

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
Clifton Newman, Circuit Court Judge

THE STATE,

RECEIVED
AUG 08 2017
SC Court of Appeals
RESPONDENT,

V.

KEYLAN J. DURHAM,

APPELLANT

APPELLATE CASE NO 2016-000837

RECORD ON APPEAL

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
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(PHOTOS)**

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)	COURT OF GENERAL SESSIONS
COUNTY OF RICHLAND)	2015-GS-40-1, 4, 5, 6, 7
)	2015-GS-40-8, 8388, 8389
)	2016-GS-40-0525, 0526
)	
State Of South Carolina))
)	
vs.)	TRANSCRIPT OF RECORD
)	
Keylan J. Durham))
<u>DEFENDANT</u>)	April 11-14, 2016
)	Columbia, South Carolina

B E F O R E:

THE HONORABLE CLIFTON NEWMAN, JUDGE; and a jury.

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

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 JOHN STEADMAN, ASSISTANT SOLICITOR
 J.J SHELLENBERG, ASSISTANT SOLICITOR
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 REBECCA WILLIAMS, ASSISTANT PUBLIC DEFENDER
 Attorneys for the Defendant

KESHIA REED
 Official Court Reporter

	<u>I N D E X</u>				
	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RE CROSS</u>
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	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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I N D E X

WITNESS DIRECT CROSS REDIRECT RE CROSS

Valerie Moore

 Mrs. Campbell 382

Anna Balley

 Mr. Shellenberg 386

 Ms. Pinnock 392

Brian Zwolak

 Mr. Steadman 400

 Ms. Williams 404

Jennifer Murphy

 Mr. Steadman 410 419

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Warren Cavanagh

 Mrs. Campbell 421 443

 Mr. Bailey 432 444

Justin Britt

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I N D E X

WITNESS DIRECT CROSS REDIRECT RECROSS

Shelby Derrick

 Mrs. Campbell 463 501

 Ms. Pinnock 495

Dereka Brown

 Mr. Steadman 503

 Ms. Pinnock 506

Marcus Harvey

 Mr. Steadman 508

Tamra Smith

 Mr. Shellenberg 511

Dr. Grayson Amick

 Mrs. Campbell 514 524

 Ms. Pinnock 523

Michael S. Phipps

 Mr. Steadman 525

 Mr. Bailey 534

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I N D E X

WITNESS DIRECT CROSS REDIRECT RE CROSS

John Moore In-Camera

Mrs. Campbell 538 551

Ms. Pinnock 546

Tracy Barr

Mrs. Campbell 555

John Moore

Mrs. Campbell 561 596

Ms. Williams 587 597

Emmitt Gilliam

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1				
2				
3	S-1	Photo Lineup		149
4	S-2	Photo Lineup	218	
5	S-2A	Photo Lineup	537	
6	S-3	DVD Dash Cam Video		168
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18	S-15	Photo		368
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22	S-19	Photo		368
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	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
1				
2				
3	S-23	Photo		368
4	S-24	Photo		368
5	S-25	Photo		368
6	S-26	Photo		368
7	S-27	Photo		368
8	S-28	Photo		368
9	S-29	Photo		368
10	S-30	Photo		368
11	S-31	Photo		368
12	S-32	Photo		368
13	S-33	Photo		368
14	S-34	Photo		368
15	S-35	Photo		368
16	S-36	Photo		368
17	S-37	Photo		368
18	S-38	Photo		368
19	S-39	Photo		376
20	S-40	Photo		376
21	S-41	Photo		376
22	S-42	Photo		376
23	S-43	Photo		376
24	S-44	Photo		376
25	S-45	Photo		376

	<u>E X H I B I T S</u>			
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
1				
2				
3	S-46	Photo		376
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22	S-65	Photo		469
23	S-66	Photo		469
24	S-67	Photo		469
25	S-68	Photo		469

E X H I B I T S

	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
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3	S-69	Photo		469
4	S-70	Photo		469
5	S-71	Photo		469
6	S-72	Photo		469
7	S-73	Photo		469
8	S-74	Photo		469
9	S-75	Photo		469
10	S-76	Photo		469
11	S-77	Photo		469
12	S-78	Photo		469
13	S-79	Photo		469
14	S-80	Photo		469
15	S-81	Photo		470
16	S-82	Photo		470
17	S-83	Photo		470
18	S-84	Photo		470
19	S-85	Photo		429
20	S-86	Photo		470
21	S-87	Photo		470
22	S-88	Photo		470
23	S-89	Photo		470
24	S-90	Photo		470
25	S-91	Photo		470

	<u>E X H I B I T S</u>			
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
1				
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3	S-92	Photo		470
4	S-93	Photo		470
5	S-94	Photo		470
6	S-95	Photo		470
7	S-96	Photo		470
8	S-97	Photo		470
9	S-98	Photo		470
10	S-99	Photo		470
11	S-100	Photo		470
12	S-101	Photo		470
13	S-102	Photo		470
14	S-103	Photo		470
15	S-104	Photo		470
16	S-105	Photo		470
17	S-106	Photo		470
18	S-107	Photo		470
19	S-108	Photo		470
20	S-109	Photo		470
21	S-110	Photo		470
22	S-112	Photo		470
23	S-113	Photo		470
24	S-114	Photo		470
25	S-115	Photo		470

EXHIBITS

	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
1				
2				
3	S-116	Photo		470
4	S-117	Photo		470
5	S-118	Photo		470
6	S-119	Photo		470
7	S-120	Photo		470
8	S-121	Photo		470
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21	S-134	Statement		576
22				
23	D-1	Photo	87	
24	D-2	Photo	342	
25				

1 THE COURT: Concerning voir dire.

2 MRS. CAMPBELL: Your Honor, I'm reviewing voir
3 dire. I don't know if you want to narrow down from crime
4 of violence to anything.

5 THE COURT: First when I looked at it, I look at
6 it in terms of subject matter. The general I don't give
7 any one specific question and usually lump them together,
8 lump the questions many times together. Four may be one
9 one question, four different ones maybe one, but you have
10 any one specific ones you are objecting to?

11 MRS. CAMPBELL: Number three and we ask that
12 that be made reciprocal including the public defender's
13 office.

14 THE COURT: All right.

15 MRS. CAMPBELL: And then moving on to number
16 five, we would just ask that it included like victim's
17 rights groups like innocent project.

18 THE COURT: All right. ACLU.

19 MRS. CAMPBELL: ACLU's good. Some are in the
20 general charge.

21 THE COURT: You got Black Lives Matter has made
22 it into the equation now? Contribute to or belong to
23 Black Lives Matter. This is defendant's request to
24 charge?

25 MRS. CAMPBELL: This is Blue Lives Matter.

1 THE COURT: Oh, Blue Lives Matter. Is that an
2 organization?

3 MS. PINNOCK: Yes, sir, it is.

4 THE COURT: So you want me to ask about blue or
5 black?

6 MS. PINNOCK: Blue.

7 THE COURT: Just blue.

8 MS. PINNOCK: Just blue.

9 THE COURT: I never heard of Blue Lives Matter.
10 Is that an organization? Well, let's just take out that
11 one.

12 MRS. CAMPBELL: And, Your Honor, I believe the
13 rest will probably be in your general charge.

14 THE COURT: All right.

15 MRS. CAMPBELL: Your Honor, we didn't realize we
16 would be in this courtroom. We will e-mail you request as
17 far as jury charges tonight, if that's okay with the
18 Court?

19 THE COURT: All right. So we're just going to
20 try and get the jury picked and then be through tonight.

21 MRS. CAMPBELL: Okay.

22 THE COURT: And then start whenever you all want
23 to start tomorrow.

24 Yes, ma'am.

25 MS. PINNOCK: Your Honor, as far as selecting

1 the jury, if we could select them, but hold off on
2 charging -- I mean, on swearing them.

3 THE COURT: Okay, that will be fine.

4 MS. PINNOCK: Thank you.

5 MRS. CAMPBELL: As far as strikes, Your Honor,
6 it's five and five?

7 THE COURT: What he's charged with?

8 MRS. CAMPBELL: He's charged with one count of
9 carjacking, two counts of attempted armed robbery, two
10 counts of kidnapping, three counts of attempted murder
11 none of those fall under the provisions of 407-11-10.

12 THE COURT: Preemptory strikes are designated by
13 14-7-110.

14 MRS. CAMPBELL: Yes, sir.

15 THE COURT: Murder, manslaughter, burglary,
16 arson, CSC, armed robbery, grand larceny, breach of trust,
17 perjury, forgery. Those are five and ten. All others are
18 five, five.

19 MS. PINNOCK: Yes, sir.

20 THE COURT: So it does not cover the intent to
21 do those things. All right. Do you have the indictments?

22 THE CLERK: I do. I just want to make sure
23 they're all correct.

24 (WHEREUPON, a pause in the proceedings.)

25 THE COURT: While we're waiting for the jury,

1 Mr. Durham, will you stand. Mr. Durham, I've been handed
2 a big stack of indictments here. One for robbery,
3 attempted armed robbery or alleged armed robbery, it's two
4 counts of that, assault and battery first degree,
5 possession of a weapon during a violent crime, carjacking,
6 kidnapping, two counts of kidnapping, two counts of
7 attempted murder, kidnapping carries up to 30 years on
8 each count, attempted murder carries up to 30 years on
9 each count, that's 30, 60, 90, 120 years there, three
10 counts of attempted murder, that's 150 years, carjacking
11 carries what?

12 MRS. CAMPBELL: Twenty.

13 THE COURT: Up to 20 years, 170 years, robbery
14 or attempted armed robbery two counts, is that 20 years?

15 MRS. CAMPBELL: Each.

16 THE COURT: Each, that's 40 more years, 210
17 years, assault and battery first degree what does that
18 carry?

19 MRS. CAMPBELL: Ten.

20 THE COURT: 220 plus possession of a weapon
21 during a violent crime, five years. You're facing up to
22 225 years in prison. If you were convicted of all these
23 offenses and I were to give you the maximum and ran them
24 consecutive, there are also minimum sentences on many of
25 these offenses as well. And I understand there's been

1 plea bargaining that's been going on in this case; is that
2 right?

3 MS. PINNOCK: Yes, sir.

4 THE COURT: Speaking with the defendant.

5 MS. PINNOCK: Oh, I'm sorry.

6 THE COURT: Is that right?

7 THE DEFENDANT: Not really, sir.

8 THE COURT: No plea bargaining that you know of?

9 THE DEFENDANT: Well, yeah, yeah.

10 THE COURT: Well, that's my question.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: There's been plea bargaining. What
13 was offered to him?

14 MRS. CAMPBELL: Your Honor, we were talking
15 today, there been some negotiations before that. Today,
16 we finally were able to talk to all the officers and
17 talked about a possible 20 year sentence to basically
18 package all his charges. He does have additional charges
19 in addition to these and some charges in another
20 jurisdiction, I believe.

21 THE COURT: Is that plea to a maximum of 20
22 years or 20 year negotiated sentence?

23 MRS. CAMPBELL: We were talking about a 20 year
24 negotiated sentence.

25 THE COURT: All right. And so you -- you

1 understand that, your lawyer told you about that; is that
2 right?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And where there's a negotiated
5 sentence either I will accept your guilty plea and give
6 you the exact sentence that you negotiated or I will not
7 accept your guilty plea. Do you understand?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And is that the understanding that
10 this moment in time you have rejected the negotiated
11 sentence?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: You turn it down?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. So there is this case
16 where the Court is to review and to make sure that you've
17 understood plea negotiations and I forget the name of the
18 case. Anyone knows it? Well, there's a case that
19 supposedly requires the judge to have this conversation
20 with you to make sure that you are aware of plea bargains
21 and you understand what the offer was by the State and you
22 turn the offer down and you want a jury trial?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And what's what you want?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: All right. Good deal. Call your
2 next case. Bring them on, let's get this jury.

3 (WHEREUPON, a pause in the proceedings.)

4 (WHEREUPON, the jury panel came into the
5 courtroom.)

6 THE COURT: All right. You may call your next
7 case.

8 MR. STEADMAN: Your Honor, the State calls
9 Keylan Durham.

10 THE COURT: All right. Ladies and gentlemen,
11 the State has called for trial the case of the State of
12 vs. Keylan Jambre Durham. He's in court as a result of an
13 indictment return by the grand jury charging him with the
14 offenses of assault and battery first degree, two counts
15 of attempted armed robbery, carjacking, two counts of
16 kidnapping, three counts of attempted murder and one count
17 of possession of a weapon during a violent crime. He's
18 pled not guilty to each and every one of these charges.
19 He is presumed to be not guilty of these charges. He
20 cannot be found guilty unless the State presents evidence
21 which convinces a jury of his guilt beyond a reasonable
22 doubt. Mr. Keylan Jambre Durham, if you will stand and
23 face the jury panel along with counsel. And counsel if
24 you'll introduce yourselves to the jury.

25 MS. PINNOCK: Good afternoon. I'm Tracy Pinnock

1 and I work for the Richland County Public Defender's
2 office and I represent Keylan Durham.

3 MR. BAILEY: Good afternoon. My name is Rhodes
4 Bailey. I also work for the Public Defender's office and
5 I represent Mr. Durham.

6 MS. WILLIAMS: Good afternoon as well. My name
7 is Rebecca Williams. I also represent Keylan Durham. I
8 work for the Richland County Public Defender's office.

9 THE COURT: All right. And the State is
10 presented through the Fifth Circuit Solicitor's office.
11 And Solicitors if you'll stand and introduce yourselves as
12 well anyone surrounding your table who you might want to
13 introduce.

14 MR. STEADMAN: My name is John Steadman. I work
15 with the Richland County Solicitor's office.

16 MRS. CAMPBELL: I'm Luck Campbell, I'm assistant
17 solicitor with the Fifth Judicial Solicitor's Circuit.

18 MR. SHELLENBERG: I'm J.J. Shellenberg, I'm
19 assistant solicitor in the Fifth Circuit.

20 MR. GILLIAM: Hi, I'm Emmitt Gilliam
21 investigator with the City of Columbia Police Department.

22 MR. MOORE: Good afternoon. I'm John Moore with
23 Lexington County Sheriff's Department.

24 THE COURT: All right. Thank you. If any
25 member of the jury panel is a friend, a relative,

1 associate or if you know anyone who has stood thus far
2 including the defendant, please stand? All right. Who
3 are you?

4 PROSPECTIVE JUROR: My name is Lauren Rosinski.
5 I'm a therapist at an agency called Post Trauma Resources.
6 I've worked cases with Luck Campbell before.

7 THE COURT: And would that fact affect your
8 ability to be a fair and impartial juror in this case?

9 PROSPECTIVE JUROR: No.

10 THE COURT: All right. Thank you. Ladies and
11 gentlemen, the incidents alleged in these indictments
12 occurred on or about August the 4th of 2014, in and around
13 what area of the county?

14 MR. STEADMAN: Harbison Boulevard area of
15 Richland County.

16 THE COURT: All right. And involving this
17 defendant and victim Marck Drastich, Lashonda Edwards,
18 Marcus Brown, Justin Britt, Keith Thrower, if any member
19 of the jury panel knows anything about this case or had
20 heard anything about this case or know any of these
21 alleged victims, if so please stand? All right. No one
22 standing.

23 All right. Ladies and gentlemen, we have had
24 you come up here for jury selection in this case. You
25 started out today doing jury qualifications and you are

1 put under oath to give complete and truthful responses to
2 all the questions that you are asked during the jury
3 qualifications process. You now been sent here for jury
4 selection and you're still under oath and have that same
5 restriction. And I take it that you all haven't
6 accomplished very much today and it's pushing toward the
7 end of the day and you're still here and we haven't put
8 you on the jury yet. And it appears that we're going to
9 select only one jury this week, that's this case. And
10 this case is expected as I understand it to last at least
11 through end of the week and we don't get through, it may
12 bleed into next week. We hope not but who knows. So we
13 need jurors who don't have other commitments that would
14 supercede the high calling of jury service. And we need
15 jurors who will give complete and truthful responses to
16 all questions that they are asked during this process.

17 I am Clifton Newman and I preside over this
18 courtroom. And next to me is my law clerk Elizabeth Gundy
19 and good to see you all here. And we are going to press
20 on with the jury qualifications.

21 Some of these questions may be of a personal
22 nature and that's just the way it happens in court, but we
23 still need to know because the lawyers need the
24 information to help them to pick the jury. We're going to
25 pick 14 people to serve on jury in this case.

1 Has any member of the jury panel or any member
2 of your family ever been a victim, a witness or accused of
3 a crime of violence, a violent crime and violent crimes
4 are rape, robbery, murder, kidnapping, burglary first
5 degree burglary, if any of you or your immediate family
6 members ever been a victim, witness or accused of such a
7 crime of violence, if so please stand? And I need you to
8 tell me your juror number and reason you're standing.

9 Yes, sir.

10 PROSPECTIVE JUROR: Juror number 12 and my
11 brother was convicted of murder.

12 THE COURT: All right. Thank you, sir. You can
13 be seated once you answer.

14 PROSPECTIVE JUROR: Baretta McDaniel juror
15 number 176. My brother was accused of a murder.

16 THE COURT: All right.

17 PROSPECTIVE JUROR: 271 I have been held at gun
18 point and robbed.

19 THE COURT: All right. Thank you.

20 PROSPECTIVE JUROR: 130 carjacking and also
21 armed robbery.

22 THE COURT: All right. Been accused of or
23 victim of?

24 PROSPECTIVE JUROR: A victim.

25 THE COURT: All right. Thank you, sir.

1 Yes, ma'am.

2 PROSPECTIVE JUROR: Juror 272 and my niece was
3 murdered.

4 THE COURT: All right. Thank you.

5 PROSPECTIVE JUROR: Juror 80 my son was
6 assaulted.

7 THE COURT: Your son was?

8 PROSPECTIVE JUROR: Assaulted.

9 THE COURT: Assaulted. Thank you.

10 Yes, sir.

11 PROSPECTIVE JUROR: 216 my brother was accused
12 of burglary.

13 THE CLERK: Thank you, sir.

14 Yes.

15 PROSPECTIVE JUROR: Juror number 121 I was the
16 victim of assault, I guess, my ex-boyfriend kicked my door
17 in and had a burglary going on.

18 THE COURT: All right. Thank you.

19 Yes.

20 PROSPECTIVE JUROR: Fifty-six my father was
21 convicted of robbery.

22 THE COURT: Thank you.

23 Yes, ma'am.

24 PROSPECTIVE JUROR: 221 my daughter was raped.

25 THE COURT: All right. Thank you. If any of

1 that would affect your ability to be a fair and impartial
2 juror in the trial of this case please stand? All right.
3 No one is standing.

4 Has any member of the jury panel or any member
5 of your immediate family ever been a victim of theft or
6 other property crime? If anyone's ever stolen something
7 from you is that what you want to know?

8 MS. PINNOCK: Yes, Your Honor.

9 THE COURT: Well, maybe I should say if you've
10 never been a victim of a theft, please stand? We'll do it
11 the other way. If you have ever been the victim of a
12 theft, you or your immediate family member of a property
13 crime, please stand? All right. You just give us your
14 juror number and you can be seated.

