, I thought the only thing they were going to
16 charge me with was receiving stolen goods. Okay. So, I
17 tried to contact -- this was late Friday. This was on a
18 late Friday.

19 Q Late Friday when you were arrested?

20 A When they gave me the warrants and took me to jail and
21 when I got to the jailhouse, I'm trying to get in contact
22 with Investigator Justin Head, but he -- I can't get in
23 contact with him. So, Monday morning I got one of the
24 officers at the jailhouse to contact him and I told him
25 who I got it from, what happened, everything.

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1 Q So, let me back up. So, on the 14th, you told them you
2 didn't know anything about it. Is that right?

3 A Yes, sir.

4 Q And then on -- at some point in time after the 14th,
5 between Friday and Monday, you contacted them?

6 A I was basically trying to contact them that same Friday
7 but I guess they don't work on the weekend. He wasn't at
8 work. That's why it took until Monday. It would have been
9 that Friday, it would have been, but I couldn't get in
10 contact with them.

11 Q Okay. Now, and so when you talked to them on the 17th,
12 which would have been on Monday. Is that correct?

13 A Yes, sir.

14 Q All right. And is that the statement that was played for
15 the jury in court that you gave them at that point in
16 time?

17 A Yes, sir.

18 Q And is that still the truth what you told them on the
19 17th?

20 A Yes, sir. It is.

21 Q Now, let me ask you if at some point in time in your
22 conversation with the police on the 17th, did you also
23 tell them about Danny?

24 A Yes, sir, I did. I told them, y'all can go to Danny. I was
25 telling them, go to Danny. Go on his laptop and get the

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1 time to see that I was with him to verify that I'm with
2 Danny. They said, well, we going to go talk to Danny.
3 Don't worry about it. We going to go talk to Danny. They
4 never talked to Danny just like they never went and did
5 anything about Terrance. They said Terrance didn't exist
6 for a year. A year-and-a-half they said there was no
7 Terrance. They said there's no Terrance on this case. He
8 don't exist. You the short guy. You said -- they wanted me
9 to say I be him. They ain't never went back. They never
10 went back to Danny and said, hey, Danny, was Michael with
11 you where we could look -- I told Investigator Justin Head
12 and he tell me they can't go back on the computer and
13 check that out. That's what he tell me.

14 Q Now, during the time that -- after your -- well, I mean,
15 on the 17th after you gave them a statement, did you make
16 a phone call?

17 A Yes, sir, I did.

18 Q All right. Tell us about that.

19 A Well, they want -- they want to say -- they trying to see
20 -- they trying a bit of a phone conversation but they not
21 playing all the phone conversation. They trying to say
22 this is a unknown caller that they can't get in contact
23 with because they don't want this person to come testify
24 on my behalf for me, on my defense. Which is what it was,
25 I had told them, when I told them I was afraid for mom and

1 my sister, cause I know that if these know that I have
2 told on them, that I was afraid they was going to shoot my
3 mama. I said, I'm responsible for my mama and my sister.
4 And they said -- so I called this guy. I said, hey, man.
5 Tell them boys not to say nothing. All right. So, then,
6 when I called him back, I said ---

7 Q You say when you called who back?

8 A The same guy. See, they ain't played -- this is the phone
9 call they didn't play for y'all. They didn't play this one
10 for y'all. I said, man because I don't want them boys --
11 and I told them before they get locked up and they by and
12 they shoot my mama house up and try to do something to
13 mama to try to keep me from talking. Keep me from telling
14 on them what they done did. See, they didn't play you
15 that. See, they trying to deceive. They trying to take one
16 little thing and play a little part of it but not playing
17 everything.

18 Q So let me ask you something. You're saying that you had a
19 conversation -- I'm a little confused. Who was the
20 conversation with you said that you had about the phone
21 calls? Who were you talking to?

22 A I called my friend Ron.

23 Q Okay. All right. And what did you say to Ron?

24 A Well, when I first called Ron, I had free sixty-minute
25 calls -- free sixty-second phone calls. And I told him I

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1 said Ron, listen to me man. Call my cousin and tell my
2 cousin and them not to say nothing. Then the phone went
3 off. He was trying to finish and it went off. So I called
4 back. And he was like, man, what's going on. I said man,
5 listen here man. I don't want them boys to try to go by my
6 mama house and do nothing, because I already done told
7 them, I done told them I don't want them to go by and
8 shoot my mama house up or do something to my mama and them
9 house before they get arrested.