15 PROSPECTIVE JUROR: Juror number 12, I been
16 robbed.

17 THE COURT: You don't have to tell me the
18 details.

19 Go ahead, yes.

20 PROSPECTIVE JUROR: Juror 146.

21 PROSPECTIVE JUROR: Juror 176.

22 PROSPECTIVE JUROR: Juror 218 burglary.

23 PROSPECTIVE JUROR: 48.

24 PROSPECTIVE JUROR: 143.

25 PROSPECTIVE JUROR: 272.

1 PROSPECTIVE JUROR: 27.
2 PROSPECTIVE JUROR: Juror 309.
3 PROSPECTIVE JUROR: 221.
4 PROSPECTIVE JUROR: 56.
5 PROSPECTIVE JUROR: 278.
6 PROSPECTIVE JUROR: Are you asking victims of
7 burglary?
8 THE COURT: Yes.
9 PROSPECTIVE JUROR: Juror 89.
10 THE COURT: All right.
11 PROSPECTIVE JUROR: 300.
12 THE COURT: Thank you. If you ever been
13 employed meaning ever worked or any member of your
14 immediate family ever worked for any prosecutor's office
15 or solicitor's office, state, local, federal level or ever
16 worked in any public defender office or any other
17 governmental defense of the accused offices, if so please
18 stand? If any of you or member of your immediate family
19 ever worked in law enforcement or any level, if so please
20 stand?
21 All right, yes, sir. Juror number and then...
22 PROSPECTIVE JUROR: 130 state police officer.
23 THE COURT: All right. Thank you.
24 PROSPECTIVE JUROR: 243 my dad was in the Air
25 Force.

1 THE COURT: All right.

2 PROSPECTIVE JUROR: 255 my brother-in-law works
3 for the Lexington County Solicitor's office.

4 THE COURT: All right.

5 PROSPECTIVE JUROR: Juror 21 my brother-in-law
6 is with public safety.

7 THE COURT: All right. And who's your
8 brother-in-law in the Solicitor's office.

9 PROSPECTIVE JUROR: James Sullivan he's an
10 investigator.

11 THE COURT: All right, thank you.

12 Yes.

13 PROSPECTIVE JUROR: Juror 176 my uncle retired
14 from the City. He was a lieutenant there and I work with
15 the Department of Juvenile Justice.

16 THE COURT: All right.

17 PROSPECTIVE JUROR: Twenty-seven I was a deputy
18 sheriff in Florence County.

19 THE COURT: All right.

20 PROSPECTIVE JUROR: Fifty-eight my husband is a
21 retired deputy sheriff.

22 THE COURT: All right.

23 PROSPECTIVE JUROR: 112 work for the department
24 of corrections.

25 THE COURT: Yes, ma'am.

1 PROSPECTIVE JUROR: 121 I use to work for
2 Richland County Alvin S. Glenn detention center, RNE at
3 Kirkland and Broad River Road Correction Institution and
4 South Carolina Criminal Justice Academy.

5 THE COURT: All right. Thank you. If you or
6 any member of your immediate family has ever worked ---

7 PROSPECTIVE JUROR: Your Honor, can I clarify
8 I'm a victim of theft not burglary, 89.

9 THE COURT: All right. Thank you. Any member
10 jury of the jury panel ever now or in the past belonged or
11 contributed to any organization the primary purpose of
12 which is to promote law enforcement such as MADD, SADD,
13 National Association of Police Officers or any
14 organization whose primary purpose is to protect or defend
15 people accused of crimes or civil rights violation such as
16 ACL, prisoners rights organization of any sort, if so
17 please stand?

18 Yes, ma'am.

19 PROSPECTIVE JUROR: Number 80 I supported MADD.

20 THE COURT: All right. Thank you. Anyone else?

21 Has any member of the jury panel ever been a
22 witness before meaning you've testified before in any case
23 ever, if so please stand?

24 Tell me what kind of case you testified on after
25 you give me your juror number, yes, ma'am.

1 PROSPECTIVE JUROR: Number 227 I testified in
2 family court cases on multiple occasions.

3 THE COURT: All right. Thank you.

4 Yes.

5 PROSPECTIVE JUROR: Juror 130 family court
6 several number of times.

7 THE COURT: Thank you.

8 Yes, sir.

9 PROSPECTIVE JUROR: 218 family court.

10 THE COURT: All right. Yes.

11 PROSPECTIVE JUROR: Number 80 family court in
12 civil cases.

13 THE COURT: Thank you. If you have any friends
14 or relatives who now or use to live at Brooke Pines
15 apartment on Broad River Road, if so please stand any
16 friends or relatives who live in Brook Pines apartment now
17 or ever before, if so please stand? Yes, ma'am.

18 PROSPECTIVE JUROR: 310 my sister stay in Brook
19 Pines.

20 THE COURT: All right. Yes, sir.

21 PROSPECTIVE JUROR: I had a friend stay out
22 there once.

23 THE COURT: All right. And your juror number
24 is?

25 PROSPECTIVE JUROR: 21.

1 THE COURT: Yes, ma'am.

2 PROSPECTIVE JUROR: 214 I have friends that stay
3 out there.

4 THE COURT: All right.

5 Yes, ma'am.

6 PROSPECTIVE JUROR: Eighty, I have a foster
7 daughter that stayed there.

8 THE COURT: All right.

9 Yes, ma'am.

10 PROSPECTIVE JUROR: Juror number 65 I lived out
11 there about 18 years ago.

12 THE COURT: All right. Thank you.

13 Yes, sir.

14 PROSPECTIVE JUROR: 300 I have friends that live
15 out there.

16 THE COURT: Thank you. If you ---

17 PROSPECTIVE JUROR: Excuse me, I'm sorry. I had
18 old coworker who, I guess, was a friend that use to live
19 out there.

20 THE COURT: You had an old coworker who you
21 guess use be a friend live out there. What's your juror
22 number?

23 PROSPECTIVE JUROR: Oh, ninety.

24 THE COURT: All right. Thank you. These
25 allegations as I stated arose in 2014 and there were --

1 there was media coverage at that time or maybe since that
2 time if you ever remember reading or hearing anything
3 about this case please stand? All right.

4 (WHEREUPON, no one stood.)

5 THE COURT: If you ever discussed this case with
6 anyone else or formed an opinion regarding the guilt or
7 innocence of the defendant or if there's anything of any
8 nature regarding the possible allegations or number of
9 charges that would affect your ability to be fair and
10 impartial please stand?

11 (WHEREUPON, no one stood.)

12 THE COURT: Now, the witnesses who may testify
13 in this case involve include the following people Lashonda
14 Edwards, Marck Drastich, Zane Elliott Harris, Cullen
15 Thomas Bennecker, Michael Mathis, Kiane Warner, T. Govan,
16 Kenneth Starks, William Libaberk, Courtney Nichols, Dereka
17 Brown, Marcus Harvey, Jasmine Bell, Quinten Warner, James
18 Kare K-A-R-E, Ryan Cannon, someone from Wal-Mart Loss
19 Prevention, Jason Van Valkenburgh of the police
20 department, Police Officer McMillan, Police Officer -- all
21 these folks are from CPD I'm calling now, McMillan, E.
22 Gilliam, Sergeant Dicky, Corporal Holmes, Sergeant A. L.
23 Thomas, Sjolund S-J-O-L-U-N-D, Tammy Moore, Somsak
24 Intraviebit, Brian Zwolak, Valoria Moorner, George Smith,
25 Investigator Nole Dow, Donna Martin, Deputy Marcus Brown,

1 Anne Balley, all of the Columbia Police Department. And
2 I'm going to ask you whether you know any of these people
3 in a minute. Then others also include Michael Shelton who
4 works with Georgia Bureau of Investigations, Emikel Fete
5 F-E-T-E from Georgia GBI.

6 Those folks are from Lexington Sheriff's office
7 Roy Mefford, M.S. Phipps, S.L. Derrick, W. G. Galardi,
8 K.A. Sprinkle, G.R. Ross, Shelby Derrick, Beth Hollman,
9 S.R. Dukes, J.A. Moore, Investigator Adam Creech,
10 Lieutenant Scottie Frier, all from Lexington. Then from
11 Richland County Sheriff department we have Investigator
12 John Carwell, C. Kitchins, Gray Amick, Melody Galenski,
13 Ashleigh Dixon, Christine Barrickman, Theresa Cronise,
14 Frieda Wyatt, and Deputy Bobby Cohen, Investigator Chris
15 Lindler, Captain Scott McDonald, Justin Brit, Jerry Hall,
16 Jr., Jerry Hall, III, Warren Cavanagh, Keith Thrower, and
17 Trooper Hampton from the sheriff department -- I'm sorry
18 for the South Carolina Highway Patrol. If you are a
19 friend, relative or know any of those people please stand?

20 (WHEREUPON, no one stood.)

21 THE COURT: All right. Additional people who
22 may testify include the following some of whom I've -- all
23 of whom I may have called let's see. Crime Scene
24 Investigator Sprinkle, Beth Holliman, Investigator Traci
25 Barr, S.R. Dykes, D.A. Novak, G.R. Ross, and Keylan J.

1 Durham, Deputy Laintz L-A-I-N-T-Z, Investigator Friers
2 from Lexington Sheriff Department, if you a friend,
3 relative or know any of those folks please stand?

4 (WHEREUPON, no one stood.)

5 THE COURT: Ladies and gentlemen, I've indicated
6 something about the nature of the charges, the length of
7 the trial and ask certain questions of you regarding your
8 past experiences and other questions, at this moment in
9 time if you know of any reason why you should not be
10 selected to be on this jury, any reason whatsoever? We
11 got -- how many people we got out there about 40 or 50?

12 THE CLERK: Forty-five.

13 THE COURT: We got 45 people. We're going to
14 pick 14. If you know of any reason why you should not be
15 one of the 14 picked please stand? All right. And who
16 are you?

17 PROSPECTIVE JUROR: 214.

18 THE COURT: Yes, ma'am.

19 PROSPECTIVE JUROR: I have two reasons. I have
20 to do chemotherapy on Fridays, so if it runs until Friday,
21 I can't do it.

22 THE COURT: We may run into Friday, so -- that's
23 obviously a good reason. And your juror number is?

24 PROSPECTIVE JUROR: 214.

25 THE COURT: All right. Thank you.

1 Yes, sir.

2 PROSPECTIVE JUROR: Juror 203 I'm slated to
3 travel to Afghanistan on Monday next week.

4 THE COURT: Next Monday?

5 PROSPECTIVE JUROR: Yes, sir.

6 THE COURT: So what if we're still in this
7 trial?

8 PROSPECTIVE JUROR: That's why I am asking, sir.

9 THE COURT: You already have your ticket?

10 PROSPECTIVE JUROR: Bought it this morning, sir.

11 THE COURT: Okay. All right to Afghanistan.

12 Thank you, sir.

13 Yes, sir.

14 PROSPECTIVE JUROR: I'm slated to travel out of
15 town on Friday as well for business.

16 THE COURT: Where you going?

17 PROSPECTIVE JUROR: I'm the chief financial
18 officer for Federal Qualified Health Center.

19 THE COURT: Federal Qualified Health Center.
20 And you're slated to go out of town Friday.

21 PROSPECTIVE JUROR: For a planning retreat.

22 THE COURT: For a ---

23 PROSPECTIVE JUROR: A planning retreat.

24 THE COURT: A planning retreat that's job
25 related. I'm just asking everyone for any reason

1 whatsoever. We need to know while we have all of you here
2 not after you get on the jury and we turn the rest of the
3 people lose for the week because we're going to pick 14
4 and the rest is going to go. If you know any reason you
5 should not be selected please stand?

6 Yes, ma'am.

7 PROSPECTIVE JUROR: I'm juror 121. I have
8 worked at the City of Columbia Police Department and dealt
9 with a lot of officers. I don't know their names by you
10 calling them out, but I want to make the record I have
11 worked and may know the faces.

12 THE COURT: All right, that's understandable.
13 Anyone else? All right. Any additional questions by the
14 State?

15 MR. STEADMAN: No judge.

16 THE COURT: By the defense?

17 MS. PINNOCK: No, Your Honor.

18 THE COURT: All right. If you all would
19 approach for just a moment.

20 (WHEREUPON, a bench conference was held in the
21 presence of the jury, but out of the hearing of the
22 jury.)

23 THE COURT: All those people who say they have
24 something else some reason they shouldn't be selected, do
25 you all have any objection to any of them being taken off

1 the list?

2 MRS. CAMPBELL: No, sir.

3 THE COURT: Pat, you mark down all those people
4 who said they have something going on? The man from
5 Afghanistan, the chemo lady, the fellow with the job.
6 And, of course, the lady from the City she didn't try to
7 get out, she just said she may know some of the people.
8 So you have three right? Ma'am, what's your number again
9 who worked at CPD one time look on your badge again?

10 PROSPECTIVE JUROR: 121.

11 THE CLERK: 203 and 214.

12 THE COURT: The last one stays on the list.

13 We're good. Mr. Wright strike through him, just want to
14 verify your number. All right, ladies and gentlemen, you
15 all stand for just a moment. I know it's getting late,
16 get a little stretch to put you on through this day.
17 That's all we can give you.

18 If you'll give the clerk Mrs. Falcone your
19 attention.

20 THE CLERK: Ladies and gentlemen, as I call your
21 number please come to the microphone at the center of the
22 courtroom, bringing any personal belongings with you,
23 please state your number and occupation only. Number 12.

24 (WHEREUPON, a black male, comes forward.)

25 PROSPECTIVE JUROR: Number 12 retired military

1 and retire from self-employed.

2 THE CLERK: What says the State?

3 MRS. CAMPBELL: Please excuse the juror.

4 THE CLERK: Please have a seat in the back of
5 the courtroom. Number 218.

6 (WHEREUPON, a white male, comes forward.)

7 PROSPECTIVE JUROR: Number 18 Virginus
8 Robertson sales manager.

9 THE CLERK: What says the State?

10 MR. STEADMAN: Please seat the juror.

11 THE CLERK: What says the defense?

12 MS. PINNOCK: Please have a seat in the jury
13 box.

14 THE CLERK: Number 80.

15 (WHEREUPON, a white female, comes forward.)

16 PROSPECTIVE JUROR: Number 80 former paralegal,
17 stay at home grandmother.

18 THE CLERK: What says the State?

19 MR. STEADMAN: Please seat the juror.

20 THE CLERK: What says the defense?

21 MS. PINNOCK: Please excuse this juror.

22 THE CLERK: Please have a seat in the back of
23 the courtroom. Number 286.

24 (WHEREUPON, a black male, comes forward.)

25 PROSPECTIVE JUROR: Number 286 Kendrick Way,

1 Suns Inc.

2 THE CLERK: What says the State?

3 MR. STEADMAN: Please excuse the juror.

4 THE CLERK: Please have a seat in the back of
5 the courtroom.

6 Number 90.

7 (WHEREUPON, a black female, comes forward.)

8 PROSPECTIVE JUROR: Number 90 Teresa Gamble,
9 I'm a training specialist.

10 THE CLERK: What says the State?

11 PROSPECTIVE JUROR: Please seat the juror.

12 THE CLERK: What says the defense?

13 MS. PINNOCK: Please seat this juror.

14 THE CLERK: Please have a seat in the jury box.
15 Number 259.

16 (WHEREUPON, a white female, comes forward.)

17 PROSPECTIVE JUROR: Number 259 communications
18 for a law firm.

19 THE CLERK: What says the State?

20 MR. STEADMAN: Please seat the juror.

21 THE CLERK: What says the defense?

22 MS. PINNOCK: Please seat this juror.

23 THE CLERK: Please have a seat in the jury box.
24 Number 62.

25 (WHEREUPON, a white male, comes forward.)

1 PROSPECTIVE JUROR: Number 62 I'm retired.

2 THE CLERK: From?

3 PROSPECTIVE JUROR: I'm retired disabled.

4 THE CLERK: What says the State?

5 MR. STEADMAN: Please seat the juror.

6 THE CLERK: What says the defense?

7 MS. PINNOCK: Please seat the juror.

8 THE CLERK: Please have a seat in the jury box.

9 Number 310.

10 (WHEREUPON, a black female, comes forward.)

11 PROSPECTIVE JUROR: 310 and I recently got hired
12 on at Pontiac Foods.

13 THE CLERK: What says the State?

14 MR. STEADMAN: Please seat the juror.

15 THE CLERK: What says the defense?

16 MS. PINNOCK: Please seat this juror.

17 THE CLERK: Please have a seat in the jury box.

18 Number 177.

19 (WHEREUPON, a white male, comes forward.)

20 PROSPECTIVE JUROR: Juror 177 Security Services.

21 THE CLERK: What says the State?

22 MR. STEADMAN: Please seat the juror.

23 THE CLERK: What says the defense?

24 MS. PINNOCK: Please strike this juror.

25 THE CLERK: Please have a seat in the back of

1 the courtroom.

2 Number 269.

3 (WHEREUPON, a white male, comes forward.)

4 PROSPECTIVE JUROR: 269 I work for Westing
5 House, it's a nuclear fuel fabrication facility.

6 THE CLERK: What says the State?

7 MR. STEADMAN: Please seat the juror.

8 THE CLERK: What says the defense?

9 MS. PINNOCK: Please seat this juror.

10 THE CLERK: Please have a seat in the jury box.
11 Number 227.

12 (WHEREUPON, a white female, comes forward.)

13 PROSPECTIVE JUROR: Number 227 I am a licensed
14 independent social worker at Post Trauma Resources and an
15 adjunct professor at Lime Stone College.

16 THE CLERK: What says the State?

17 MR. STEADMAN: Please seat the juror.

18 THE CLERK: What says the defense?

19 MS. PINNOCK: Please excuse the juror.

20 THE CLERK: Please have a seat in the back of
21 the courtroom.

22 Number 130.

23 (WHEREUPON, a white male, comes forward.)

24 PROSPECTIVE JUROR: Number 130 ordained
25 minister.

1 THE CLERK: What says the State?

2 MR. STEADMAN: Please seat the juror.

3 THE CLERK: What says the defense?

4 MS. PINNOCK: Please excuse the juror.

5 THE CLERK: Please have a seat in the back of
6 the courtroom. Strike count is four for the defense, two
7 for the State.

8 Number 243.

9 (WHEREUPON, a white female, comes forward.)

10 PROSPECTIVE JUROR: Juror number 243 I'm
11 currently unemployed.

12 THE CLERK: What says the State?

13 MR. STEADMAN: Please excuse the juror.

14 THE CLERK: Please have a seat in the back of
15 the courtroom.

16 Number 174.

17 (WHEREUPON, a white female, comes forward.)

18 PROSPECTIVE JUROR: 174 and I'm director of
19 development.

20 THE CLERK: What says the State?

21 MR. STEADMAN: Please seat the juror.

22 THE CLERK: What says the defense?

23 MS. PINNOCK: Please seat this juror.

24 THE CLERK: Please have a seat in the jury box.

25 Number 65.

1 (WHEREUPON, a black female, comes forward.)

2 PROSPECTIVE JUROR: Juror 65 bio corporate
3 purchasing.

4 THE CLERK: What says the State?

5 MR. STEADMAN: Please seat the juror.

6 THE CLERK: What says the defense?

7 MS. PINNOCK: Please seat this juror.

8 THE CLERK: Please have a seat in the jury box.
9 Number 255.

10 (WHEREUPON, a white female, comes forward.)

11 PROSPECTIVE JUROR: 255 procurement manager for
12 the State of South Carolina.

13 THE CLERK: What says the State?

14 MR. STEADMAN: Please seat the juror.

15 THE CLERK: What says the defense?

16 MS. PINNOCK: Please seat this juror.

17 THE CLERK: Please have a seat in the jury box.
18 Number 309.

19 (WHEREUPON, a black male, comes forward.)

20 PROSPECTIVE JUROR: 309 machine operator J.T.
21 Corporation.

22 THE CLERK: What says the State?

23 MR. STEADMAN: Please seat the juror.

24 THE CLERK: What says the defense?

25 MS. PINNOCK: Please seat the juror.

1 THE CLERK: Please have a seat in the jury box.

2 Number 48.

3 (WHEREUPON, a white female, comes forward.)

4 PROSPECTIVE JUROR: Number 48 stay-at-home mom.

5 THE CLERK: What says the State?

6 MR. STEADMAN: Please seat the juror.

7 THE CLERK: What says the defense?

8 MS. PINNOCK: Please excuse the juror.

9 THE CLERK: Please have a seat in the back of
10 the courtroom.

11 Number 143.

12 (WHEREUPON, a white male, comes forward.)

13 PROSPECTIVE JUROR: 143 computer forensic
14 investigator for a large corporation.

15 THE CLERK: What says the State?

16 MR. STEADMAN: Please seat the juror.

17 THE CLERK: Does the defense challenge for
18 cause?

19 MS. PINNOCK: No, Your Honor.

20 THE CLERK: Please have a seat in the jury box.

21 Number 112.

22 (WHEREUPON, a white male, comes forward.)

23 PROSPECTIVE JUROR: 112 currently unemployed.

24 THE CLERK: What says the State?

25 MR. STEADMAN: Please seat the juror.

1 THE CLERK: Does the defense challenge for
2 cause?

3 MS. PINNOCK: No, Your Honor.

4 THE CLERK: Please have a seat in the jury box.
5 Please proceed to strike your alternates strikes are one
6 for the State, two for the defense.

7 Number 8.

8 (WHEREUPON, a black female, comes forward.)

9 PROSPECTIVE JUROR: Juror number eight I'm a
10 stay-at-home mom.

11 THE CLERK: What says the State?

12 MR. STEADMAN: Please seat the juror.

13 THE CLERK: What says the defense?

14 MS. PINNOCK: Please seat the juror.

15 THE CLERK: Please have a seat in the jury box.

16 Number 64.

17 (WHEREUPON, a white male, comes forward.)

18 PROSPECTIVE JUROR: Juror 64 I'm a manufacturing
19 engineer.

20 THE CLERK: What says the State?

21 MR. STEADMAN: Please seat the juror.

22 THE CLERK: What says the defense?

23 MS. PINNOCK: Please excuse the juror.

24 THE CLERK: Please have a seat in the back of
25 the courtroom.

1 Number 176.

2 (WHEREUPON, a black female, comes forward.)

3 PROSPECTIVE JUROR: Juror 176 life insurance
4 agent with Lincoln Heritage and juvenile specialist for
5 Department of Juvenile Justice.

6 THE CLERK: What says the State?

7 MR. STEADMAN: Please excuse the juror.

8 THE CLERK: Please have a seat in the back of
9 the courtroom.

10 Number 42.

11 (WHEREUPON, a black female, comes forward.)

12 PROSPECTIVE JUROR: Number 42 customer service
13 agent for WellCare Health Insurance.

14 THE CLERK: Does the State challenge for cause?

15 MR. STEADMAN: No.

16 THE CLERK: What says the defense?

17 MS. PINNOCK: Please seat the juror.

18 THE CLERK: Please have a seat in the jury box.

19 THE COURT: Any matters of law regarding the
20 jury selection?

21 MRS. CAMPBELL: None from the State, Your Honor.

22 MS. PINNOCK: None from the defense, Your Honor.

23 THE COURT: Ladies and gentlemen, you were
24 selected and you have been selected by both sides to be
25 the jury in the trial of this case. And those of you who

1 were not selected ---

2 BAILIFF: Your Honor, hand up.

3 PROSPECTIVE JUROR: May I say something?

4 THE COURT: Ma'am?

5 PROSPECTIVE JUROR: May I say something?

6 THE COURT: No. You can approach along with
7 counsel.

8 PROSPECTIVE JUROR: I don't know if it's
9 relevant, but my ex-husband was convicted of armed robbery
10 like 20 years ago. I just remember that. I didn't think
11 about it being relevant.

12 THE COURT: Thank you no problem. You can have
13 a seat. Her ex-husband was convicted of armed robbery
14 over 20 years.

15 MRS. CAMPBELL: She just forgot to mention that.

16 THE COURT: We will strike her pick another
17 alternate. We will have to then cut her loose. Then we
18 will go through pick another alternate doing that.

19 THE CLERK: Number 42.

20 THE COURT: Ma'am, what's your name?

21 PROSPECTIVE JUROR: Teresa Gamble.

22 THE COURT: Ms. Gamble, you are excused based on
23 your late realization that you should have disclosed your
24 ex-husband was accused of a crime or something of that
25 nature. So it affected the strike, so we're going to take

1 you off the jury.

2 PROSPECTIVE JUROR: I apologize.

3 THE COURT: That's all right. You thought just
4 in the nick of time I said while these people are still
5 here. So you still good don't worry about it.

6 Number 42 you take her spot there. And we pick
7 one more. I know you all thought you were out of the
8 water, but we got one more.

9 THE CLERK: Number 146.

10 (WHEREUPON, a black female, comes forward.)

11 PROSPECTIVE JUROR: Shadiasha King medicaid
12 specialist two.

13 THE CLERK: What says the State?

14 MR. STEADMAN: Please excuse the juror.

15 THE CLERK: Please have a seat in the back of
16 the courtroom.

17 MS. WILLIAMS: I believe the State already used
18 their strike for the alternates.

19 THE COURT: This is another alternate. This is
20 a separate alternate, so they get as if the first strike
21 didn't exist. They have a strike.

22 THE CLERK: Number 56.

23 (WHEREUPON, a white female, comes forward.)

24 PROSPECTIVE JUROR: Juror number 56 non-profit
25 director.

1 THE CLERK: Does the State challenge for cause?

2 MR. STEADMAN: Please seat the juror.

3 THE CLERK: What says the defense?

4 MS. PINNOCK: Please excuse the juror.

5 THE CLERK: Please have a seat in the back of
6 the courtroom.

7 Number 271.

8 (WHEREUPON, a white male, comes forward.)

9 PROSPECTIVE JUROR: 271 automotive service
10 provider.

11 THE CLERK: Does the State challenge for cause?

12 MR. STEADMAN: Please present the juror.

13 THE CLERK: What says the defense?

14 MS. PINNOCK: Please excuse the juror.

15 THE CLERK: Please have a seat in the back of
16 the courtroom.

17 Number 221.

18 (WHEREUPON, a white female, comes forward.)

19 PROSPECTIVE JUROR: 221 school psychologist.

20 THE CLERK: Does the State challenge for cause?

21 MR. STEADMAN: Please present the juror.

22 THE CLERK: Does the defense challenge for
23 cause?

24 MS. PINNOCK: No, Your Honor.

25 THE CLERK: Please have a seat in the jury box.

1 THE COURT: Any matters of law regarding the
2 jury selection?

3 MR. STEADMAN: No, Your Honor.

4 THE COURT: By the defense?

5 MS. PINNOCK: No, Your Honor.

6 THE COURT: All right. Ladies and gentlemen,
7 you've been selected to be the jury in the trial of this
8 case. Those of you who are not selected as I indicated we
9 do not plan to do any more trials that I am aware of this
10 week. What do you want them to do, Mrs. Falcone?

11 THE CLERK: Ask them to return back downstairs.

12 THE COURT: If you'll go back downstairs, I
13 think they'll check you out from there. Thank you very
14 much.

15 (WHEREUPON, remaining jury panel is excused.)

16 THE COURT: All right. Ladies and gentlemen,
17 you been selected. We're going to -- I need to check with
18 the lawyers for a few minutes, so we can figure out what
19 time you need to come tomorrow. So if you all will go to
20 the jury room get acquainted with each other. Once you
21 are selected to be on a jury, you cannot discuss the case
22 in any form or fashion and I'll tell you more about that
23 in a few minutes. But if you all will go to the jury room
24 now and we'll have you come back real soon. Please do not
25 talk about this case. Thank you.

1 (WHEREUPON, the jury retire to the jury room.)

2 THE COURT: Looking over your pretrial motion
3 list and figure out what time they need to come back
4 tomorrow. With regard to this list, these six things are
5 there any additional motions other than these six things?

6 MS. PINNOCK: Your Honor, we have had an issue
7 as far as discovery goes. I spoke to Mrs. Campbell and
8 Mr. Steadman and Mr. Shellenberg about this today because
9 we received a statement from a now testifying
10 co-defendant. We received the initial statement this
11 afternoon. I informed Mrs. Campbell that I was going to
12 request that -- I thought we were going to be in front of
13 Judge Benjamin, but I would ask Your Honor to place if you
14 would -- if you would consider placing the investigator
15 under oath to certify that we now have all the discovery
16 because, I think, it's problematic that we're still
17 receiving statements from witnesses in this case the day
18 that we're starting the trial.

19 There was a question as to whether or not other
20 recorded statements existed by the two individuals in the
21 car from August 4th Mr. Drastich and Ms. Edwards. I was
22 told that there is no other recording. I can't be sure of
23 anything at this point, Your Honor, so I would ask you to
24 place the investigator under oath and have him certify
25 that we have in fact received everything in his file and

1 that all discovery has been provided.

2 THE COURT: That you received everything in his
3 file?

4 MS. PINNOCK: Yes, sir.

5 THE COURT: Or all statements?

6 MS. PINNOCK: All statements, all evidence in
7 this case since we are now starting the trial and we
8 received discovery in this case up to two hours before
9 now. That's the only additional thing we have.

10 THE COURT: All right. What says the State?

11 MRS. CAMPBELL: Your Honor, I don't know that
12 the investigator can say -- I think, he can may be list
13 what's in his file or who he has statements from. I don't
14 know how he can say that it's turned over to the defense
15 just as a logistical.

16 THE COURT: Is the defense entitled to
17 everything that's in the file?

18 MRS. CAMPBELL: No, Your Honor, I don't think
19 she's entitled to everything in this file, but she would
20 be entitled to any statements the -- what happened ---

21 THE COURT: She's entitled to what's
22 discoverable that's in the file, not just everything in
23 the file. Well, with regard any other statements, that's
24 where she started and then she expanded it to include
25 everything in the file, so back to this statement that

1 triggered this request. What's your response to that?

2 MRS. CAMPBELL: Your Honor, we will be glad to
3 meet with her again and go over the statements that we
4 have that have been provided with the investigator there
5 to make sure she has any audio recordings or anything of
6 that nature. As far as we know, she does have all the
7 statements in the file.

8 THE COURT: All right. We'll try that method
9 first. You all meet and review everything to see if
10 there's anything else.

11 MS. PINNOCK: Just for the record, Mrs. Campbell
12 and I did that. And when we went through the file, she
13 and I had the same disk in our file which was three.
14 We're now up to five disks for this one witness so...

15 THE COURT: Which investigator do you want to
16 know that from?

17 MS. PINNOCK: Investigator Gilliam, Your Honor,
18 of City of Columbia police.

19 THE COURT: All right. And that's you, you
20 Investigator Gilliam?

21 MR. GILLIAM: Yes, sir, I am.

22 THE COURT: You have any more lingering
23 statements anywhere?

24 MR. GILLIAM: Your Honor, everything was turned
25 over awhile back. I don't know what she short of, but

1 we'll go through everything again with her. I don't know.

2 THE COURT: So he says he's turned everything
3 over to the State. The State's -- the officer's not
4 answerable directly to the defense, the State is. So you
5 can't -- to put the officer under oath to say that -- you
6 going to ask him has he not given a statement to
7 everything that's in his file, you can't ask him whether
8 you have everything that he has. He doesn't know. He's
9 given up everything that he's got, so he says.

10 MRS. CAMPBELL: We'll be glad to have him
11 available to meet with counsel all together.

12 THE COURT: We'll revisit this issue tomorrow if
13 we need to. What else?

14 MS. PINNOCK: Your Honor, other than the list we
15 provided, I don't think we have anything additional.

16 THE COURT: All right. With regard to these
17 that you do have like Rule 5, you talked about that
18 references to bad acts. Is there intention to offer bad
19 acts?

20 MRS. CAMPBELL: Your Honor, there -- he did
21 commit some other crimes that were unrelated. We do not
22 intend to go into those. However, we inform the defense
23 we are intending to go into pretty much everything he did
24 on August the 4th and then during his arrest on August the
25 6th.

1 THE COURT: All right.

2 MRS. CAMPBELL: I don't know if she's
3 specifically objecting to any of that information.

4 THE COURT: Well, I will have to hear all that
5 in context to know whether it's admissible or not.

6 MRS. CAMPBELL: There are other events that were
7 before that on the 2nd and the 3rd that we do not intend
8 on getting into.

9 THE COURT: All right.

10 MRS. CAMPBELL: If that helps?

11 MS. PINNOCK: No, it doesn't. I e-mailed
12 everybody a list of information -- a list of things that
13 we will be objecting to just to cover everything and part
14 of what was in the e-mail is a car chase that Mr. Durham
15 is alleged to have been driving at that time. Background
16 wise, Your Honor, I can give you the context, if you would
17 like.

18 THE COURT: Okay. Well, for right now, I'm
19 trying to get the context to be able to tell the jury what
20 time to come.

21 MS. PINNOCK: I'm sorry. I don't think this
22 will take that long. I think that's -- we're only
23 disagreeing on one. I think we worked out the other issue
24 as a shoplifting, but I'm pretty sure we worked that out.
25 Well, we disagree on two issues, so I don't think that

1 motion will -- that I can long.

2 THE COURT: All right. How about this reference
3 to gang activity?

4 MS. PINNOCK: It's my understanding the State's
5 not going into any sort of gang allegations.

6 THE COURT: All right.

7 MRS. CAMPBELL: No, sir.

8 THE COURT: Suggestive photo line up,
9 suggestible photo lineups.

10 MS. PINNOCK: Yes, sir, we believe the only -- I
11 mean, the State would -- we would assume would be calling
12 lead investigator and the witnesses that made the IDs. I
13 don't know how long their testimony will be, but I don't
14 think it will take too terribly long.

15 MRS. CAMPBELL: The normal Bigger's hearings.

16 THE COURT: So is that pretrial or before the
17 evidence is offered or what?

18 MRS. CAMPBELL: We can do it pretrial first
19 thing in the morning.

20 THE COURT: All right. And jury view and
21 it's -- we can hear about that later, that's a Court issue
22 not parties issue. I mean, it's a parties issue as well
23 you make the request, but the Court decides I need to know
24 more about the case. And sequestration?

25 MRS. CAMPBELL: Is she moving for sequestration

1 of lay witnesses or all witnesses or I'm not sure?

2 THE COURT: Who do you want to sequester?

3 MS. PINNOCK: Your Honor, all witnesses that
4 don't -- that are not lead investigator and don't satisfy
5 the victims' rights.

6 THE COURT: We got a long list of victims,
7 that's a bunch of people. Then who else just...

8 MRS. CAMPBELL: We have five officers.

9 MS. PINNOCK: Five victims, Your Honor.

10 THE COURT: Okay. That goes both ways.

11 MS. PINNOCK: Yes, sir.

12 THE COURT: Any objection by the State?

13 MRS. CAMPBELL: No, sir.

14 THE COURT: All right.

15 MRS. CAMPBELL: Your Honor, our lead
16 investigator will be -- there two different kind of lead
17 investigators. Investigator Moore investigated the arrest
18 where the shooting involved and then Investigator Gilliam
19 was the one that did the initial carjacking.

20 THE COURT: All right. They get two lead
21 investigators based on the multitude of offenses how about
22 that?

23 MS. PINNOCK: Yes, sir, I agree.

24 THE COURT: All right. So we'll have the jury
25 come in at ten o'clock or 10:30?

1 MRS. CAMPBELL: Probably 10:30 just for
2 testimony.

3 THE COURT: All right. We'll tell them 10:30.
4 All right, you can bring them in and we'll come in at
5 9:30.

6 (WHEREUPON, the jury came into open court.)

7 THE COURT: All right. Ladies and gentlemen, we
8 need you back at 10:30 tomorrow morning. So when you are
9 selected on a jury, you are to decide the case solely
10 based on the evidence presented in the courtroom from the
11 witness stand or through exhibits and not based on other
12 information you can find out through checking social media
13 or trying to Google the case or turning into investigators
14 to see what else you can find out. You're not to do any
15 of that. You're suppose to decide the case solely based
16 on evidence presented in the courtroom and you are to
17 discuss the case with no one including your fellow jurors
18 because you are to listen to the entire case and receive
19 instructions of law before talking about the case and that
20 comes at the end of the case. So if you all will comply
21 with those instructions, it will help us along and be able
22 to go through this process as it is design. So we'll see
23 y'all back tomorrow morning at 10:30, 10:30. Thank you
24 very much. We'll see you then.

25 (WHEREUPON, the jury excused for the day.)

1 THE COURT: Before we leave if someone could
2 give me an idea about what this case is about?

3 MR. STEADMAN: Judge, I'll do that. The
4 beginning acts that they we were talking about I'll just
5 tell you there a lot of other things going on prior to
6 this, but what we're here today -- what we're going
7 forward on they occurred on August 4th of 2014. The
8 victims in this case were at the Ale House over there off
9 Columbianna Drive near Harbison Boulevard right across
10 from the mall. They were leaving the Ale House, they
11 pulled into their hotel, which is the In-Town Suites. The
12 victim's name is Marck Drastich, he's a Slovakian native
13 and the other victim is Lashonda Edwards. They're sitting
14 in their car, somebody approached them. Keylan Durham
15 approached them. He was wearing wig, a brown wig.

16 THE COURT: What time of the day or night was
17 this?

18 MR. STEADMAN: This was approximately one in the
19 morning, one to 1:15 in the morning.

20 THE COURT: Weekday, weekend?

21 MR. STEADMAN: This was, I think, it was a
22 weekday not exactly sure, but he approached them with a
23 brown wig, a pistol, wearing a white shirt and blue jean
24 shorts. He had wired framed glasses on. Mr. Drastich he
25 presents the gun to him, he sits in the passenger seat.

1 Lashonda Edwards sitting in the driver seat. He demands
2 money. He doesn't get the money. Eventually, he orders
3 them out of the car. They get out the car. Drastich, who
4 later identifies Keylan in a photo lineup by the
5 investigator, he runs to In-Town Suites, calls for help.