10 Q So, you made that second phone call the same day or a
11 different day?

12 A Same day.

13 Q Same day. How far apart were those two phone calls? In
14 time, I'm talking.

15 A I don't know, five or ten minutes. I don't know.

16 Q Okay. All right. And do you know whether or not all of the
17 phone calls at the jail are recorded?

18 A They should be, yes, sir.

19 Q All right. Now, let me ask you -- so after you made the
20 phone call, did you ever speak directly to Greg Campbell
21 or to Terrance?

22 A No, sir.

23 Q Let me ask you. In regards to -- well, let me back up for
24 just a second and ask you this way, I guess. Explain your
25 purpose. What was your purpose in calling Greg Campbell or

1 calling somebody to get a message to Greg Campbell? What
2 were you trying to accomplish?

3 A Well, basically, I didn't want him to think that I had
4 told on him, but I wanted him to think that they had found
5 out about him from different means until they locked them
6 up. That way, I wouldn't have to worry about him going by
7 my mama and them's house and shooting up my mama and them
8 house and doing something to my little sister and my mama.

9 Q Okay. All right. And did you ever share that with the
10 police, your concerns or your fears about what they might
11 do?

12 A On, I guess, on March 17th, I told them that I was
13 concerned for my mama and my sister's safety.

14 Q And who were you talking to when you say you told "them"?
15 Who is "them"?

16 A The investigators that had interviewed me, that came and
17 talked to me. I believe that was Investigator Justin Head
18 right there and I don't remember the other guy.

19 Q Okay. And did they respond to that, at all?

20 A Oh, they reassured me. Oh, we gonna get these guys. We
21 gonna do all this. You don't have to worry about it. We
22 gonna get them, but they never did. They never locked,
23 they never locked Terrance up. I stayed in jail a year and
24 a half. He just got locked up two weeks ago and that's not
25 good. And they said there never was no Terrance on this

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1 case. They never told them, nobody about the Terrance.

2 They never did anything about Terrance. That man did it.

3 Q Now, one second.

4 MR. WILSON: If the Court would bear with me just one
5 second. I just need to find a document.

6 THE COURT: Certainly.

7 Q Let me show you what's marked as State's Exhibit #10. Take
8 a look at that for me.

9 A Yes, sir.

10 Q Do you know what that is?

11 A Yes, sir, I do.

12 Q All right. Tell me what it is?

13 A It's a letter that I addressed to you and Investigator
14 Justin Head.

15 Q I'm sorry. Go right ahead.

16 A It was a letter that I addressed to you and Investigator
17 Justin Head.

18 Q Okay. And I want you to read it for me.

19 A It says: Let them know that Michael is willing to admit to
20 being present and being the one who was ordered to put the
21 duct tape on. That it was Campbell's idea because he was
22 in the bank and thought the man was depositing the money,
23 that I went along with him and followed him into the
24 residence and would be willing to testify to this. I'm
25 ready to end this and move on with my life.

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1 Q Okay. And was that the entirety of the letter that you
2 wrote?

3 A No, sir, it isn't.

4 Q Okay. What else was in that letter?

5 A Basically ---

6 MR. JEPERTINGER: Your Honor, I have a matter to take up.

7 THE COURT: Mr. Foreman, ladies and gentlemen of the jury,
8 I'm going to ask you to retire to the jury room but do not
9 discuss the case.

10 (Jury out at 10:09 AM)

11 MR. JEPERTINGER: Your Honor, I don't -- my objection would
12 be to any part of that letter, of him going into that letter in
13 terms of plea bargain and all that other stuff that was
14 redacted out per the Court's order. Now to be able to get into
15 it, Judge. I took out -- because part of that, as you recall,
16 was an incidental, a supplemental report that he included --
17 and I think that's Court's Exhibit #9 that was included in
18 there, that he mailed, that because of the redaction Judge, was
19 only included, that redacted portion and the third page of
20 April 24th. And now he's going to get into it. I would feel
21 that I can get into everything, including the incidental
22 supplemental report where he gives an inconsistent statement of
23 what he just testified about today.

24 THE COURT: Mr. Wilson?

25 MR. WILSON: Your Honor, first of all, the Defendant has

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1 every right to testify about what he did and what he said. And
2 any documents that he's offered are completely within the realm
3 for admissibility. Additionally, as far as I know, the
4 supplemental report that he's speaking of was not done by the
5 Defendant. It was not created by the Defendant. That was a
6 police department document that was attached, which is totally
7 different and supplemental reports are not admissible for any
8 reason that I'm aware of because it wasn't authored by this
9 Defendant. It was authored by somebody from the police
10 department.

11 MR. JEPERTINGER: Well, he underlined that portion. That
12 was something that Brooks did. He underlined that portion
13 specifically giving an inconsistent statement of what he's --
14 about what he's testified today and if he's allowed to go into
15 any part of that letter, Judge, I should be allowed to go into
16 that incidental supplemental report under, I think, Rule 613 as
17 an inconsistent statement, Judge. And he's already testified. I
18 think under Rule 613, Your Honor, in section(b) Extrinsic
19 evidence of a prior inconsistent statement by a witness is not
20 admissible unless the witness is advised of the substance of
21 the statement, the time and place it was allegedly made and the
22 person to whom it was made. And that would have been part of
23 his March 19th statement that we didn't get into, but now I
24 think he's opened the door.

25 MR. WILSON: I don't think there's any question that they

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1 can ask him about any other statements now if he's on the stand
2 and he's testified. They can ask him about any other statements
3 that he's given and they can play them as far as I'm concerned.
4 I have absolutely no problem with that, whatsoever, because I
5 think it confirms everything that he has said, which is why
6 they didn't offer them in the beginning.

7 THE COURT: I'm going to -- if you're going to get into --
8 you know, initially, you specifically wanted the redacted. And
9 really, it was an accommodation to you because you objected to
10 conversations about the plea bargain, but now you want to get
11 into it. Is that correct?

12 MR. WILSON: Yes, sir.

13 MR. BROOKS: Listen, Your Honor, I ---

14 THE COURT: No, it's not your turn to talk. Apparently,
15 there's been a change in strategy because you specifically did
16 not want that in earlier but now you do.

17 MR. WILSON: I didn't want any of it in.

18 THE COURT: Right.

19 MR. WILSON: In fact, I argued to the Court that the whole
20 document should be excluded, but that if the Court was going to
21 admit any of it, that I would then prefer the redacted copy.

22 THE COURT: Okay. But now you want the entire ---

23 MR. WILSON: Yes, sir.

24 THE COURT: Okay. Well, if you want the entire thing in, it
25 comes in along with the supplemental report because he was

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1 making reference to it and he underlined it. And so that hah
2 been incorporated into his correspondence and you can point out
3 that he ---

4 MR. BROOKS: Your Honor, excuse me.

5 THE COURT: No. This isn't your time to talk.

6 MR. WILSON: The problem I'm having. The problem I have,
7 Your Honor, is this. Is that the supplemental report is not a
8 report that was done by this Defendant and supplemental reports
9 are generally not admissible for any reason, just like warrants
10 are not admissible. And in this case, it's hearsay upon hearsay
11 because whoever -- I don't even know who authored it. I don't
12 now who wrote it. I don't even know when it was written. The
13 only thing that they're saying is that well, this Defendant
14 underlined something that was done by somebody and attached it.
15 That is not -- I don't see how that can possibly be relevant,
16 what somebody else wrote at some other time and we don't even
17 know who the author was. I don't understand that. If the Court
18 rules that that's the -- what, you know, if that's the Court's
19 ruling then obviously I will abide by it and I will accept
20 whatever the Court says. I would take exception to it, but I
21 understand the Court's ruling if that's what the Court's ruling
22 is.

23 THE COURT: Mr. Jepertinger?

24 MR. JEPERTINGER: I think I've expressed my opinion, Judge..
25 I think it comes in.

1 MR. BROOKS: Your Honor, may I have a moment with my
2 lawyer?

3 THE COURT: No, you may not.

4 MR. WILSON: And, Your Honor, one last thing in regards to
5 this and we raised this the other day. I have no recollection
6 of this second part of that.

7 THE COURT: I tell you what I'm going to do. I'm not going
8 to allow in the report. However, to the extent they want to
9 reply and address whatever issues have been brought up in his
10 testimony, the State can address it in whatever fashion they
11 want.

12 MR. WILSON: Thank you, sir.

13 THE COURT: I think that's the appropriate way to do it.

14 MR. WILSON: I don't have any problem with that.

15 THE COURT: And if he -- I think that would be the
16 appropriate way to do it. And so I'm not going to allow in the
17 incident report. However, if they want to address those issues,
18 in reply they can. But you can get into whatever you want to
19 with regard to the balance of the letter.

20 MR. WILSON: Thank you very much, Your Honor.

21 THE COURT: We're ready for the jury.

22 (Jury in at 10:17 AM)

23 THE COURT: Mr. Wilson, you're recognized.

24 MR. WILSON: Thank you very much, Your Honor.

25 Q All right. I'm sorry. And let's go back. We were talking

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1 about what was marked as State's Exhibit #10, I think it
2 was, and I think I'd asked you whether or not that was a
3 letter that you had written.