6 The officer show up on the scene shortly after
7 to get a report. Meanwhile, Keylan Durham goes to
8 Wal-Mart or after the robbery he goes to a gas station.
9 He meets up with these two witnesses Cullen Bennecker and
10 Zane Harris. They are hanging out at the gas station.
11 Keylan goes up to them. They interact with the defendant
12 in some way. He's at this point driving the stolen car.
13 He's driving a blue Oldsmobile ---

14 THE COURT: Whose car was it?

15 MR. STEADMAN: Say that again?

16 THE COURT: Whose car?

17 MR. STEADMAN: This was Lashonda Edwards a blue
18 '95 Oldsmobile, an old car. The witnesses described as a
19 POS car. He pulls up at the gas station. They interact
20 with him. At some point he ask the defendant to buy beer
21 for them. They're under age. So they go over to Wal-Mart
22 with the defendant. And at this point, they pull to the
23 Wal-Mart or you see on the video, the Wal-Mart
24 surveillance video. You see the blue Oldsmobile pull in
25 the parking lot right behind it is a black Camaro, that

1 will become relevant later on. There's another person --
2 he's driving the '95 Oldsmobile, behind him is a black
3 Camaro being driven by the co-defendant in this case
4 Devontae Bryant who we ---

5 THE COURT: Is he on the camera or just the car?

6 MR. STEADMAN: You can't make out anybody on a
7 camera at the parking lot at that point. Then you see on
8 the surveillance video inside the Wal-Mart. Mr. Durham
9 goes inside the Wal-Mart with Zane Harris, the guy he was
10 going to buy beer for. You see them on camera. And
11 Investigator Gilliam is the one who positively identifies
12 Keylan Durham on video. He's familiar with him. He knows
13 him from the neighborhood. He knows him from other
14 arrests and, you know, we won't go into that. We'll limit
15 it to the -- I'm very familiar with Keylan from the
16 neighborhood. So he identifies Keylan on video. He comes
17 in wearing a white shirt, blue jeans, which is what is
18 described by the victims. He has black frame glasses on.
19 You can see those in the video as well. He then proceeds
20 to the back of the Wal-Mart to the electronics department.
21 Zane Harris stays in the front of the Wal-Mart ---

22 THE COURT: Which Wal-Mart is this?

23 MR. STEADMAN: This is the one on Harbison
24 Boulevard right next to Sam's.

25 THE COURT: Okay.

1 MR. STEADMAN: And Zane Harris is getting money
2 for him to buy beer. Keylan then goes to the electronics
3 department and tries to attempt a purchase of a Nikon
4 camera and a few other things. He presents a Visa gift
5 card and you can see on video that he eventually gets
6 possession of the Nikon camera and a few other belongings
7 and then runs out of the store. You can see him running
8 out of the store. And then he leaves the Wal-Mart ---

9 THE COURT: Just steals them?

10 MR. STEADMAN: Just steals them. The loss
11 prevention officer is running right behind him, maybe it's
12 just an employee runs behind him. Once again you can see
13 him on video comes out of the Wal-Mart with these items.
14 He runs across the parking lot. Then gets into the
15 vehicle and drives away. The Camaro and the blue
16 Oldsmobile drive away. Zane Harris and the guy who's
17 going to get beer bought for him eventually, he's the one
18 that identifies Keylan in a photo lineup later along with
19 Investigator Gilliam.

20 The other guy his friend his name is Cullen
21 Bennecker and he is meanwhile outside in the parking lot
22 while all this is taking place in the Wal-Mart. He sees
23 the pistol on the front seat of the blue Oldsmobile that
24 was driven by the defendant and he sees that pistol. He
25 gets real sketched out by the whole thing. As soon as his

1 friend comes out of the Wal-Mart, he says, you know, these
2 guys are up to something we need to ditch them.

3 THE COURT: So who sees the pistol?

4 MR. STEADMAN: Cullen Bennecker the guy who
5 stays in the parking lot when they go inside the store.
6 Eventually, Zane Harris and Cullen Bennecker they make an
7 attempt to lose them. They don't know what these guys are
8 up to, but they don't like the sound ---

9 THE COURT: They're the ones in the other car?

10 MR. STEADMAN: Yes, there's actually three cars
11 in the parking lot. His co-defendant, Devontae Bryant, is
12 driving the Camaro at this point. They go to Waffle House
13 Cullen Bennecker and Zane Harris and they eat at Waffle
14 House. And then they come back to where -- we don't
15 know -- what we believe is that the defendant at this
16 point ---

17 THE COURT: How many hours this is going on?

18 MR. STEADMAN: This from the carjacking happen
19 at 1:15 when they meet back up after the Waffle House,
20 it's approximately two -- less than an hour and half
21 later.

22 THE COURT: Okay, I got you.

23 MR. STEADMAN: The defense put in her motion
24 that it was approximately three hours later. It was
25 really about less than an hour and a half later. They

1 pull up -- they go eat Waffle House. They come back to
2 Paces Brook apartments and sure enough they see ---

3 THE COURT: Paces Brook where is that?

4 MR. STEADMAN: It's just right over near the
5 mall as well across from the Harbison Boulevard across
6 from the -- I think it's right there near the Miyabi on
7 Columbianna Drive down past the Ale House, so once again
8 near the mall.

9 THE COURT: I don't go over there, I don't know.

10 MR. STEADMAN: Okay. That's where I grew up, so
11 I'm familiar with the area. They pull into Paces Brook
12 apartments and they see the black Camaro behind them. The
13 person from the black Camaro shouts something, hey, what's
14 going on. And they realize that they either been followed
15 or somehow the defendant is back behind them. They run to
16 their Paces Brook apartment. They get inside. They lock
17 the door. They call the police. They call the police.

18 THE COURT: On their friends?

19 MR. STEADMAN: Say that again?

20 THE COURT: They call the police on their
21 friends. They're not friends.

22 MR. STEADMAN: They only known the defendant for
23 an hour. They met him at the gas station just randomly.

24 THE COURT: All right.

25 MR. STEADMAN: So they called the police, the

1 police respond. Officer McMillian and Officer Sjolund
2 respond. Officer McMillian, -- Officer Sjolund is on foot.
3 Officer McMillian is in his car. He pulls up behind the
4 defendant Camaro sees it running. He sees somebody
5 wearing a white shirt and what appears to be dark pants
6 standing outside the driver seat of the vehicle, that's
7 Keylan Durham at that point. He orders show him his hand,
8 show him his hand. Keylan Durham then jumps in the
9 Camaro, puts it in reverse, backs out of the parking lot,
10 then throws it in drive and then turns off the lights to
11 his car, leave Paces Brook apartment at what's estimated
12 to be about a speed of 55 miles an hour begins a car
13 chase. I know you look a little confused. What they did
14 in between the Wal-Mart shoplifting, they ditched the car,
15 the Oldsmobile that was ---

16 THE COURT: I'm not confused, I'm amused. I'm
17 not confused, I'm assumed.

18 MR. STEADMAN: So they get in a high speed
19 chase, it's all captured on dash cam. He's driving down
20 Broad River Road. The officer believes the speeds were --
21 he was topped out at about 140 miles an hour down Broad
22 River Road. He go on Broad River Road to Monticello Road.

23 THE COURT: And the '95 car.

24 MR. STEADMAN: No, the '95 been ditched off of
25 Columbianna Drive. They're now in one car. Keylan is

1 driving the Camaro. His co-defendant who was driving the
2 Camaro is now in the passenger seat. Keylan is driving.
3 He drives the Camaro at 140 miles an hour, lights are off.
4 I mean, he's weaving in and out of whatever traffic is on
5 Broad River Road at that point and there's multiple
6 officers involved in this case. He gets on the interstate
7 on I-20 off Broad River Road. Then heads toward
8 Monticello Road still at very high speeds. He then gets
9 off Monticello Road. And at some point he hits a curb,
10 does something to blow out the back right tire. So he's
11 running on rims, sparks are flying. The officers are
12 right behind him. He at this point realizes he's got to
13 ditch the car. He ditches the car over there near
14 Monticello Road. He then crawls across the passenger,
15 gets out of the car and takes off on foot. The officers
16 are now on foot behind him. He alludes officers and he
17 gets away that night. Runs off into the woods. There's a
18 big wooded area that they believe he went. The K-9 tried
19 to track him. They can't establish a track. The
20 passenger, Devontae Bryant, who is going to testify he was
21 caught that night. He gave up.

22 THE COURT: That's the one they had on TV where
23 they were searching Monticello, the woods around
24 Monticello Road trying to find somebody?

25 MR. STEADMAN: I believe so. Devontae Bryant's

1 caught. He's the co-defendant, so he gives up Keylan. He
2 sits down with Investigator Gilliam. Investigator Gilliam
3 is also familiar with Devontae Bryant from prior things,
4 so he talks to him. Devontae Bryant says Keylan Durham
5 he dropped him off at the In-Town Suites. He had to
6 handle something. He thought he was going to meet
7 somebody there. He says that he did see a pistol on
8 Keylan. He says that the brown wig -- and he knew about
9 the brown wig. The brown wig was gone. He must have had
10 the brown wig on him said he wasn't wearing it, but he
11 admits he dropped Keylan off at the In-Town Suites to
12 handle something. And then Devontae Bryant also -- so
13 based on that information, they get a photo lineup. They
14 now have Keylan Durham as a suspect. They go and do a
15 photo lineup. A photo lineup is done with Drastich, who
16 is the victim of the carjacking. He positively identifies
17 Keylan.

18 THE COURT: Photo lineup at the police station?

19 MR. STEADMAN: It was at the In-Town Suites. He
20 went to them.

21 THE COURT: All right.

22 MR. STEADMAN: And they also go and talk with
23 the guy at Paces Brook Zane Harris and gives Investigator
24 Gilliam a statement. He also identifies Keylan Durham as
25 the person he want into the Wal-Mart with.

1 THE COURT: What kind of rap sheet does Keylan
2 Durham have?

3 MR. STEADMAN: He has a burglary. He's got
4 multiple arrests, but the convictions that I'm aware of
5 are burglary second degree conviction, a prior failure to
6 stop for police, driving from the cop. And, I believe,
7 there's some juvenile charges that we need to pull, but I
8 thank that's ---

9 THE COURT: How was he caught?

10 MR. STEADMAN: He was caught fast forward
11 August 6th, the day goes by and also which will become
12 relevant. He goes to his girlfriend, Kiane Warner, who is
13 going to testify. He tells Kiane Warner pretty much
14 everything except for the carjacking. She sees him with
15 the Camaro. She sees him -- he gives Kiane Warner the
16 European currency, that is taken off our victim who is
17 from Slovakia. He gives her European currency. She turns
18 it over to investigators, so she implicates him as well.
19 He tells her that night that he burn the police. He got
20 away from them. He busted a tire. So they eventually are
21 able to get information that he's coming to Kiane Warner's
22 apartment. The mother of his child is Kiane Warner. So
23 investigators get up with Kiane Warner at her apartment on
24 August 6th. And as they are there meeting with Kiane
25 Warner, the fugitive team is all set up around the

1 perimeter of the apartment and they got their stage at
2 various spots.

3 Kiane Warner gets a call from Keylan as they are
4 standing there at the apartment, so they tell her to
5 answer it. And they basically tell her to tell him that
6 he's got to come back to the apartment. Kiane Warner
7 says -- gets a message to Keylan that he's got to come
8 back to the apartment, she has a doctor's appointment.

9 Then Keylan eventually drives in the apartment
10 complex. Warren Cavanaugh of the Richland County
11 Sheriff's Department fugitive team identifies him as their
12 fugitive. They see him pulling in. At this point he sees
13 the officers which he acknowledges in a written oral
14 statement to this investigator later on that he knew they
15 were police officers and he knew he was wanted.

16 He drives past his girlfriend's apartment and
17 then he pulls into an apartment complex a little bit
18 further up. So Marcus Brown of the CPD fugitive team
19 pulls his black Crown Victoria behind Keylan's car. He's
20 driving his girlfriend's car at this point and he pulls up
21 behind him kind of catercorner to where Keylan can't quite
22 get out. He's at an angle. He gets out in his uniform,
23 he identifies himself as a police officer. He draws his
24 weapon. Then because he knows this guy's history of
25 running -- at that point Justin Britt, the other fugitive

1 team, kind of comes up behind Marcus Brown and at that
2 point Keylan throw the car in reverse. The reverse lights
3 come on. He comes back at Marcus Brown at high speed and
4 Marcus Brown at some point discharges his firearm into the
5 vehicle. The vehicle makes contact with Marcus Brown. It
6 basically side swipes him and narrowly -- I don't know
7 how he was able to get out his spot, but he side swipes
8 Officer Brown pens him up against the car. Officer Brown
9 has injuries to his right arm. He had an injury to his
10 leg and we have photos of those injuries.

11 Then after Marcus Brown was penned up against
12 the car, he backed up further to the parking lot in the
13 direction of the apartment building. He then hits a tree
14 and is at this point still cutting the wheels. The
15 officers are firing their weapon. Justin Britt then fires
16 his weapon because the car is then coming at him. He
17 bounces off a tree. He basically plays pinball with his
18 car in the parking lot, comes back, side swipes another
19 car. At this point he's coming towards Justin Britt of
20 Richland County and also Keith Thrower. They both
21 discharge their firearm.

22 He hits a telephone pole, cracks the telephone
23 pole. It falls over. It slams on the ground and they
24 then eventually pull Keylan and pull another passenger,
25 Quintin Warner, who is the brother-in-law to Keylan. He's

1 related to Kiane Warner his girlfriend and the mother of
2 his child. They pull him out and they have gunshot
3 wounds. They both Keylan and his passenger sustained
4 gunshot wounds. They're taking to the hospital.

5 They eventually talk to Keylan and they give a
6 statement that he knew it was policer officers. He
7 immediately retracts that statement after he realizes what
8 he said. He says nevermind, I didn't know they were
9 police officers and that's basically where we stand today.
10 Quintin Warner, who was also involved that day on August
11 5th, is now deceased. He was shot and killed in an
12 unrelated homicide out in Lexington County and that's
13 basically where we stand, Judge.

14 THE COURT: And so why are we here for a trial?

15 MR. STEADMAN: That's a fair question, Judge.

16 THE COURT: All right. Anything you want to
17 add, subtract or say about anything, Ms. Pinnock?

18 MS. PINNOCK: Not at this time, Your Honor.

19 THE COURT: All right. Okay, we made a full day
20 of it, it's six o'clock. We'll reconvene at 9:30 for
21 whatever you all have.

22 (WHEREUPON, the proceedings were concluded for
23 the day to be reconvened on April 12, 2016.)

24 THE COURT: All right. Let's proceed, good
25 morning. First motion.

1 MS. PINNOCK: Good morning, I'm sorry.

2 THE COURT: First motion.

3 MS. PINNOCK: Yes, Your Honor, I apologize.
4 Your Honor, the first motion on our list is to renew
5 Riddle, to renew our Rule 5 and Brady motions that we
6 filed originally and to request any information from the
7 Solicitor's office that would qualify under the holding in
8 Riddle. We have been provided two updates. I believe the
9 information that we received was from Officer McMillian.
10 And then we received an update this morning from their
11 interview with Kiane Warner. Other than that, Your Honor,
12 we only been told that of all their witnesses are sticking
13 to what was in their statement. So there's anything else
14 that has changed or been added or altered by any witness,
15 we would just request that it be turned over to us at this
16 point.

17 THE COURT: All right. Any response?

18 MR. STEADMAN: I got one more thing. Camera I
19 turned it over, I think, I did. Marcus Brown he did not
20 file. I think original you just filed.

21 THE COURT: Next.

22 MS. PINNOCK: Our second motion is to exclude
23 any prior bad acts under 404(b) and Lyle. There are --
24 you heard a kind of summary of the facts everything
25 leading up to Mr. Durham's arrest in this incident. It's

1 my understanding that we are in agreement as far as --
2 there's two unrelated car theft cases from August 2nd and
3 August 3rd. I believe we're all in agreement over there.
4 Those are not going to be brought up during the course of
5 the trial. I sent e-mails to the solicitors on Saturday
6 the 9th, Your Honor, listing a number of topics that I was
7 assuming they were not going to be introducing. And we
8 are all agreeing that any mention of painters, any
9 allegations of stealing cars in Georgia, any mention of
10 burglary, any bondsman, probation, allegations of robbing
11 other people, any gang involvement. All of those issues
12 will not be brought up both sides agree on that.

13 Where we disagree, Your Honor, is there is a
14 shoplifting that occurred at the Wal-Mart on Harbison and
15 there is a subsequent car chase that started on
16 Columbianna went Broad River Road I-20 and ended on
17 Monticello Road, so those two things we are not agreeing
18 on. We don't believe they faltered any of the exceptions
19 that are laid out under the 404(b), Your Honor.

20 THE COURT: Why not?

21 MS. PINNOCK: Your Honor, with the exceptions
22 with what's allowed to be introduced in, they can beat
23 those because it show. It doesn't show any motive or
24 intent with what we're here for. Mr. Durham is accused of
25 attempted armed robbery, carjacking, kidnapping and

1 assault for August 4th on Ms. Edwards and Mr. Drastich.
2 Two days after that, he's charged with attempted -- three
3 counts of attempted murder. I don't see any logical
4 connection between a shoplifting that happened at Wal-Mart
5 or a car chase that happened after the first allegations
6 or before the second allegations. I don't see any logical
7 connection that would even make the bad evidence relevant.
8 So our first issue is there's no relevance to that, but if
9 it is not relevant, it obviously cannot be introduced, so
10 that's our first issue. I don't think it's relevant to
11 prove any of the allegations that are before the Court.

12 THE COURT: All right. What says the State?

13 MRS. CAMPBELL: May it please the Court, Your
14 Honor, not only is it relevant, it's crucial to explain
15 what happened that day and how certain things happened in
16 this case. Basically, he steals the car and it's that car
17 that he uses and drives to the Wal-Mart where he's seen by
18 two young men who basically approach him about buying some
19 alcohol for them. He's then in the car seen on the video.
20 He then goes in the Wal-Mart. He then takes the camera
21 during that. He's seen leaving the Wal-Mart with the
22 camera with the camera that's ultimately found in the
23 Camaro, which is also involved in this.

24 This is within an hour and half, I believe, less
25 than that of the actual taking of the car. He then drives

1 away in that car, which is also seen on the video, Your
2 Honor. Subsequent to that, then the car -- he gets into
3 the Camaro, which is following that car. So in order to
4 make this crime make any sense, you have to understand
5 that -- and it's highly probative and relevant, then those
6 two young men see them again and this is after they
7 decided to abandon them having seen the pistol, which is
8 also very important because in our original carjacking he
9 actually has a pistol and actually hits one of the victims
10 in the face with the pistol during that carjacking and
11 that's the reason that they abandon the car. Subsequent
12 to that, Your Honor, he then -- the police are called
13 because the two young men see him in the Camaro. They're
14 scared. The police then respond.

15 And at that point, he is the driver and he takes
16 off in the Camaro and there is a chase that was described
17 to you yesterday, Your Honor. At that point then both
18 young men exit out the passenger side of the vehicle.
19 Mr. Durham gets away, but Mr. Devontae Bryant, who was his
20 co-defendant, is apprehended at that point. At that point
21 officers interviewed Devontae Bryant and he's the one that
22 actually gives them the name Keylan Durham. Without him,
23 they don't know who the other person is. At that point
24 they then are able to do lineups based on that information
25 and then those lineups he is picked out by Mr. Harris and

1 Mr. Drastich, who is the actual victim in the carjacking.
2 In order to explain why the police even developed him, I
3 believe, that this -- all this testimony is relevant.
4 Under the case law that we handed up -- additionally, Your
5 Honor, under Gilliam, Woods, Owens and that case we feel
6 like that it is admissible as 404(b) and or as res gestae.

7 THE COURT: All right, response.

8 MS. PINNOCK: Yes, Your Honor, starting with the
9 shoplifting, the idea -- the fact that Mr. Durham said to
10 have gone into Wal-Mart and stolen something has nothing
11 to do with whether or not he was there. Mrs. Campbell
12 mention the video. You can see three vehicles pull into a
13 parking lot at Wal-Mart. You cannot see who's driving
14 which vehicle. You see somebody walk into the Wal-mart.
15 There are cameras at the front door that shows somebody
16 entering and leaving. What happened inside Wal-Mart is
17 irrelevant. If the State wants to try and place Mr.
18 Durham at Wal-Mart, they can do that without leading to
19 the facts of that case, that is a charge that is out of
20 Lexington. It's not in Richland County. But the facts of
21 what happened in Lexington County have nothing to do with
22 whether or not the State place him there.