4 A Yes, sir, it was.

5 Q All right. Now, is that -- what you're holding there, is
6 that the entirety of the letter?

7 A No, sir.

8 Q Let me show you this. Take a look at that document.

9 A Yes, sir, I did.

10 Q All right. If I can have it back.

11 MR. WILSON: Your Honor, we'd offer this document at this
12 time as Defendant's Exhibit #1.

13 THE COURT: Defendant's Exhibit #1. Any objection from the
14 State?

15 MR. JEPERTINGER: Subject to my previous objection.

16 THE COURT: All right. It's into evidence over the State's
17 objection.

18 (Whereupon, a statement from 4/17/15 is entered into
19 evidence as Defendant's Exhibit #1, over objection)

20 Q All right. Now, I want you to take that document. And that
21 letter was written when?

22 A April 17, 2015.

23 Q All right. And I want you to read the letter in its
24 entirety that you wrote.

25 A Dear Justin Head and Ralph Wilson, my attorney. How are

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1 you doing? You, Justin, told me in your interview if I
2 wasn't the one holding the gun then you would have my
3 charges lowered. I do not know now my DNA got on the tape.
4 Q I need you to slow down and talk into the microphone
5 because you're mumbling.

6 A Okay. I do not know how my DNA got on the tape that was
7 used on those people, but I have a feeling that you and
8 Bannister did that. I'm ready to end this nightmare and
9 drop this law suit. Here's my offer. You talk to my lawyer
10 and the Solicitor. Let them know if Michael is willing to
11 admit being present, being the one who was ordered to put
12 the duct tape on, that it was Campbell's idea because he
13 was in the bank and thought he was depositing money. That
14 I went along with him and followed him into the residence.
15 And I will be willing to testify to this. I am ready to
16 end this and move on with my life. In order to plead to
17 accessory, saying I was Campbell's accompish. And I'll
18 plead to anything between five and ten years. I will do
19 this instead of having SLED look into when the items were
20 sent off, which is my DNA or still getting my case
21 dismissed for warrant-less unconstitutional arrest or bad
22 faith warrants or false arrest. If I can go ahead and set
23 this meeting up and get an agreement from the Solicitor,
24 then I will give my statement against Campbell, go ahead
25 and plead, so I can go up the road and be called back to

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1 trial when I am needed. Below is my lawyer's name and
2 number.

3 Q And you wrote that letter?

4 A Yes, sir, I did.

5 Q Tell us why you wrote that letter to your attorney and to
6 the investigator.

7 A Well, I had lost my faith. I had been in jail over a year.
8 They was telling me there was no Terrance on this case.
9 They wanted me to be the short guy. So I said, well, they
10 telling me they gonna -- they made me a promise. Well, if
11 you said you don't have the gun, we'll lower your charge
12 and let you go. They telling me, man, hey man, you're to
13 take life, man. You better take it. So, I lost faith. But
14 my daddy came and visit me. My daddy came and visit me. He
15 said, son, if you ain't did it and if you innocent then
16 don't plead. So, I thought about it said, okay. I ain't
17 going to plead. I'm going to take it to trial. I prayed
18 about it. I put it in that man's hand. I started walking
19 by faith not by sight. Two weeks ago, not six months ago,
20 not a year ago, not a year-and-a-half ago, two weeks ago,
21 the guy that they said never was on this case, Terrance
22 appeared on this case. That's how I know God is great.
23 Q Now, when you started cooperating with the police, what
24 was your understanding of the agreement that you thought
25 you had with them?

- 1 A Well, they want -- like I say, they was saying there
2 wasn't no Terrance, that I was lying about it. He don't
3 exist. Nobody know -- they say he don't exist. You're
4 lying. Okay. They said, well, we'll make you a promise.
5 We'll talk to the Solicitor to lower your charges if you
6 indeed wasn't the one holding the gun. So, they wanted me
7 to say I was just this little short guy that did this
8 crime. So, I said, well, man, if I can get home, get this
9 behind me in time. I gave up. I gave up. I lost my faith.
- 10 Q Let me ask you this. How many times do you think it was
11 that you actually met with the police and had
12 conversations with them about these charges?
- 13 A Maybe four.
- 14 Q Okay. And do you know when you were supposed to get out on
15 bond?
- 16 A I never had one.
- 17 Q Yeah. I know. Were you ever told when you were supposed to
18 get out?
- 19 A May 5th.
- 20 Q All right. You were supposed to get out on May 5th. Why
21 was that?
- 22 A No, I had a bond hearing for May the 5th. And that's when
23 he told the Judge. Your Honor, we do not believe there's
24 no Terrance on this case.
- 25 Q And when you say "he", you mean Justin Head?