23 And, Your Honor, I'm not quite sure -- again,
24 you can't see who's driving what car when they're leaving.
25 Yes, the video shows cars entering and cars leaving.

1 There is going to be testimony presented that there was a
2 gun found in the stolen blue car. There's going to be
3 testimony from at least two people that were at the
4 Wal-Mart who placed Mr. Durham on the scene. And then Mr.
5 Bryant it's our understanding is going to be testifying.
6 He can identify who he says he was with and who he says
7 was driving the car. The facts that there was this
8 extended chase has nothing to do with proving whether or
9 not Mr. Durham committed an armed robbery and a carjacking
10 or whether he committed an attempted murder two days
11 later. So I don't believe it's relevant. I believe, the
12 State can present the case without going into this bad
13 act. They're attacking his character at this point.
14 They're trying to allege that he just goes around doing
15 all these horrible things.

16 THE COURT: Well, that's they're case, that he's
17 going around doing all these horrible things. There has
18 to be a starting point.

19 MS. PINNOCK: Well, yes, sir, Your Honor, there
20 was a starting point.

21 THE COURT: It seems to be an endless chase of
22 bad things and they have to start some place.

23 MS. PINNOCK: And, Your Honor, the start place
24 is when the call came in from the In-Town Suites.

25 THE COURT: All right. I disagree. I deny the

1 motion.

2 MS. PINNOCK: On both?

3 THE COURT: I deny the motion to exclude. You
4 can raise objections during trial. I'm not going to try
5 to agree with either side on the details of what he did,
6 when he did it and all those things. I think there has to
7 be a starting point, seems to be a logical starting point
8 to me. If some improper evidence is offered, there'll be
9 a better context for me to understand and to rule based on
10 evidence as oppose to you -- these speeches you all are
11 giving, so I deny the motions as to both instances with
12 regard to a shoplifting. If it's prevalent in the context
13 that is logically related, then it will be admitted. If
14 it's not, then it will be excluded, but I'm not going to
15 try to figure all that out at this point.

16 MS. PINNOCK: Okay. Your Honor, the third
17 motion we addressed this yesterday, it's obvious the
18 State is not going to go into any allegations of gang
19 activity that was mentioned by a few of the investigators
20 with different people whether or not Mr. Durham is
21 suspected of being affiliated. It's our understanding
22 that they're not going into any of that.

23 MRS. CAMPBELL: Correct.

24 MS. PINNOCK: And Mr. Bailey is going to handle
25 our fourth motion, Your Honor. He'll be arguing it.

1 We're asking that the photo ID be suppressed and not
2 introduced during the trial under Neil vs. Biggers. So
3 you want to handle that one now?

4 THE COURT: Yes.

5 MR. BAILEY: Your Honor, we would move to
6 suppress the ID's of the witness Mr. Marck Drastich and
7 the ID photo lineup, I believe, at this time that the
8 State needs to present the witnesses to determine whether
9 or not it was or to show the Court why it was not a newly
10 suggestive as to deny our client rights under his rights
11 under due process.

12 THE COURT: All right.

13 MR. STEADMAN: That's fine, Your Honor. The
14 State would call Emmitt Gilliam to the stand.

15 THE CLERK: Raise your right hand. Do you
16 solemnly swear or affirm that the testimony you're about
17 to give in this case will be the truth, the whole truth,
18 and nothing but the truth so help you God?

19 THE WITNESS: I do.

20 THE CLERK: Please have a seat.

21 THE WITNESS: Investigator Emmitt Gilliam.

22 WHEREUPON,

23 Emmitt Gilliam,

24 after first having been duly sworn, testified as follows:

25 DIRECT EXAMINATION IN-CAMERA

1 BY MR. STEADMAN:

2 Q Sir, where are you employed?

3 A City of Columbia Police Department.

4 Q And what's your position with the City of Columbia
5 Police Department?

6 A Investigator.

7 Q How long you been an investigator?

8 A Approximately five maybe six years.

9 Q Let me fast forward to this case. How did you get
10 involved in this case?

11 A I was called out in reference to a carjacking case.

12 Q And what information were you given about that
13 carjacking?

14 A One suspect was caught. They chase the vehicle --
15 chase a vehicle, soon they end up arresting one of
16 individuals in the car after the crash. Interviewed him
17 after Miranda and he gave up the name of the defendant
18 Mr. Durham.

19 Q And you spoke -- did you speak with the victims Marck
20 Drastich and Lashonda Edwards?

21 A Yes, I did.

22 Q Did you attempt to do a photo lineup based on the
23 information you had?

24 A Yes.

25 Q And how do you do your photo lineups?

1 A Actually on that one I requested SLED to do it. He
2 does not have a South Carolina driver's license. So we
3 couldn't use his driver's license picture, so we went to
4 the Alvin S. Glenn Detention Center picture and ask them
5 to use his fender -- his Alvin S. Glenn Detention Center
6 picture as creating the lineup.

7 Q And is that kind of standard for you?

8 A Yes.

9 Q When did you do this the photo lineup right here?

10 A It should be that same morning roughly -- say
11 probably about eight, 8:30 I send it off to SLED.

12 Q So how many hours after the crime, did this photo
13 lineup occur?

14 A About seven.

15 Q And what's the process, what kind of questions do you
16 ask and how do you conduct a lineup?

17 A How do I conduct a lineup. Basically, I show them a
18 six picture photo ray a majority of the time and ask do I
19 see anybody who might commit the crime of carjacking
20 against you. And at that time I give them -- lay six
21 pictures out and they look through all six and that's who
22 they picked out.

23 Q Do you show them one at a time?

24 A Sometime I do, but, I think, on this one I actually
25 layed the six pictures out because we were inside their

1 resident at the time.

2 Q And did Mr. Drastich pick out somebody?

3 A Yes.

4 Q And who did he pick out?

5 A Mr. Durham.

6 Q And did you ask him how confident he was in that?

7 A Yes.

8 Q What was his answer?

9 A He say he very confident in the fact that was the one
10 because he say he had a wig on.

11 Q And did he say he got a good look at his face?

12 A Yes.

13 Q And did you suggest in any way which picture?

14 A None whatsoever.

15 Q Did you also do a photo lineup with Lashonda Edwards?

16 A Yes.

17 Q And how did that go?

18 A She couldn't identify him at all.

19 Q And did she say why?

20 A She said she was a little nervous -- if I'm correct,
21 she was a little nervous and she just didn't remember what
22 he actually look like.

23 Q And also did you have occasion to speak to a guy name
24 Zane Harris?

25 A Yes.

1 Q And what did you learn about his involvement in the
2 case?

3 A He was the one at that Shell station right there
4 Harbison waiting -- wanting some alcohol when Mr. Durham
5 pulled up because Mr. Harris is under age. He wanted Mr.
6 Durham to buy him some beer and that's where it lead from
7 the Shall gas station down to Wal-Mart.

8 Q And did he -- did you ask him about how good of a
9 look he got at his face?

10 A Yes.

11 Q And how was -- let me show you the photo lineup in
12 this case. This is Zane Harris' photo lineup looks a
13 little bit different than the one, but how was that one
14 conducted?

15 A The same way. This one I showed him one picture at a
16 time because we was actually at his residence as well and
17 he picked it out. After going through all six, he picked
18 out Mr. Durham's picture number two.

19 Q Is that the same lineup you showed Mr. Marck
20 Drastich?

21 A That is correct.

22 Q And did he make an identification?

23 A Yes.

24 Q And did you suggest in any way which picture to pick
25 out?

1 A None whatsoever.

2 MR. STEADMAN: Thank you, sir.

3 CROSS-EXAMINATION IN-CAMERA

4 BY MR. BAILEY:

5 Q Mr. Gilliam, how are you doing today?

6 A Great. How about yourself?

7 Q Doing okay. All right. So you did your photo ID
8 lineup with Mr. Drastich on August 5th; is that right?

9 A That is correct.

10 Q Okay. Is that the day after the incident?

11 A Yes, it was early morning when I did that, yes.

12 Q Okay. Okay. And where did you get these photos they
13 were all from Alvin S. Glenn?

14 A Negative. All I know is the one from him because he
15 doesn't have a South Carolina driver's license and he had
16 a blank picture. I had to use something to do a creative
17 photo lineup and I notice that he had been to Alvin S.
18 Glenn. And when I request the request to SLED and I asked
19 him to use his Alvin S. Glenn Detention Center picture.

20 Q Okay. You said you sent the request to SLED. Did
21 SLED put the photo lineup together or just find his
22 picture?

23 A They did the photo lineup.

24 Q So SLED put the photo lineup together and did they
25 give the photo lineup to you after that?

1 A Yes, they e-mailed it to me.

2 Q Okay. So SLED gathered the pictures, but you
3 presented the photo lineup to Mr. Marck Drastich yourself;
4 is that correct?

5 A That is correct.

6 Q Okay. Do you have any idea what the process was used
7 to select these photos?

8 A No, sir.

9 Q You did not do a lineup or show a lineup to Mr. Marck
10 Drastich that included the co-defendant Devontae Bryant,
11 did you?

12 A No, I didn't.

13 Q Okay. But he was the co-defendant in this case,
14 right?

15 A Yes.

16 Q And he was actually apprehended first in connection
17 with this crime, is that right?

18 A That is correct.

19 Q Okay. I'm going to approach the witness, Your Honor,
20 if that's okay. Investigator Gilliam, could you take one
21 look at this six individuals in that lineup?

22 A Okay.

23 Q And now did you put -- present all these photos, I
24 believe, you said to Mr. Steadman that you presented all
25 six at the same time to Mr. Marck Drastich?

1 A Pretty sure I did, yes.

2 Q Okay. So you didn't present them one at a time; is
3 that correct?

4 A I'm pretty sure I gave them all at one time laid them
5 out for him. I'm pretty sure I did.

6 Q Okay. At the same time?

7 A Yes.

8 Q Okay. Do you see anything noticeably different in
9 the six of these? Maybe different between Mr. Williams
10 and these other gentleman?

11 A No.

12 Q His picture doesn't look noticeably lighter to you?

13 A Well, I mean, if we dealing with African Americans,
14 we got different skin colors. I really can't say yah or
15 nay to that because really I looked at it as six picture
16 photo ray and close resemble to each other.

17 Q We know they're all black men, but does he not look
18 any lighter to you than these other five men when you put
19 them all together?

20 A Let me see his picture again?

21 Q Look over them.

22 A Sure. Tad bit lighter, that's about it.

23 Q Okay. So you would agree that his picture does look
24 lighter than the other five gentlemen?

25 A Just a little bit.

1 Q Okay. You show that same photo lineup to the other
2 witness from the gas station, right?

3 A Yes.

4 Q Okay. Now, did you read Mr. Marck Drastich's
5 statements about describing Mr. Durham -- I'm sorry I
6 called Mr. Williams before. Did you read Mr. Marck
7 Drastich first statement describing Mr. Durham, that he
8 gave on August 4th?

9 A I do, but I can't recall all right now, yes.

10 Q Okay. Do you remember him saying that the black male
11 that committed this offense was clean shaven? Actually,
12 it was quote completely shaven. Do you remember him
13 saying that?

14 A Not off the top of my head.

15 Q Okay. Let me show you a picture. This is Mr.
16 Durham's booking photo. If I can mark this for ID
17 purposes only.

18 MR. BAILEY: Defense Exhibit 1 just for
19 identification purposes.

20 (WHEREUPON, Defendant's Exhibit No. 1 was marked
21 for identification only.)

22 BY MR. BAILEY:

23 Q I'm going to show this to you, Investigator Gilliam.
24 This picture is the booking picture from when Mr. Durham
25 was arrested after the shoot out. Does he appear to be

1 completely shave on this picture?

2 A No.

3 Q Okay. And you would agree that facial hair seems to
4 be pretty visible there?

5 A Yes.

6 Q Did you notice any other aspects of Mr. Drastich
7 -- I'm sorry I'm going to apologize to the prosecution and
8 also Mr. Marck Drastich. I apologize, I'll try my best to
9 get that right. Did you notice any other differences in
10 Mr. Marck Drastich's statements over time?

11 A Not necessarily.

12 Q Okay. In the first statement, Mr. Marck Drastich
13 said on the first statement August 4th he said that the
14 man that robbed him was wearing a black cap; is that
15 right?

16 A I think so a black cap and a wig.

17 Q Okay. And then when he spoke with, I believe, to you
18 on August 8th four days later, he said that it was not a
19 cap, that it was a hat that it was a camouflage hat; is
20 that right?

21 A Yes.

22 Q Okay. And this discussion that you had with
23 Mr. Marck Drastich was after you had showed him the photo
24 lineup too; is that right?

25 A That's correct.

1 Q Okay. And it was also after camo hat was recovered
2 in the car after Mr. Durham's arrest; is that right?

3 A There's a lot of things recovered in his car after he
4 was arrested. If I'm correct some of the hats that were
5 in the car -- well, if we go into the Wal-Mart case, a hat
6 was stolen out of Wal-Mart as well, which was recovered in
7 the car if I'm correct.

8 MR. BAILEY: Thank you. Court's indulgence for
9 just a second, Your Honor.

10 (WHEREUPON, a pause in the proceedings.)

11 MR. BAILEY: No further questions for
12 Investigator Gilliam, Your Honor.

13 THE COURT: Any redirect?

14 MR. STEADMAN: No, Your Honor.

15 THE COURT: Thank you, sir. Next witness.

16 MR. STEADMAN: The State calls Zane Harris.

17 THE CLERK: Do you solemnly swear or affirm that
18 the testimony you're about to give in this case will be
19 the truth, the whole truth, and nothing but the truth so
20 help you God?

21 THE WITNESS: Yes, ma'am.

22 THE CLERK: Please have a seat and state your
23 full name for the record.

24 WHEREUPON,

25 Zane E. Harris,

1 after first having been duly sworn, testified as follows:

2 DIRECT EXAMINATION IN-CAMERA

3 BY MR. STEADMAN:

4 Q Mr. Harris, where you from?

5 A I'm from Chapin, South Carolina.

6 Q And how long you lived in the area?

7 A I lived in the area until I was 18.

8 Q And do you remember the events of August 4th 2014?

9 A Yes, sir.

10 Q Do you remember what you were doing in the early
11 morning hours of that day?

12 A No, sir.

13 Q Do you remember August 4th 2014 in the early morning
14 hours when you had some interactions with this defendant?

15 A Oh, oh, yes, sir, yes, sir.

16 Q What were you doing that morning?

17 A We were trying to get somebody to buy us beer.

18 Q And were you at a gas station off Harbison Boulevard
19 at some point that night?

20 A Yes, sir, gas station.

21 Q And did you interact with somebody -- did you
22 interact with the defendant at the gas station on Harbison
23 Boulevard?

24 A Yes, sir.

25 Q And what was your interaction like with the

1 defendant?

2 A Well, I was inside the gas station and I came back
3 outside and Cullen, my friend who I was with, was talking
4 to him. And he talked to him to get him to buy us beer
5 and they said to follow them to Wal-Mart from the gas
6 station and they would we get it for us there.

7 Q And did you follow him to Wal-Mart?

8 A Yes, sir.

9 Q What did y'all do at the Wal-Mart?

10 A Well, we both went inside and I gave him money to buy
11 us beer. I went and grabbed something off the shelf. I
12 can't remember what it was, but I went back outside. I
13 was with Cullen and his friend that he was with. I came
14 back outside he didn't have any beer and then he just
15 insisted that they go out with them to the Carolina Ale
16 House to drink with them.

17 Q And including the time you were with the defendant at
18 the gas station and including the time you were with him
19 at Wal-Mart, how good of a look did you get at his face?

20 A Pretty good. We talked for a few minutes not too
21 long, but we were face to face.

22 Q And when you went to Paces Brook that night did you
23 also encounter the defendant?

24 A Yes, sir?

25 Q And what was that interaction like?

1 A Well, after they insisted on us going to the Ale
2 House, we told them we would follow them there, but we
3 just -- we kept going when they turned, we kept going
4 straight. We went to the Waffle House and we ate dinner
5 or just had a snack there and went back to the apartment.
6 And assuming they had followed us there, so I don't know
7 how else they would have known where I lived. As soon as
8 I parked my car, we were stepping out and they were
9 driving up to us. And they stopped on their breaks and I
10 just remember them yelling out the window, hey, what's up,
11 but it was more like aggressive tone. And they both got
12 out of the car and we both just ran up to my apartment and
13 called the police.

14 Q What car were they in at this point?

15 A At that point they were both in the black Camaro.

16 Q And you saw two people in the car?

17 A Yes, sir.

18 Q And what did you do when they yelled at you
19 aggressively?

20 A Kind of stopped dead in my tracks for a second like
21 no way they are here, right, they just followed us.

22 Q And did you go up and call the cops?

23 A Yes, sir, as soon as we saw them starting to get out
24 the car, we just ran straight to the apartment and call
25 the police.

1 Q And did the police come and talk to you?

2 A Yes, sir.

3 Q Did you speak with Investigator Gilliam with Columbia
4 Police Department at some point?

5 A I believe so, yes, sir.

6 Q And did he do a photo lineup with you?

7 A Yes, sir, he did.

8 Q I'm showing you your photo lineup if you don't mind
9 looking through that real quick?

10 A Of course.

11 Q Is that your handwriting?

12 A Yes, sir.

13 Q And do you remember picking out a photo that -- the
14 person you saw that night?

15 A Yes, sir, I do.

16 Q And did the investigator in any way suggest to you
17 who to pick out?

18 A No, sir.

19 Q You picked him out on your own freewill?

20 A Yes, sir, I did.

21 MR. STEADMAN: Thank you.

22 THE COURT: Cross-examination.

23 MS. PINNOCK: Please the Court, Your Honor.

24 CROSS-EXAMINATION

25

1 BY MS. PINNOCK:

2 Q Mr. Harris, you were not at the In-Town Suites at all
3 that night, right?

4 A No, ma'am.

5 Q Okay. You're only -- the person you identified is
6 the person you said you spoke to at the gas station?

7 A Uh-huh.

8 Q The person you said you were talking to at Wal-Mart?

9 A Yes, ma'am.

10 Q Okay. And an investigator didn't ask you any
11 questions about any sort of carjacking or armed robbery,
12 right?

13 A No, ma'am.

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

15 (WHEREUPON, a pause in the proceedings.)

16 MS. PINNOCK: Thank you, Your Honor.

17 THE COURT: Anything else?

18 MR. STEADMAN: No, Judge.

19 THE COURT: Thank you, sir, step down.

20 (WHEREUPON, the witness leaves the witness
21 stand.)

22 THE COURT: Next witness.

23 MRS. CAMPBELL: Thank you, Your Honor. State
24 calls Marck Drastich.

25 THE CLERK: Do you solemnly swear or affirm that

1 the testimony you're about to give in this case will be
2 the truth, the whole truth, and nothing but the truth so
3 help you God?

4 THE WITNESS: I do.

5 THE CLERK: Please have a seat state your full
6 name.

7 WHEREUPON,

8 Marck Drastich,

9 after first having been duly sworn, testified as follows:

10 DIRECT EXAMINATION IN-CAMERA

11 BY MRS. CAMPBELL:

12 Q Mr. Drastich, how old are you?

13 A Twenty-nine.

14 Q Twenty-nine or 39 years old?

15 A Twenty-nine years old.

16 Q Twenty-nine years old. And are you originally from
17 the United States?

18 A No.

19 Q Where are you from, sir?

20 A I'm from Europe, I'm from Slovakia.

21 Q Slovakia. And how long have you been in the States?

22 A Now, more than two years.

23 Q More than two years?

24 A Yes.

25 Q Do you know a young lady name Lashonda Edwards?

1 A Yes, she's my wife.

2 Q She's your wife. And I want to turn your attention
3 back to August the 4th of 2014, where were y'all living
4 back then?

5 A We was living In-Town Suites.

6 Q And did either of you work at the In-Town Suites?

7 A Excuse me.

8 Q Did either one of you work at the In-Town Suites?

9 A Yes, my wife was working office.

10 Q Y'all were actually living there?

11 A We was living there at that time.

12 Q At the time, okay.

13 A Yes.

14 Q Okay. I want to turn your attention to the early
15 morning hours at some point were you and your wife in your
16 car and what kind of car was it?

17 A My car?

18 Q Yeah, your car.

19 A It was my wife car and it was Oldsmobile.

20 Q Oldsmobile?

21 A Yeah.

22 Q And were y'all in the car that morning when a man
23 approached you?

24 A Yeah, we was in the car together in the car sitting
25 down.

1 Q And where were you sitting?

2 A I was sitting on the passenger side.

3 Q In the front?

4 A Oh, yes.

5 Q And was your wife sitting?

6 A She was in the driving.

7 Q It was actually her car?

8 A Yes.

9 Q And tell the Court what happened?

10 A So we was getting back -- we was at the Ale House and
11 we was getting back in the apartment and we was sitting
12 down and talking like for a little while before we get
13 back. So we was sitting down and suddenly the man
14 approached from the right side from Fairfield Inn side.
15 And he came to me and he showed me the gun and he said
16 something like give it up, give me some money something
17 like that.

18 Q And at that point were you able to see his face?

19 A Yeah.

20 Q And was he approaching your side of the car?

21 A Yeah, he was just there I seen him because he came
22 from my side.

23 Q And was there anything in between -- could you see
24 his face fully?

25 A Yes.

1 Q And at that point what happened next?

2 A So he was keep asking for the money, I said I don't
3 have anything. I have phone. He said what kind of phone.
4 I said this an old phone or something, that's -- you got
5 broken once. He didn't have anything, so I have nothing
6 give you.

7 Q Okay. What did he do next?

8 A So he trying to get some money, but then he saw I was
9 trying to get out from the car.

10 Q But he was blocking your way?

11 A Yeah, he hit me that time, he hit me with the gun to
12 my face.

13 Q In your face, he hit you with the gun when you were
14 trying to get out of the car?

15 A Yeah, I was trying to get -- I was trying to get like
16 this and he pushed me back with the gun and he hit to my
17 lips, so I sit down like this.

18 Q Then what happened?

19 A So then he say probably he saw that he's probably not
20 going to get nothing from me, so he was trying to get on
21 the other side to my wife and try -- no, no, he was going
22 back and trying to get to the car, open the door, but the
23 door was closed because some broken or something. But it
24 was the first time for me that he's trying to take us
25 something, but then he couldn't open the door so he was

1 trying all the way and go to my wife's side.

2 Q And what did you do?

3 A That was the time when I was able to open the door
4 and I was said -- he started to talk to my wife. And he
5 said something I am going to take you guys somewhere. And
6 there was a point I realize that if he takes us somewhere,
7 then it want be anyway to like do something what he can do
8 with us. So therefore I had the time to run away and call
9 the police, so even if he took her somewhere, we still
10 have the police. And if he kidnap her, then we be able to
11 find her, but if he both took us then so...

12 Q So you were able to run and try to get help?

13 A Yes, and I called police.

14 Q And then the police come?

15 A Yeah, I called from the Fairfield and then police
16 very fast maybe couple minutes, but I saw him before the
17 police came. He left, that's when he past me all the way
18 down in the car, but I didn't see anybody inside. And
19 after he left, the police came just a couple seconds after
20 him.

21 Q And then they talk to you and your wife?

22 A Yeah, then the police start to talk to me. I said I
23 called the police and then in a couple minutes my wife
24 came to me too.

25 Q Okay. Were you able to give them a description of

1 the person that assaulted you or kidnapped you and tried
2 to rob you?

3 A Yeah.

4 Q And do you remember what the description you gave
5 them?

6 A At the time like they ask -- like he had -- it was
7 the black guy with wig and glass and then later I identify
8 him.

9 Q Okay. And I want to turn your attention to the next
10 stage you said it was black with a wig and glasses and
11 then do you remember the next day being shown some
12 photographs?

13 A Yeah.

14 Q I show you what's been marked as State's Exhibit
15 Number 1 do you recognize this?

16 A Yes. This is what Mr. Gilliam showed me and I even
17 described him on -- this is my sign, yes, I picked.

18 Q When he showed you these photographs, did he show you
19 all of them?

20 A Yeah, he showed me all of them.

21 Q And when he showed you all these photographs, did he
22 tell you who to pick?

23 A No.

24 Q Did he influence you in any way?

25 A No, he didn't influence me, I saw him very clearly

1 through his face.

2 Q And when you look through these six photographs, did
3 you recognize one of them?

4 A Yes.

5 Q And is that the one that now has writing on it?

6 A Yes.

7 Q Is that your writing?

8 A Yeah, it is my signature.

9 Q Your signature. And who did you recognize this
10 person to be?

11 A The person who robbed me.

12 Q The person who robbed you?

13 A Yeah.

14 Q And ultimately took your car?

15 A Yeah.

16 Q Did anyone tell you who to pick your wife or anyone
17 else?

18 A No, nobody.

19 Q And you recognized him based on what you saw that
20 night?

21 A Yeah, exactly when I look at his face.

22 Q And when he was trying to get in the car and stuff
23 was there enough light out there for you to actually see
24 his face?

25 A No, he was like -- because I was like door and window

1 was down and it was like this, so I have -- I saw him very
2 clearly.

3 MRS. CAMPBELL: Okay. Your Honor, may I
4 approach?

5 THE COURT: Yes.

6 MRS. CAMPBELL: Thank you, Your Honor. I don't
7 have anything further.

8 THE COURT: Cross-examination.

9 MR. BAILEY: Thank you, Your Honor.

10 CROSS-EXAMINATION IN-CAMERA

11 BY MR. BAILEY:

12 Q Mr. Drastich?

13 A Drastich, yes.

14 Q Drastich?

15 A Something like that.

16 Q With a K or with a C like a cup or S-H?

17 A It's S-H, it's Drastich, but in the English
18 pronunciation, you wouldn't be able to pronounce it right.

19 Q I want to get it right.

20 A Everybody say Drastich, so you can use that.

21 Q Mr. Marck Drastich, you were at the In-Town Suites on
22 August 4th when this incident happened; is that right?

23 A Yes.

24 Q Okay. Was it about two o'clock in the morning?

25 A It was around midnight.

1 Q Okay. And was it dark outside?

2 A Yes.

3 Q Okay. Before you saw them, the man that came up and
4 robbed you and your wife, did you see the person hanging
5 around the area at all?

6 A Like if I saw them before?

7 Q Right, when was the first time you saw the individual
8 that robbed you?

9 A The first time I was sitting down like this, we was
10 talking like this. We was talking she and I sat because
11 it didn't happen to me before never like nobody ever saw
12 even a gun before. And I was like what do you want. And
13 then I realized when he showed me the gun. Therefore, he
14 scare me, that's going on.

15 Q Okay. So and I'm not putting words in your mouth, so
16 correct me if I'm wrong, but the first time you saw him
17 was when he showed up right beside your car; is that
18 right?

19 A Yeah.

20 Q Okay. So he came up suddenly?

21 A Okay. Let me clarify, I didn't notice too much
22 people approaching. People are coming all the time. And
23 I saw somebody coming, but didn't pay attention to this.
24 But until he -- even he was already over there I still
25 like people are going there, but I'm like he shown me the

1 gun. He made sure that I see the gun and he show me like
2 this. So therefore I know what's going on.

3 Q How long did your interaction last with this man?

4 A A couple minutes.

5 Q A couple minutes. Okay. Now, shortly after this
6 incident after the police came, you gave a statement to
7 Officer Van Valkenburgh; is that right?

8 A I think that was the first officer like he came
9 chasing or something. I think it was the officer who show
10 up over there.

11 Q That was on August 4th. This was shortly after?

12 A It was -- yeah, at the time after -- short time after
13 it happen.

14 Q And you gave the best description you could at the
15 time to Officer Van Valkenburgh?

16 A You know like at the time I was like shaking all this
17 stuff. Like he had to let me calm down, but at the time I
18 was trying to tell him what happened and whatever.

19 Q Now, in this statement, you describe a black male; is
20 that right?

21 A Yes.

22 Q Okay. And at the time you described him as
23 completely shaven to Officer Valkenburgh; is that right?

24 A Shaven. What do you mean?

25 Q In your statement, you described the individual that

1 robbed you as completely shaven; is that correct?

2 A Man it's completely hair on his face, what do you
3 mean?

4 Q Your words are completely shaven, so I assume it
5 means his whole face was shaved?

6 A I don't know about that.

7 Q Are you saying you don't agree that ---

8 A I don't believe I say completely shaved or something
9 like that maybe could happen. I don't know.

10 Q Would it help your memory if I showed you a copy of
11 your statement that you gave to Officer Van Valkenburgh?

12 A I say one somebody was shave something like that. I
13 can't remember every second what I said.

14 Q That's fine. Nobody expects you to remember every
15 single thing you said. Would it help you remember what
16 you said in the first statement if I give you a copy?

17 A I know exactly what I said, so it wouldn't help me.
18 I know exactly what I said.

19 Q Okay. I'm sorry so what did you say?

20 A I cannot remember, I guess, I don't know if I say it
21 was completely shaved or not.

22 Q You don't know?

23 A I cannot remember.

24 Q Okay. Well, if I show you a picture -- I'm sorry, if
25 I show you a copy of the statement you gave, would that

1 give you a chance to remember what you said?

2 A If you show me, it is what I said completely to him
3 that all he was shave maybe he was shaved I don't know.

4 Q Okay. Well, tell you what if it's okay with you, I'm
5 going to get a copy of your statement?

6 A You can show me whatever you want.

7 MR. BAILEY: Court's indulgence.

8 (WHEREUPON, a pause in the process.)

9 THE COURT: And this goes to what issue?

10 MR. BAILEY: Your Honor, this goes to the fact
11 that Mr. Marck Drastich identified the individuals being
12 completely shaven.

13 THE COURT: It goes to what issue in relation to
14 whether or not the identification procedure was unduly
15 suggestive -- what issue as it relates to that?

16 MR. BAILEY: One of the factors in Biggers
17 hearings is the accuracy of witnesses prior description of
18 a criminal. So if at the time the individual or
19 subsequent picture has facial hair and his first statement
20 is that the individual that robbed him was completely
21 shaven, I think, that would go to general accuracy of
22 whether or not this identification was correct. We're not
23 going to harp on it too long, Your Honor.

24 THE COURT: All right.

25 MR. BAILEY: I'm going to approach Mr. Drastich

1 with his statement that he gave to Officer Van Valkenburgh
2 on August 4th.

3 BY MR. BAILEY:

4 Q If you want to just take a second and look at it,
5 Mr. Drastich, and I'm referring specifically to the last
6 answer -- the last question and answer on the form?

7 A It is right there, maybe. Like I said, I cannot
8 remember, so if it is right there.

9 Q Okay. All right. Thank you, Mr. Drastich.
10 Mr. Drastich, you also said of this assailant, the man
11 that robbed you, you also said on August 4th in this
12 statement that he had a long haired wig; is that right?

13 A Yeah, he had wig.

14 Q Okay. And at this time on August 4th you said he had
15 a black cap or he was wearing a black cap does that sound
16 right?

17 A Black hat.

18 Q Okay. Well, would you disagree that you used the
19 word cap in the ---

20 A I don't know the difference between cap and hat.

21 Q Okay. So he's wearing a wig and a cap. Would you
22 say that he was in disguise?

23 A What does that mean?

24 Q Disguise like you're putting on a wig and hat?

25 A He was dressed funny. I was like, you know, I can

1 still put this on my face, but it was like -- pretty much
2 you don't notice them. I still saw face, so you can put a
3 wig on even if you want.

4 Q Okay. Investigator Gilliam who testified earlier, he
5 brought you in and showed you some photo ID's later. He
6 showed you some photo lineup; is that right?

7 A Yeah, he showed me.

8 Q Okay. And that was on August 5th the next day, was
9 it?

10 A Yeah, it was the next day I think.

11 Q Okay. And he asked you a few questions about the
12 incident, right?

13 A Information what I gave them like everybody knew this
14 I don't know what else we was talking about, but he show
15 me the photo -- ask me for identification and this is what
16 I did.

17 Q Okay. So he showed some pictures?

18 A Yeah.

19 Q Okay. Did he show you six pictures from what you
20 remember?

21 A I don't know how it was done five, six, it's many of
22 them. He just show me that I can identify, so he went
23 through the pictures and I pick out him.

24 Q Did he show them all at once? Did he lay all six out
25 in front of you?

1 A He showed me folder like this and there was one, two,
2 three, four, five, six.

3 Q I'm sorry and I'm not trying ---

4 A He didn't show me like that, but he show me he got a
5 folder and he show me all these persons.

6 Q Okay. Do you remember if he said if it was like, you
7 know -- for the Court, I'm just holding -- I got a stack
8 of papers -- did he show the pictures to you like one move
9 it, two and then show you the next one or did you lay them
10 all out at the same time like side by side?

11 A Sir, I cannot remember exactly how he show me. He
12 hold all these like this. He hold these like that. I
13 don't know how he did that.

14 Q Okay. And we're almost done, Mr. Drastich. So
15 Investigator Gilliam then talked to you again on
16 August 8th; is that correct?

17 A I don't know how many times he showed that or
18 whatever, but many people police officers and him too, so
19 there was the more people who was showing up how many
20 times he showed up I don't know.

21 Q I know it's confusing. I know you talked to a lot of
22 investigators. The incident reports and everything seems
23 to indicate that Mr. Gilliam took another statement from
24 you on August 8th, which was four days after the incident.
25 Does sound about, right?

1 A If you say that probably true.

2 Q Okay. Now, in your second written statement, I
3 believe your wife might have written out what you said.
4 Does that sound right?

5 A I don't know if she was written, but, you know, you
6 can still hear me, you know, like they was first maybe
7 difficult to understand me. Can see you have a problem
8 understanding me sometimes.

9 Q Sure. I can generally understand you?

10 A At that time it was more than a year ago, so it was
11 like my English was even much more worse.

12 Q That's fine. We don't have any problem with that.
13 And your wife's name is Lashonda Edwards, right?

14 A Yes.

15 Q Okay. In that statement, you said that the man
16 robbed you had a camouflage hat. Do you remember that?

17 A I don't know too much about color, I know a wig is
18 somebody wearing fake hair. It is this kind or this
19 style, this style. I just know he had fake hair, so it
20 was like fake hair. It wasn't his hair. It was like wig.
21 And if there's a camouflage hair, fake hair he had.

22 Q When you say fake hat?

23 A It is like not real hair. It is not his hair, so it
24 is like...

25 Q You're saying that the hat was fake?

- 1 A Fake, it isn't real hair, right.
- 2 Q Just for clarification, I'm talking about the hat.
- 3 A Hat or hair.
- 4 Q The hat not the hair?
- 5 A I thought you were talking about the hair.
- 6 Q That's my mistake. In your second statement, you
- 7 said he had a camouflage hat as in a detachable thing you
- 8 wear on your head. Do you remember saying that?
- 9 A The camouflage hair. I meant hair probably.
- 10 Q Okay. So it's your testimony that you said
- 11 camouflage hair?
- 12 A Camouflage hair probably. This is what I meant, I
- 13 don't know.
- 14 Q So in your second statement or in your second written
- 15 statement, the one you gave on August 8th, you're telling
- 16 us that you meant to say camouflage hair and not
- 17 camouflage hat; is that correct?
- 18 A Sir, we can play these games with the words, but I
- 19 don't know like I said -- he had the hair -- he had the
- 20 hair fake you can call it camouflage head probably. This
- 21 is what I meant, so he had the head and he had the
- 22 glasses. This what I saw. If I in the first statement
- 23 said he had a hat or he had a cap or he wig or he had
- 24 camouflage hair.
- 25 Q Sure ---

1 A I don't know where you going with this, but I'm
2 trying to answer this question.

3 Q I know you're trying and we're not trying to play
4 games. I'm not trying to trip you up either,
5 Mr. Drastich?

6 A I understand. Like it was long time and like the
7 statement.

8 Q Well, we're almost done. Do I need to show you a
9 picture of your statement?

10 A If it can help you.

11 Q Okay.

12 MRS. CAMPBELL: Objection, Your Honor. I think
13 he's asked and answered this question several times.

14 MR. BAILEY: Your Honor, all I need him to do is
15 to say whether he intended to say it was camouflage head
16 or hair or if it was a camouflage hat, that's all we need
17 from Mr. Drastich at this point.

18 BY MR. BAILEY:

19 Q So when the statement was taken, did you mean to say
20 that the man robbed you had a camouflage hat or did you
21 mean to say ---

22 A That exist, camouflage hat it exist?

23 Q Sorry?

24 A Does it exist?

25 Q Well, that's not really relevant to this right now.

1 I'm asking you what you wrote?

2 A If I'm thinking about this right now, then probably I
3 mean camouflage hair.

4 Q Hair?

5 A Yeah.

6 Q Okay. So you think when your statement was taken,
7 that you meant camouflage hair?

8 A Camouflage hair probably, yes. And if you ask me
9 what it meant right now it is wig or fake hair. If you
10 ask me what is camouflage hair, I think it is like a wig
11 or something like that.

12 Q I'm just going to ask you one more time. You can
13 take your time if you need to.

14 MRS. CAMPBELL: Objection, Your Honor. It's
15 been answered.

16 THE COURT: Well, first of all, the volunteer on
17 the front row, we don't need volunteers. Let's see if
18 this is the same question he answered many times or a
19 different question.

20 MR. BAILEY: Thank you, Your Honor.

21 BY MR. BAILEY:

22 Q Mr. Drastich, when you gave this statement, did you
23 mean camouflage hair or did you mean camouflage hat,
24 either one just one or the other?

25 A I understand your question now. Camouflage it means

1 camouflage is like Army, yes, this is correct camouflage
2 head, yeah, I understand now. Yes, this what I said.

3 Q You said camouflage hat?

4 A Yes, camouflage hat.

5 Q Okay. So you did not mean camouflage hair?

6 A No.

7 MR. BAILEY: Okay. Thank you. Court's
8 indulgence, Your Honor.

9 (WHEREUPON, a pause in the proceedings.)

10 MR. BAILEY: No further questions, Your Honor.

11 Is.

12 THE COURT: Anything further?

13 MRS. CAMPBELL: Nothing from the State, Your
14 Honor.

15 THE COURT: Thank you. You may step down, sir.

16 (WHEREUPON, the witness leaves the witness
17 stand.)