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1 A Yes, sir.

2 Q All right. And now let me go back and just so that we're
3 clear. Was there ever a time when you were in Mr & Ms.
4 Murphy's home, ever?

5 A No, sir.

6 Q Did you ever take a gun and put it to Ms. Murphy's head or
7 to Mr. Murphy's head at any point in time, ever?

8 A No, sir.

9 Q Prior to your bond hearing, had you ever met Mr. or Ms.
10 Murphy or seen Mr. & Ms. Murphy?

11 A No, sir.

12 Q Now, is everything that you said here today been truthful?

13 A Yes, sir.

14 Q Is this the same story that you told the police back on
15 March 17th and going forward?

16 A Well, they was -- basically, I was -- I didn't want, like
17 I was saying, I didn't want to put myself -- I didn't want
18 to get involved with it at first. So, I really didn't tell
19 them what happened at the beginning, but I did come
20 forward and I told them what happened.

21 Q Okay. All right. And as a result of your telling them what
22 had happened, what were your expectations? What were you
23 expecting to happen?

24 A Oh, I thought they was going to get the guys who did the
25 crime and let me go, but they never did. And they coming

1 to me and saying well, if you say this or I don't believe
2 you. So they were saying I don't believe you so I was like
3 well, they not going -- they're telling me they're not
4 going to drop the charges against me. They weren't going
5 to drop the charges against me so I had better start
6 figuring out what I'm going to do to save me because they
7 didn't try to, they didn't try to locate no Terrance. Like
8 I said, until two weeks ago, there was no Terrance. They
9 didn't even go look for no Terrance. They never did. Just
10 like they never went and go talk to Danny.

11 MR. WILSON: Your Honor, would you bear with me just one
12 second, please?

13 Q Just hand those documents back to me, please?

14 A (Witness complies)

15 Q Just let me ask you this: When the police talked to you,
16 did they read you your rights?

17 A They give me a paper to sign.

18 Q And so when you gave those statements you understood what
19 your rights were and that you didn't really have to talk
20 to them if you didn't want to. Did you understand that?

21 A Yes, sir.

22 Q All right. And you, in spite of that you did talk to them?

23 A Yes, sir.

24 Q And how many times? You say you talked to them more than
25 once. How many times, if you know?

1 A I want to say four. At least three or four.

2 Q All right. And tell us, in those conversations what were
3 they wanting to know from you?

4 A Well, they just kept wanting me to say that I had
5 something to do with this crime. We know you had something
6 to do with this crime and that was it. Well, we -- you
7 going to be charged and all that. And they just would not
8 believe that there was somebody else in this crime.

9 Q Did you ever tell them that you had something to do with
10 this crime?

11 A Yes, sir, I did.

12 Q All right. Tell us about that.

13 A Well, I told them -- he was like, well, if you tell us you
14 ain't had the gun, maybe you was driving. Okay. If you was
15 driving, then I can go ahead and try to get you, you know,
16 get the charges lowered and get you out. I said, okay.
17 Yeah, I was driving. So, then, I was like, okay. He was
18 like well, I don't believe that. I said, man, I don't know
19 what else to tell you man. I'm just telling you whatever
20 you want to hear from me to get out of jail.

21 Q All right. And you told them that?

22 A Yes, sir, I did.

23 Q And did they ever let you out?

24 A No, sir, they didn't.

25 Q All right. Now, the clerk during the State's case

1 introduced a record for a violent felony and I think that
2 was a burglary. Is that correct?

3 A Yes, sir, it was.

4 Q All right. And when was that?

5 A Back in -- well, it happened -- it happened in 2011, but I
6 didn't get arrested for it until 2012.

7 Q Okay.

8 A And then I didn't get sentenced for it until December
9 2012.

10 Q Tell us about it.

11 A Well, I don't know how all y'all live, but at this time I
12 was going through it with my wife. We would still mess
13 around and still diddling with each other, but we wasn't
14 together, but we was still diddling around. And we said,
15 you know, I don't want you messing with somebody. And so,
16 you know how it is. You still trying to mess with
17 somebody, but you're still saying, oh, you don't care
18 about them and stuff like that, but when they got somebody
19 over there, you loose it. You know what I'm saying? And
20 that's what happened. She had somebody in the house, which
21 my name was on the lease and -- my name was on the lease
22 and I paid every bit. All the bills were in my name. And I
23 wanted to come over. She had somebody over and I tried to
24 bust the window out of the house and go in and fight the
25 guy.