18 MR. BAILEY: I assume the State is done with
19 it's witnesses.

20 THE COURT: Any defense witnesses?

21 MR. BAILEY: No, Your Honor, we don't have any
22 witnesses. I just like to make our motion regarding that
23 identification at this time. Your Honor, we would ask the
24 Court to suppress this ID procedure initiated by
25 Investigator Gilliam as unduly suggestive to the point of

1 violating our client, Mr. Durham's, Fourteenth Amendment
2 Due Process Rights.

3 Additionally, we would like to suppress any in
4 court ID of Mr. Durham. There's several reasons here
5 specifically, Your Honor -- first of all, it's generally
6 been a practice to have someone who's uninvolved with the
7 identification -- I'm sorry uninvolved with the case like
8 Investigator Gilliam to present the pictures to the
9 witness. This -- it's not that Mr. Gilliam is doing
10 anything malicious. It's unconscious fuse. People have a
11 tendency -- and psychologist show this that people have a
12 tendency to hold their breath. People have a tendency to
13 give looks. People have a tendency to pause when they
14 want a certain answer out of somebody they give something
15 that could have been easily alleviated, you know, if some
16 random, you know, officer they say go in and show this
17 lineup to the individual.

18 Secondly, it's highly suggestive that they put
19 six out. They didn't show it to him one at a time.
20 Although, Mr. Drastich -- Investigator Gilliam says that
21 he did them all at the same time. It's also pretty
22 documented that it's a better practice to show them at
23 the -- to show them individually, but this is really
24 important here because the picture of Mr. Durham is
25 substantially lighter. It stands out. It is a -- which

1 one of those things is not like the other situation.
2 Mr. Durham stands out as to which one of these pictures
3 does not fit in because his picture's lighter. It doesn't
4 matter whether it's his skin tone being lighter or whether
5 it's the lighting in the picture, but we think that's a
6 problem. We think that is suggestive.

7 Additionally, Investigator Gilliam did not show
8 any pictures of Devontae Bryant to any of the witnesses
9 here. This is another man. This is a man they tied to
10 the car, tied to the incident before anybody else. This
11 is the only man that initially linked him to our client.
12 And for some reason when they got all this information
13 that says two people in the car, they didn't even bother
14 to show a photo lineup to Mr. Drastich or anybody else.
15 And Your Honor for those reasons, Your Honor, we would ask
16 that this ID, in court ID and this procedure be
17 suppressed. Oh, one more thing totally forgot facial
18 hair. Our client clearly had at the time of the arrest
19 Mr. Marck Drastich said that he was completely shaven.
20 Those were his exact words. We think that leads to
21 problems with this identification. Thank you, Your Honor.

22 MR. STEADMAN: Judge, I'll briefly respond to
23 Devontae Bryant inquiry. Devontae Bryant was never seen
24 by these witnesses, was never even -- he's not the one who
25 robbed the witness, so that's why they didn't do

1 identification procedure based on Devontae Bryant.' Also,
2 Mr. Bailey, I believe -- everything that he's mentioned
3 goes to the weight of the identification procedure not
4 it's admissibility and it is his burden to show by
5 preponderance of the evidence that it was basically
6 suggestive and I don't think he's done that.

7 THE COURT: Well, you say it's his burden to
8 show what?

9 MR. STEADMAN: I believe the burden is on the
10 defendant to show by preponderance of the evidence that
11 the identification was impermissibly suggestive.

12 THE COURT: You think that's the law that it's
13 the defendant's burden?

14 MR. STEADMAN: Yes, Your Honor.

15 THE COURT: Do you agree with that that it's the
16 defendant's burden?

17 MR. BAILEY: Well, Your Honor, I understand the
18 law that the Court decides -- they weigh two things. Was
19 the ID process unduly suggestive and was the -- we, of
20 course, have argued that it wasn't duly suggestive. And
21 then the second was was the out-of-court identification
22 still so reliable that no substantial likelihood of
23 misidentification could have occurred and we, you know,
24 obviously that's for the Court to decide, but we believe
25 that it wasn't so reliable and we believe that it wasn't

1 duly suggestive.

2 THE COURT: All right. The question was do you
3 agree that it's the defendant's burden, I guess, your
4 answer is yes.

5 MR. BAILEY: I think we certainly shown that
6 there are.

7 THE COURT: All right. Maybe, you didn't
8 understand the question. Go ahead.

9 MR. STEADMAN: And, Your Honor, unless the
10 pretrial identification creates a substantial likelihood
11 of irreparable misidentification, the identification is
12 admissible and its weight is for the jury to consider.
13 The only thing I understand preponderance of the evidence
14 is a low standard, but the darken or the more lighted
15 picture is really the only thing he's produced that is,
16 that goes to the suggestiveness of his lineup and you have
17 the lineup before you and you can take a look at that.

18 THE COURT: All right.

19 MR. BAILEY: Your Honor, the State had to put up
20 testimony. It's ours to point out problems with it, but
21 they still have to prove that it wasn't. I mean, the
22 State have to put up witnesses and we get to, you know, we
23 get to ---

24 THE COURT: Well, the identification procedure
25 was not unduly suggestive as proper procedure and the

1 motion is denied.

2 MR. BAILEY: Thank you very much, Your Honor.

3 THE COURT: All right. You ready for the jury?

4 MR. BAILEY: Your Honor, we still have a motion
5 to requesting a site visit.

6 THE COURT: Well, we're not going to decide that
7 before we start the case, that's up to me. Well, we'll
8 deal with that later if at all. We'll deal with the
9 motion, but I'm not going to decide that in advance of
10 hearing anything.

11 MR. BAILEY: Thank you, Your Honor.

12 THE COURT: I don't know whether it will be a
13 benefit or not. All right. What else?

14 MS. PINNOCK: Before the jury comes in, Your
15 Honor, we would just ask that anybody who's not a lead
16 investigator or anybody ---

17 THE COURT: We dealt with that already. We've
18 dealt with the sequestration issue.

19 MS. PINNOCK: Thank you.

20 THE COURT: We'll take a couple minutes and then
21 we'll press on.

22 (WHEREUPON, a break was taken.)

23 THE COURT: All right. Anything else before the
24 jury comes?

25 MS. PINNOCK: Not from the defense, Your Honor.

1 MRS. CAMPBELL: No.

2 THE COURT: All right. Let's bring the jury.

3 (WHEREUPON, the jury came into open court.)

4 THE COURT: Okay. Good morning. All right,
5 ladies and gentlemen, welcome back. We had to deal with
6 some preliminary matters that we started with dealing at
7 9:30. We're now ready to press on with this trial, if you
8 all will stand now to be sworn.

9 (WHEREUPON, the jury was sworn.)

10 THE COURT: All right. Ladies and gentlemen,
11 recapping that oath that you just took says that you will
12 well and truly try this case and render a true verdict
13 according to the law and according to the evidence so help
14 you God. And if you hold true to that oath, you will have
15 done your job and no one will have any right to criticize
16 your verdict at the end of the case. This is a case
17 brought by the State against the defendant. The defendant
18 has pled not guilty. He's presumed to be not guilty and
19 the State under the law is required to prove guilt beyond
20 a reasonable doubt. And that is the purpose of a trial to
21 determine whether the State can meet that burden of proof.
22 You are the finders of the facts in this case, which means
23 that you have to decide whether the State proves the case
24 or not. It's not up to me to decide, it's up to you to
25 decide. And the State must convince each and every one of

1 you of the defendant's guilt beyond a reasonable doubt.

2 Now, as this process unfolds, the State will
3 give an opening statement. Then the defense will also
4 have a right to give one. Then we will listen to the
5 witnesses and the presentation of the evidence. After all
6 the evidence is in, then there will be closing statements
7 made by the parties in the case. I will then instruct you
8 as to the law and then you will deliberate.

9 Later in the process, I would appoint one of you
10 to serve as the foreperson of the jury. The foreperson is
11 the spokesperson of the jury -- the spokesperson for the
12 jury and we will have the responsibility of presiding over
13 the jury deliberations and completing the verdict form
14 representing the unanimous verdict of the jury. Each and
15 every one of you are eligible for that appointment, but I
16 will pick the very best person to serve in that capacity
17 according to my thoughts.

18 Now, it's an important rule that you are not to
19 discuss the case at all or to be exposed to any outside
20 information whatsoever. And no one is to attempt to
21 discuss it with you because you're to listen to the entire
22 case and then listen to the law and then decide the case.
23 I look forward to working with you on this case. You
24 know, we probably should have gotten lunch for the jury
25 while we're waiting because it's goodness after 11

1 already. How we going to do that after 11 already?
2 Probably should have done it while they were waiting.

3 THE CLERK: I would need them to return to the
4 jury room, so I can take their orders.

5 THE COURT: So we're going to -- I think, we're
6 going to deal with that now because it takes an hour, hour
7 and a half to get it so. We're going to have you go to
8 the jury room and get your lunch orders and then we'll
9 come back and start with opening statements. Let me
10 reiterate it that of all the folks who were summoned to
11 come in to serve on the jury duty, out of all the people
12 who live here in Richland County, out of all the folks who
13 live here in this state, only the 12 of you who can
14 deliberate, who will deliberate can decide this very
15 important issue, that is guilt or innocence. And
16 therefore it's critically important for you to zone in,
17 stay focus and be attentive to the details and the tasks
18 that you are assigned. And we look forward to taking you
19 through this process and going through the process with
20 you. We'll take a couple of minutes so we can get these
21 lunch orders and then we'll hear from the lawyers and
22 we'll get rolling. So if you'll go back to the jury room
23 for a moment.

24 (WHEREUPON, the jury retire to the jury room.)

25 THE COURT: It's going to take a few minutes to

1 take these orders. Anything we want to do in interim?

2 MRS. CAMPBELL: Yes, sir, Your Honor, we bring a
3 set of records for settling.

4 THE COURT: Okay.

5 MRS. CAMPBELL: I meant to bring that up to you.
6 If I may approach, Your Honor?

7 THE COURT: Yes.

8 MRS. CAMPBELL: These the two cases.

9 THE COURT: Okay. Whose records are we
10 settling?

11 MRS. CAMPBELL: The lay witnesses we can settle.
12 Mr. Drastich has nothing. We agree on that.

13 MS. PINNOCK: Yes, sir.

14 THE COURT: Nothing in the USA or what's that
15 other country?

16 MRS. CAMPBELL: Slovakia nothing.

17 THE COURT: Nothing?

18 MRS. CAMPBELL: Nothing.

19 THE COURT: All right. Your Honor, Ms.
20 Edwards in the last ten years. Is that Ms. Edwards up
21 there?

22 MRS. CAMPBELL: Yes, sir. As far as anything
23 that's possibly impeachable, it looks like she was
24 convicted in 2008 for a burglary and that's the extent of
25 what I see as far as any impossible impeachable. We did

1 hand up Bryant and the more recent case of Broadnax, which
2 talks about how in Bryant -- it's a 2006 case, Your Honor.
3 Basically, it says that generally a conviction for robbery
4 and burglary, theft, or drug possession beyond the basic
5 concept is not probative truthfulness. More recently,
6 Your Honor, in 2015, in the Broadnax case, the Supreme
7 Court reiterated that and that case they actually found or
8 affirmed that the Court of Appeals ruling that armed
9 robbery would not be impeachable necessarily, that the --
10 once any of these types of crimes occur, that the judge
11 should give you a balancing test as to whether or not it
12 would be probative.

13 THE COURT: All right. She has an armed robbery
14 on her record?

15 MRS. CAMPBELL: No, sir, she has a burglary.

16 THE COURT: Burglary. So the issue is whether
17 or not the 2008 burglary is...

18 MRS. CAMPBELL: Probative truthfulness, I think,
19 is a balancing test which is being I read the case.

20 THE COURT: All right. Yes.

21 MS. PINNOCK: Your Honor, I would disagree with
22 that the Broadnax decision applies to people to the actual
23 defendant, that was the issue that was represented in
24 Broadnax. It was his prior convictions for burglary.
25 It's not the same standard for other witnesses to testify,

1 so because it's inside the time frame and it is a
2 conviction on the record, I do believe that it still can
3 be brought up. I do not believe that Broadnax bars us
4 from bringing that up if we choose to.

5 THE COURT: That's 6-0.

6 MRS. CAMPBELL: 609.

7 THE COURT: 609. You have the rule for
8 defendants and other witnesses?

9 MRS. CAMPBELL: I believe the rule applies to
10 everyone.

11 MS. PINNOCK: The difference is Hayes was
12 defending with the defendant's conviction not a lay
13 witness.

14 MRS. CAMPBELL: I think I said the wrong date.
15 It should be 2011.

16 THE COURT: All right. We'll deal with that in
17 time. I tend to agree with the defense's view, but I
18 ponder it all and kind of refresh my mind about it.

19 MRS. CAMPBELL: Okay.

20 MS. PINNOCK: Your Honor, Ms. Edwards also
21 there's a false information conviction in 2006.

22 MRS. CAMPBELL: That's past the ten years.

23 THE COURT: We let people redeem themselves
24 every ten years, don't we?

25 MS. PINNOCK: Your Honor, we're at the ten year.

1 MRS. CAMPBELL: It's past the ten year mark.

2 MS. PINNOCK: We're talking about a matter of

3 ---

4 THE COURT: I don't care a matter of a day, a
5 month or year or ten years is ten years.

6 MS. PINNOCK: Yes, sir, it was a conviction in
7 2006.

8 THE COURT: All right. When in 2006?

9 MS. PINNOCK: The court date is March 7th 2006.

10 THE COURT: All right. We're April, aren't we?

11 MS. PINNOCK: I'm sorry.

12 THE COURT: Aren't we in April?

13 MS. PINNOCK: Yes, sir.

14 THE COURT: So it's beyond ten years. All
15 right.

16 MS. PINNOCK: Okay.

17 THE COURT: Well, you have the right to really
18 deal with the issue as we get to that point. She'll be a
19 witness at some point.

20 MRS. CAMPBELL: At some point, Your Honor. Your
21 Honor, Mr. Bennecker has nothing. Ms. Kiane Warner has
22 nothing. You agree?

23 MS. PINNOCK: For Ms. Warner, yes. And on Mr.
24 Bennecker, yes.

25 MRS. CAMPBELL: And then on Zane Harris, he has

1 a juvenile conviction from 2011 for burglary, so that
2 would be the same issue. Ms. Dereka Brown has nothing.
3 Marcus Harvey Marcus has a pending accessory after the
4 fact of to a felony in office.

5 THE COURT: We don't deal with pending crimes,
6 do we or do we?

7 MRS. CAMPBELL: I don't know if they intend to
8 try and go into ---

9 THE COURT: More less the State is working to
10 deal with them or something.

11 MS. PINNOCK: Your Honor, I do believe we could
12 go into the pending charges especially if they're
13 testifying for the State and being prosecuted by the
14 Solicitor's office currently. I do think ---

15 THE COURT: All right. We'll deal with that at
16 the appropriate time.

17 MRS. CAMPBELL: And then finally the
18 co-defendant, Devontae Bryant, we just need to take that
19 up before he takes the stand. He's got a number of
20 charges pending.

21 THE COURT: All right.

22 MS. PINNOCK: There's some out of state things
23 for Mr. Harvey as well.

24 THE COURT: Records of most witnesses will come
25 in if they come within the rule.

1 MS. PINNOCK: Thank you, Your Honor.

2 THE COURT: All right.

3 MRS. CAMPBELL: I think as far as his out of
4 state pending will be a shoplifting.

5 THE COURT: All right.

6 (WHEREUPON, a break was taken.)

7 THE COURT: All right. Opening statements by
8 the State. Mr. Steadman.

9 MR. STEADMAN: On August 4th 2014, Keylan Durham
10 began a crime spree. That guy over there started his
11 crime spree with a carjacking near the mall on Harbison
12 Boulevard. He approached Marck Drastich and Lashonda
13 Edwards while they were sitting in their car. It was
14 about 1:15 in the morning. He approached the car wearing
15 a wig and armed with a pistol. He demanded their money
16 and then he pistol whipped Marck Drastich in the mouth
17 cutting his lip. They don't give their money, but he
18 takes their car. He takes their 1995 blue Oldsmobile
19 sedan. He gets them out of their car and drives off with
20 their car. And mind you he's doing this with another
21 person with him Devontae Bryant, his accomplice. You will
22 hear from him at this trial.

23 Mr. Marck Drastich runs and calls the cops and
24 Keylan Durham drives off with their Oldsmobile. He goes
25 to a gas station also on Harbison Boulevard. At the gas

1 station, he sees Zane Harris and Cullen Bennecker, two
2 guys that just happen to be at the gas station. He
3 strikes up a conversation with Zane and Cullen and they
4 ask him to buy them beer. Keylan says, yeah, I'll buy you
5 beer and he says meet me at the Wal-Mart. They go to the
6 Wal-Mart right on Harbison Boulevard to buy Zane and
7 Cullen beer. You'll see the surveillance video from
8 Wal-Mart. Instead of buying them beer at Wal-Mart, Keylan
9 Durham goes inside Wal-Mart, goes to the electronic center
10 and ---

11 MS. WILLIAMS: Objection, Your Honor.

12 THE COURT: Yes.

13 MS. WILLIAMS: From your pretrial in the 404
14 section, you wanted more context before ruling on whether
15 or not it would become certain -- certain things would
16 come in.

17 THE COURT: Fast forward me on that proceed.

18 MR. STEADMAN: He then runs out the store with a
19 Nikon camera and a few other things. You then see him on
20 surveillance video. He gets in that blue Oldsmobile with
21 his friend, Devontae Bryant, driving a black Camaro behind
22 him.

23 They then go and ditch the blue Oldsmobile that
24 he had just stolen. He ditches that in a parking lot near
25 the mall. He then becomes the driver of the black Camaro

1 with his buddy Devontae Bryant sitting shotgun in the
2 Camaro. So at that point, they then go to Paces Brook
3 apartment about 30 minutes later and at Paces Brook
4 apartments, they see the same guy Zane and Cullen at Paces
5 Brook apartments. Zane and Cullen see them and see that
6 they been followed to their apartment. And they know that
7 he's armed with a pistol because they saw the gun earlier.

8 They run to their apartment. They go inside.
9 They lock the door and they call the cops. The cops show
10 up. They get behind the black Camaro and Keylan Durham
11 jumps in the driver's seat of the black Camaro, speeds out
12 of the parking lot at a high rate of speed. He then flees
13 and a car chase ensues. They drive down Broad River Road
14 going at about 140 miles per hour with his headlights off.

15 Keylan then wrecks his car off Monticello Road
16 nearby. Keylan gets away. Devontae Bryant, who's riding
17 shotgun, doesn't get away. He's caught right there at the
18 scene and he's apprehended by the police. They question
19 him about what happened that night about the car chase,
20 about the carjacking and he tells the cops that Keylan
21 Durham is responsible for all of that.

22 Keylan is charged with carjacking, two attempted
23 armed robberies, two kidnappings and possession of a
24 firearm during a violent crime. And at the end of this
25 case once you've heard from all these witnesses, we're

1 going to ask you for a verdict of guilty on all those
2 charges.