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1 Q I don't have any other questions. Answer any questions Mr.
2 Jepertinger might have for you.

3 THE COURT: Mr. Jepertinger, you're recognized.

4 MR. JEPERTINGER: Thank you.

5 CROSS EXAMINATION

6 BY MR. JEPERTINGER:

7 Q Okay. Mr. Brooks, you had -- I think Mr. Wilson just asked
8 you if you had a conviction for a burglary in 2012.

9 Correct?

10 A Yes, sir.

11 Q And you're saying it was going into someone's house over a
12 situation with your wife. Correct?

13 A Mr. Solicitor, you know what it was about.

14 Q Yeah. Okay. But there was no situation with your wife back
15 in 2006 when you got a conviction for robbery. Correct?

16 A Common law robbery, yes, sir.

17 Q That wasn't dealing with your wife, was it?

18 A No, sir.

19 Q Nor was there any situation dealing with your wife when
20 you got a conviction for possession of cocaine back in
21 2008?

22 A No, sir.

23 Q All right. In fact, I think you kind of hit the nail
24 square on the head, did you not? On your March the 17th
25 statement, what this is all about is, that I can't take no

1 charge. Did you say that?

2 A If that's what you say, sir.

3 Q It's not what I said. It's what you said.

4 A Yes, sir.

5 Q In fact, this whole case is about you not wanting to take
6 the charge. Is it not?

7 A I'm not taking somebody's charge, no, sir.

8 Q All right. Now, let's get this out of the way. This
9 Defense Exhibit #1, your words that you read to this jury.
10 I do not know how my DNA got on the tape that was used on
11 those people, but I have a feeling you, referring to Head,
12 and Bannister did that. Correct?

13 A Yes, sir.

14 Q And the date of that letter was April the 17th, 2015.
15 Correct?

16 A Yes, sir.

17 Q And obviously you had Mr. Wilson as your attorney at that
18 time and for some time way before that. Isn't that
19 correct?

20 A Yes, sir.

21 Q So, you don't know how the DNA got on the tape, but today
22 you testified that oh, the DNA got on the duct tape back
23 in February of 2014, a year before that. Greg Campbell
24 came over to work or have me work on the speakers of his
25 car or his vehicle and I used that duct tape. That's how

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1 my DNA got on that duct tape. Isn't that what you
2 testified to this jury this morning?

3 A I said that's a possibility, sir.

4 Q So, the possibility for you is either that the police
5 planted it or it was used, touched, this duct tape roll,
6 was used back in February of 2014. That's the only way
7 your DNA got on it?

8 A I think they heard yesterday when they did the ---

9 Q No, answer my question.

10 A --- when they did ---

11 Q Answer my question. Is that your two theories?

12 A That's the only way I know, sir.

13 Q When you touched the roll back in 2014, in February, you
14 pulled off a strand to tape whatever you were taping.

15 Correct?

16 A Yes, sir. I was taping wires all through the truck.

17 Q You pulled off a strand or various strands and used it on
18 the vehicle. Correct?

19 A Yes, sir.

20 Q And there would have been no way that the separate strands
21 that were used to bind Mr. Murphy's hands could have been
22 used, re-used from what you touched on that car. Correct?

23 A I don't understand. Clarify.

24 Q Oh, very, very simple. I'm going to use this masking tape.
25 You cut this tape, use it for the car. (Demonstrating) You

- 1 cut this tape, use it for the car. How in the world if
2 that's the only stuff you touched, how in the world did
3 your DNA get on the wrists of Larry Murphy with a new
4 strand unless you touched those? Do you have any idea?
- 5 A I guess if I give it back.
- 6 Q If you give it back?
- 7 A Ain't that strand in your hand right there the one you
8 touching now?
- 9 Q Absolutely. Absolutely. And at that same point, you didn't
10 mention that Boogie Baker, whose name you didn't know,
11 Terrance, was also at your house helping you to put the
12 speakers in?
- 13 A No, I didn't.
- 14 Q He wasn't there. All right. Now, you did speak to the
15 police officers, did you not?
- 16 A Yes, sir, I did.
- 17 Q On March 14th you told them, I know nothing.
- 18 A Yes, sir.
- 19 Q On March 17th we hear your statement. Correct?
- 20 A Yes, sir.
- 21 Q Then the question Mr. Wilson had for you, this was the
22 same story going forward from March the 17th, 2014.
23 Correct? The same story that you told the jury here this
24 morning?
- 25 A No, sir, it wasn't.

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1 Q Well, March 17th, 2014, and the story you told to the jury
2 today wasn't the same story?

3 A I never told them anything on March 14th.

4 Q No, I'm talking about March 17th. The same story, going
5 forward on March 17th. Was that the same story that you
6 told the jury today?

7 A Yes, sir.

8 Q Okay. March the 19th, you told Justin Head you were the
9 driver.

10 A Yes, sir.

11 Q April 7th, you write this letter to Head saying, I'm ready
12 to end this nightmare and drop the lawsuit. Here's what
13 I'm offering you to talk to my lawyer and Solicitor. Let
14 them know Michael's willing to admit to being present and
15 being the one who is ordered to put the duct tape on. That
16 it was Campbell's idea because he was in the bank and
17 thought the man was depositing the money. You were willing
18 to testify to that against Campbell?

19 A Yes, sir.

20 Q And you would say it was not true?

21 A No, sir, it wasn't.

22 Q So, you'll just stick it on Campbell because you don't
23 want to take no charge?

24 A No, no. They was saying there was no Terrance.

25 Q Okay. Let's talk about that. March 27th you talked to the

1 police.

2 A Yes, sir. Yes, sir.

3 Q And you denied any involvement in this crime. Correct?

4 A Yes, sir. I don't remember the 27th.

5 Q All right. Do you not recall on June the 16th, 2014,

6 Justin Head going to you at the jail to see if you would

7 be willing to identify Baker as the third party involved

8 in this crime? That he read you your Miranda rights and

9 you refused to speak to him about the incident?

10 A And what did I say?

11 Q You refused to sign the form and refused to speak to Head

12 about this incident back on March the -- excuse me -- June

13 the 16th, 2014. Do you recall that?

14 A Yes, sir, I did. I said I would like to have my lawyer

15 present.

16 Q You did not say -- you refused to sign the form, refused

17 to speak with him. Correct?

18 A I said I would like to have my lawyer present.

19 Q Did he ask you about Baker?

20 A I told him I wanted to have my lawyer present before I ---

21 Q Did he ask -- answer my question. Did he ask you about

22 Baker?

23 A He did.

24 Q Now, you say you and Danny are just good friends. Correct?

25 A Yes, sir.

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- 1 Q What's Danny's last name?
- 2 A I don't know.
- 3 Q Real good friends. Just like you didn't know Terrance
- 4 Baker's name. Correct? His last name?
- 5 A Yes, sir.
- 6 Q A very good friend. You go over to his house. You check on
- 7 your tax return. Right?
- 8 A Yes, sir.
- 9 Q You're there, you stay all day, that they need to talk to
- 10 Danny. Are you going to have Danny testify for you here?
- 11 A I wish he would.
- 12 Q Okay. Well, I'm sure this jury wants to hear from him.
- 13 There was no reason that you couldn't get him. Correct?
- 14 A I don't know. I explained that to my lawyer. I don't know
- 15 why -- y'all got everybody else here. I don't understand
- 16 why he wasn't here. I asked for him to be here.
- 17 Q Uh-huh. And Ron, your dear friend on the phone call ---
- 18 A Yes, sir.
- 19 Q You know him?
- 20 A Yes, sir.
- 21 Q You know his last name?
- 22 A I think -- I mean, I know it. I'm not quite sure. I know
- 23 his last name, but I'm not familiar with his, exactly,
- 24 last name.
- 25 Q You know his phone number. You called him.

1 A Yes, sir.

2 Q You didn't ask him to call, to come here and tell this
3 jury what this is all about?

4 A No, sir. I explained that to my lawyer.

5 Q Oh, okay. You explained that to your lawyer, too. Now, let
6 me get this straight. On March 17th, in the evening, after
7 you give the statement to Head and to Williamson, later
8 that day you call Ron to tell Blaze, who's my cousin Greg,
9 to keep his effing mouth shut. There is no mention in that
10 portion of what you say in that one minute phone call --
11 and you will agree with me that was a one-minute phone
12 call. Correct?

13 A Yes, sir.

14 Q That I'm concerned about my mama. Correct?

15 A The phone was cut short, sir.

16 Q Now, you're saying that Greg, who is your cousin, and I
17 think the relationship you said is that your grandmother
18 and his mother are sisters. Is that right?

19 A Yes, sir.

20 Q And you're concerned that Greg is going to kill your
21 mother?

22 A Hurt my mother, shoot my mama house up. I mean, I don't
23 expect you to understand things like that. But, yes, sir,
24 I did.

25 Q Okay. How about this? How about this, Mr. Brooks? How

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1 about this? Keep your effing mouth shut because they're
2 looking for you. If they find you, you're going to ruin my
3 story involvement because all they have me for right now
4 is petty, receiving stolen goods.

5 A I just wouldn't have said nothing in the beginning if that
6 was the case.

7 Q Isn't that the fact that you didn't want to have Greg rat
8 you out to the police? To say he was the driver spotting
9 Mr. Murphy at the bank? Getting the idea that you can rob
10 an old man? Isn't that the way it happened, sir?

11 A No, sir.

12 Q Isn't it really realistic that he either got you or you
13 were in that parking lot of the bank and you followed Mr.
14 Murphy, or Campbell certainly followed Mr. Murphy to his
15 residence from Palmetto and Greenway all the way to Marsh
16 and Berkley, and somewhere along the line, whether Boogie
17 Baker was with you or you got Boogie Baker, that Campbell
18 is the getaway driver and you and Baker go into the place,
19 their residence, and do everything that these dear people
20 said you did. Isn't that what really happened?

21 A No, sir.

22 Q Mr. Brooks, in your statement on March the 17th to
23 Investigators Head and Williamson, when you're telling
24 them what Greg had told you about doing a lick, that he
25 saw Mr. Murphy in the bank, that Campbell's reason for

1 going to that bank was to cash a check. Isn't that
2 correct?

3 A Yes, sir.

4 Q Campbell was working at that time, was he not?

5 A Yes, sir.

6 Q What type of job did you have at that time?

7 A I was filing my taxes, sir.

8 Q That's not a job. What type of job did you -- where were
9 you employed at that time?

10 A Well, I do landscaping, sir. I was waiting on -- and I was
11 working at McCall's Farms, which they lay off in the
12 wintertime. That's what I was filing my taxes for McCall's
13 Farms, which I was working for at that time that they had
14 laid off. But I had just started working, got a job with
15 Disaster, the Disaster Service, which cleans up fallen
16 trees and stuff after storms, which I was supposed to
17 start working that Saturday.

18 Q The bottom line -- and I'm not faulting poverty.
19 Understand that. But what I'm asking you is, you had no
20 money at the time. Your lights were cut off, were they
21 not?

22 A Yes, sir.

23 Q And you needed money, didn't you?

24 A Not that bad, sir, no.

25 Q Well, you needed money to the extent that as quickly as

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1 you got that jewelry, you said you were going to give it
2 to your wife, but you decided to sell it to Latasha McNeil
3 like she testified to. Correct?

4 A (Nods head)

5 Q So, you got money out of it. Correct?

6 A Yes, sir.

7 Q So, you needed money.

8 A I was waiting on about three or four thousand dollars in
9 my taxes, sir.

10 Q All right. But you didn't have it at that point?

11 A No, sir.

12 MR. JEPERTINGER: I beg the Court's indulgence.

13 Q Your understanding back on March 17th is that they wanted
14 to dispose of the jewelry in the dumpster. Is that
15 correct?

16 A That was my understanding, sir.

17 Q Okay. And you're also testifying that that which took some
18 effort to acquire, of going into a house, binding two
19 people, getting whatever cash and credit cards and wallet
20 and all that sort of stuff and all that jewelry, that took
21 some effort on their part, you're saying you just swiped
22 it from them without them saying a word?

23 A You trying to make it seem ---

24 Q Like you're guilty?

25 A No, sir. You trying to make it seem like -- why would I

1 just -- what I said, like I told you in the March 17th
2 interview; they had it, they was showing it to me and I
3 kind of was looking at it and kind of held it in my palm
4 and stuck it in my pocket, like I said from the beginning,
5 sir.

6 Q You thought Latasha McNeil was going to sell it to Darlene
7 Heyward, did you? You didn't know what she was going to do
8 with it, did you?

9 A Honestly, I didn't know what they had to do to get it.

10 Q Okay. Now, you're saying Latasha McNeil did the lick?

11 A No, sir. I think you don't quite understand what I just
12 said. I didn't know what they had did to acquire the
13 jewelry. If I did it, I would have left the jewelry alone.

14 Q Oh, wait a minute. Wait a minute. Wait one minute. You
15 didn't know what they had done. Didn't you just testify --
16 let's see here. You got the hotdogs and the chips back at
17 the Four-Way Stop. You went back to Smith & Smith Mobile
18 Home Park. You ate them on the walk back. Ah, you figure
19 it was around two o'clock when you go back to Danny's, you
20 hang around, you sit on the porch the rest of the
21 afternoon. A green truck comes by about two o'clock or a
22 little later. It turns in the yard. Cousin says, we had
23 just done a lick. That's what you just told these fine
24 jurors today.

25 A Yes, sir, I did.