3 THE COURT: By the defense. Ms. Williams.

4 MS. WILLIAMS: Twenty-one times, that's how many
5 times verified that three police officers shot at a car in
6 a residential neighborhood in the middle of the day, 21
7 times. That's how many times these officers shot into a
8 car in a residential neighborhood in the middle of the day
9 in August before school had started back, 21 times.
10 That's how many times they shot in that car where, yes,
11 the driver was trying to get away, but they also were
12 aware that there was an innocent passenger in that vehicle
13 as well. That's what happened on August 6th of 2014 in
14 Brook Pines apartments.

15 Now, today law enforcement isn't here, officers
16 aren't here on trial for attempted murder. Unarmed Keylan
17 Durham, who was trying to get away in his girlfriend's
18 car, he is. Maybe surprising why would that be. Maybe,
19 it's because if you charge Keylan Durham with three counts
20 of attempted murder, nobody maybe will question why law
21 enforcement shot up a residential neighborhood in broad
22 daylight, but that's for you all to decide once you heard
23 all the evidence. You will have to decide whether Keylan
24 Durham was intentionally trying to run down three specific
25 police officers with his girlfriend's car or if he was

1 just trying to get away and not get killed.

2 Now, you guys lucked out. You got a two for one
3 deal. You see this trial not only covers one case, it
4 actually covers two separate cases, two separate sets of
5 charges. Now, both involve bad police decisions and bad
6 police work.

7 The second case took place on August 4th of 2014
8 at In-Town Suites on Columbianna Drive. Ms. Lashonda
9 Edwards and her husband, Marck Drastich, were in their car
10 about to go inside when an unknown black male in a
11 disguise approached them demanding their money. Not
12 having any money, both Mr. Marck Drastich and then
13 Ms. Edwards left the car. And shortly after they see
14 their blue Oldsmobile leaving the parking lot.

15 Now, later this evening, law enforcement
16 apprehends a Devontae Bryant involved with this case.
17 Now, Mr. Bryant at this point is facing a lot of serious
18 charges when he's questioned by City of Columbia police
19 Investigator Gilliam and you know what he does. He blames
20 it all on Keylan Durham. Surprising is from that point on
21 Investigator Gilliam, he wasn't investigating a case any
22 more, a crime. No, he was building his case. He had a
23 name and now he's going to build his case. And he built
24 that case using, relying on Devontae Bryant's untested
25 story, inappropriate interviewing tactics and misleading

1 identification procedures, but he builds his case. And in
2 building that case, he failed to recognize the most
3 obvious suspect right in front of him Devontae Bryant.

4 These are the two cases. The two sets of
5 charges that the State of South Carolina has chosen to
6 bring before you, the jury, to decide. And we on the
7 defense team are going to do our best to aid you to be
8 prepared for those deliberations. Through the evidence,
9 we will do our best to point out those inconsistencies.
10 Those bad practices and procedures and why that matters.

11 You know, I learn the other day that Thomas
12 Jefferson said that trials by a jury are the only anchor,
13 but yet invented by man by which the government can be
14 held responsible to its constitution. I'll say it. The
15 only anchor yet invented by man by which the government
16 can be held to the principles of its constitution and he's
17 right. Juries stand before the -- between the power of
18 the government and the rights of the accused.

19 Today, this week this jury stands between the
20 State of South Carolina and the fundamental rights of
21 Keylan Durham, rights that all of us as Americans hold
22 very dear. Be the gate keepers, make them prove it, make
23 them prove it to you beyond a reasonable doubt of Keylan's
24 guilt. And not just on one charge, but on each of them
25 individually, make them prove each element, each

1 individual part of those charges to you beyond a
2 reasonable doubt. And please make them prove it to you as
3 jurors individually because the individual consciousness
4 of the jury is vital to a just verdict. Because at the
5 end of all this if there's hesitation, they didn't prove
6 it. They didn't earn -- the State didn't earn the right
7 to use its power to take away Keylan Durham's rights.
8 Hesitation must mean not guilty. Thank you for listening.

9 THE COURT: First witness.

10 MRS. CAMPBELL: The State calls Marck Drastich.

11 THE COURT: Raise your right hand please. Do
12 you solemnly swear or affirm that the testimony that you
13 will give will be the truth, the whole truth and nothing
14 but the truth so help you God?

15 THE WITNESS: I do.

16 WHEREUPON,

17 Marck Drastich,

18 after first having been duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MRS. CAMPBELL:

21 Q Mr. Drastich, how old are you?

22 A I'm 29 years old.

23 Q Twenty-nine years old?

24 A Yes, ma'am.

25 Q And are you originally from this country?

- 1 A No, I'm from Slovakia from Europe.
- 2 Q From Europe?
- 3 A Yes.
- 4 Q And how long have you been living in the United
5 States?
- 6 A More than two years.
- 7 Q Okay. And are you married?
- 8 A Yes.
- 9 Q And who are you married to?
- 10 A Lashonda Edwards.
- 11 Q Lashonda Edwards?
- 12 A Yes.
- 13 Q And is she sitting here in the courtroom?
- 14 A Yes.
- 15 Q And is she sitting right over here?
- 16 A Yes, it's her.
- 17 Q And how long have y'all been married?
- 18 A We got married ---
- 19 Q I didn't mean to put you on the spot?
- 20 A She's waiting for my answer.
- 21 Q Do you remember the month?
- 22 A Yes.
- 23 Q What was it?
- 24 A It is June 10.
- 25 Q June 10. So you been married since June 10 of last

1 year or the year before?

2 A 2014.

3 Q Thank you. I want to turn your attention back -- and
4 do y'all have any children?

5 A We have three children.

6 Q You have three children together?

7 A I now have three children.

8 Q She's got three girls I believe?

9 A Yes.

10 Q I want to turn your attention back to August the 4th
11 of 2014. Where were y'all living back then?

12 A Was living at In-Town Suites in Harbison.

13 Q The In-Town Suites?

14 A Yes.

15 Q In the Harbison area?

16 A Yes.

17 Q And do you remember how long y'all had been living
18 there?

19 A We was living there a while over there. I don't know
20 exactly how many months, but we was there a while.

21 Q A few months maybe?

22 A We were there a while.

23 Q And was there a reason y'all were living there. Was
24 there some employment issue?

25 A Yes, ma'am, my wife she was working like a courtesy

1 official.

2 Q She was working where?

3 A Like courtesy officer over there.

4 Q She was the courtesy officer at the In-Town Suites.

5 So you all were living there?

6 A Yeah, we was living in the same time she was working

7 over there.

8 Q She was working there and y'all were living there?

9 A Uh-huh.

10 Q Okay. I want to turn your attention to that night,

11 that evening of August the 3rd into the early morning of

12 August the 4th. What were y'all doing that evening?

13 A My wife was working and then she got a break, so we

14 went to the Ale House.

15 Q Went to the Ale House?

16 A Yes.

17 Q And is that located in this Harbison area?

18 A Yeah, it was just right across the street.

19 Q Across the street?

20 A Yes.

21 Q And why did y'all go to Ale House?

22 A She got a break, so we went to get some rest, clear

23 the mind.

24 Q Okay. And eventually did y'all come back to the

25 In-Town Suites?

1 A Yes, maybe 30 minutes.

2 Q Thirty minutes. Did y'all drive over there or did
3 you walk?

4 A We drive.

5 Q What kind of car were y'all in that night?

6 A Oldsmobile Regency a '95.

7 Q A '95 Oldsmobile. Do you remember what color it was?

8 A It was like blue color, light blue color.

9 Q Light blue?

10 A Uh-huh.

11 Q And whose car was it?

12 A It was my wife's car.

13 Q And that evening were you driving or was she driving
14 or do you remember?

15 A She was driving.

16 Q Once y'all left the Ale House, where did you go?

17 A We went in the parking lot, just right in front of
18 the building and we were just talking.

19 Q And what building?

20 A In-Town Suites.

21 Q The In-Town Suites building?

22 A In-Town Suites.

23 Q And y'all were talking in the parking lot talking?

24 A Yes.

25 Q Was that so you wouldn't disturb anybody else inside?

1 A No.

2 Q And once y'all were talking in the parking lot, do
3 you remember about what time of night this was?

4 A It was after midnight.

5 Q What did you notice as y'all were sitting there
6 talking, tell the jury what happened?

7 A So we was sitting down and talking about many things
8 and then ---

9 Q Let me back you up for a second. Who was sitting
10 where?

11 A She was on the driving and I was passenger seat.

12 Q Were you both in the front or the back?

13 A In front.

14 Q Both of you in the front. And you in the passenger?

15 A Yes.

16 Q And she was behind the driver's wheel?

17 A Yes, she was driving.

18 Q Okay. And what happened?

19 A So when I was sitting like I said talking and then we
20 was talking, so I didn't pay attention to much what
21 happened outside. People was walking or whatever or like
22 this. So suddenly somebody approached from the right side
23 of my car, but I didn't pay too much attention. And he
24 stepped to my window, but I still didn't pay too much
25 attention. We was talking, but then he present me the

1 gun.

2 Q He presented a gun?

3 A Like this. And I was like, I find out what was going
4 on, so put a window down like he said something like give
5 it up, give me the money.

6 Q And what were you thinking at this point?

7 A I was scared like what's going on. I never saw the
8 gun. Like I was thinking, is he trying to rob us or
9 something because before it never happen to me. But after
10 he showed me the gun, I got scared. I didn't know what
11 was going on and he ask me for money.

12 Q He asked you for money?

13 A Yeah.

14 Q And were you able to give him the money?

15 A I said I didn't have anything, I just phone. He said
16 what kind of phone it is, I said it's an old phone
17 something. He ask me what kind of phone it is, I said
18 it's the old phone. So I don't have anything else so
19 then...

20 Q At that point were you able to get away from him?

21 A No, I was trying to give it up or something. I was
22 -- he want me to go out or something. I was trying to
23 open the door and get out. The moment I was trying to get
24 out like this, he struck me with gun to my face, so I back
25 up again.

1 Q So you were trying to get out and he -- how did he
2 block your way again?

3 A He punch me right with the gun like right my face.

4 Q And where on your face did you get punched?

5 A To the lips right here.

6 Q And at that point did you have any injuries?

7 A Yeah, he busted my lips.

8 Q He bust your lips. So you weren't able to get out at
9 that point?

10 A No.

11 Q What happened next?

12 A Then he was trying to get behind me to the car. He
13 said I'm going to take you guys somewhere or something
14 like that, but he couldn't open the door because it was
15 broken.

16 Q Okay. And you said he was trying to get in the back
17 of the car behind you?

18 A Yeah.

19 Q And he couldn't get in?

20 A No.

21 Q The door was broken?

22 A Yeah.

23 Q What was he saying, he said something?

24 A I'm going to take you guys somewhere or something
25 like that.

1 Q Said I'm going to take you guys somewhere?

2 A Uh-huh.

3 Q And what was going through your mind at that point?

4 A I was like he was trying to get us somewhere. It was
5 like more, like he take us somewhere was going to happen.

6 Q Okay. What happened next?

7 A So then he saw that he cannot get nothing from me
8 because I did not hear nothing, so he was trying -- he
9 went around the car and went to my wife's side and tried
10 to again do the same like give me the money or something
11 like that. And he was talking to her, still it give up,
12 and hold the money or something like that. And then I was
13 thinking like what I can do because if he take us
14 somewhere something like that, then there's nothing nobody
15 can do. So then I said what I can do, so I was running
16 away. He was trying to get me too much.

17 Q At that point he was concentrating on your wife?

18 A Yeah.

19 Q And she was still in the driver's seat?

20 A She was in driving seat, yeah, I know that he was
21 talking to her, but I was already thinking like how can I
22 resolve the situation and try -- even if he take her, so
23 pretty much I can call the police and give them something
24 or if he take both of us, then I won't be able to do
25 nothing, so I just run away. I use that moment when he

1 didn't pay attention to me and cross the street.

2 Q So you were able to get out of the car at that point?

3 A I got out and I stopped at the Fairfield maybe
4 200 yards.

5 Q And you ran where?

6 A Fairfield.

7 Q Fairfield Inn?

8 A Yeah.

9 Q And why were you running there?

10 A I call the police.

11 Q Okay. And what happened when you got to the
12 Fairfield Inn?

13 A There was somebody in the office. I told them call
14 the police, we got robbed and something like this. And
15 she immediately called the police and then I got out and I
16 saw him leaving or whatever with the car, but I didn't see
17 her inside. So he left and after he left maybe two
18 minutes. And after he left a couple seconds the police
19 was over there, but they just miss him.

20 Q They missed him?

21 A Yeah.

22 Q But you saw him driving out with the car?

23 A Uh-huh.

24 Q And at that point did you know where your wife was?

25 A No.

1 Q And what was going through your mind as far as where
2 she was?

3 A I was like if she was inside or she's inside or what
4 happened, so I wasn't sure like everything so fast. So he
5 just left and the police came. And I started to talk saw
6 the police and then she came from the In-Town Suites to
7 me, so I was happy then.

8 Q You were happy?

9 A Yeah, nothing happen to her because pretty much I
10 feel sorry that I have to leave. I didn't know what else
11 I could do, but I didn't want -- I don't know because --
12 so that's why I was happy that she's back and the police
13 already came. So they started questioning us.

14 Q The car was gone. He was one gone. He was the one
15 that drove the car off?

16 A Yeah.

17 Q And this is a stupid question, but you didn't want
18 him to rob you or attempt to rob you for money or to take
19 your car any of that night. Y'all were just minding your
20 own business?

21 A I just wanted to get me and my wife to get safe from
22 that place.

23 Q The guy that approached you, do you remember what he
24 was wearing, what he look like?

25 A He had hat, he had a wig and glasses.

- 1 Q You say a wig?
- 2 A Uh-huh.
- 3 Q Was it a long wig, short wig?
- 4 A Yeah, like long.
- 5 Q Okay. And he had on glasses?
- 6 A Yes.
- 7 Q Do you remember whether or not he had anything else
- 8 on top of his head?
- 9 A He had the camouflage hat.
- 10 Q And do you remember if he was thin or fat?
- 11 A Him, he was thin.
- 12 Q Thin?
- 13 A Uh-huh.
- 14 Q And could you tell if he was black or white or
- 15 Hispanic?
- 16 A Yeah, he was a black man.
- 17 Q And do you remember whether or not he had any facial
- 18 hair?
- 19 A I cannot remember that.
- 20 Q Okay. But did you get a pretty good look at his face
- 21 that night?
- 22 A Yes, right. He was here talking to my face and like
- 23 we was talking like face to face and I had plenty of time
- 24 ---
- 25 Q To see him?

1 A To see him, yeah.

2 Q And that night after the police came, did you have to
3 go somewhere, did you have to get treatment?

4 A Yeah, there was -- that evening I went to the
5 hospital is right there.

6 Q Did you go down there with the police or did EMS come
7 or how did that happen?

8 A How did I get to hospital?

9 Q Yeah.

10 A Just me and my wife by ourselves.

11 Q You and your wife went?

12 A Yeah.

13 Q And why did you have to go to the hospital?

14 A Because he hit me with the gun.

15 Q And was that bleeding?

16 A Yeah, I was like busted and swollen over here on this
17 side.

18 Q Swollen?

19 A Yeah.

20 Q And you actually cut your lips?

21 A Yeah, it was all he cut and all on this side it was
22 swollen.

23 Q Did you have to get treatment that night?

24 A Yes.

25 Q At the hospital. The next day did -- is this

1 Investigator Gilliam?

2 A Yes.

3 Q Did he make contact with you the next day?

4 A Yes.

5 Q And when he made contact with you the next day, did
6 he show you anything?

7 A He showed me that picture, so I can identify him.

8 Q Okay. And prior to showing you the pictures, did he
9 tell you that you had to pick somebody out or anything
10 like that?

11 A No, he just showed me if I can identify based on who
12 robbed me.

13 Q Okay. And I'm going to show you State's Exhibit
14 Number 1 do you recognize this?

15 A Yes, ma'am.

16 Q And what is that, sir?

17 A This is the paper that Mr. Gilliam had.

18 Q And the photographs that attached are those the
19 photographs that he showed to you?

20 A Yes, ma'am.

21 Q And when he showed you those photographs, was there
22 any writing on them or anything like that?

23 A No.

24 Q At any point did he or your wife or anybody else tell
25 you who to pick?

1 A No.

2 Q Did anyone influence you in any way?

3 A Nobody told me anything, I just pick him by myself
4 because I saw him.

5 Q Okay. And when you went through those photographs,
6 did you look at all of them?

7 A Yes.

8 Q And did you recognize anyone?

9 A Yes.

10 Q And who did you recognize?

11 A The guy who robbed me?

12 Q Is that a face you'll ever forget?

13 A I saw him, yeah, that's him.

14 Q And I see you turned it to the second to last picture
15 that was attached is that the person you recognized?

16 A Yes, ma'am.

17 Q Is that the person that robbed you?

18 A Yes.

19 Q And you recognized him?

20 A Yes, ma'am.

21 Q And then after doing that, did they ask you to sign
22 up here?

23 A Yes, this is my writing, yes.

24 Q That's your writing?

25 A That's my signature and my name.

1 Q And with the date and the time?

2 A Yes.

3 Q And then afterwards this front sheet, did you fill
4 that out as you picked out the fifth picture you saw?

5 A This is my signature, yeah, I fill this.

6 Q And that would have been after you looked at all the
7 photos?

8 A Yes.

9 Q Okay.

10 MRS. CAMPBELL: Your Honor, at this time we
11 offer State's Exhibit Number 1 into evidence.

12 THE COURT: Any objection?

13 MS. PINNOCK: Yes, Your Honor, we renew our
14 previous objections.

15 THE COURT: Submitted over objection.

16 (WHEREUPON, State's Exhibit No. 1 was admitted
17 into evidence.)

18 BY MRS. CAMPBELL:

19 Q When he took that car that night, did you have any of
20 your personal goods in the car?

21 A Yes, ma'am, I had everything inside.

22 Q You had everything?

23 A I had everything what was important. I had my
24 passport over there. I had some -- I had driver's
25 license, driver's license from my country. My visa card

1 from my country and from over here. PNC Bank and some
2 other documents from immigration.

3 Q Did you have any kind of European money in the car?

4 A Oh, yeah, I had 25 Euros, plus some change, so I had
5 my money from my country. I had Euros over there.

6 Q That was money from your country?

7 A It was European Euro money.

8 Q And the gun that he used that night and the one he
9 ultimately hit you with, what did it look like, what did
10 it look like do you remember?

11 A Look like what?

12 Q What did it look like the gun do you remember?

13 A Yeah, it was a silver gun.

14 Q A silver gun. Was it a long gun, a short gun?

15 A It was a handgun.

16 MRS. CAMPBELL: Beg the Court's indulgence.

17 BY MRS. CAMPBELL:

18 Q Do you remember what kind of clothing he had on that
19 night, what color shirt he had on or anything like that?

20 A The shirt was white.

21 Q White. And the person that robbed you and took your
22 wife's car and your personal papers and your European
23 money, do you see him here in the courtroom?

24 A Yes, ma'am.

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

1 to the previous objection.

2 THE COURT: You may proceed.

3 MRS. CAMPBELL: Thank you.

4 BY MRS. CAMPBELL:

5 Q Can you point him out for the jury?

6 A Yes, that guy sitting right there.

7 Q He's sitting there with his attorneys?

8 A Yes.

9 Q And what color shirt does he have on today?

10 A It's purple.

11 Q Purple?

12 A Yes.

13 Q And that's him?

14 A Yes, that's him.

15 MRS. CAMPBELL: Thank you. I don't have
16 anything further.

17 THE COURT: Cross-examination.

18 MS. PINNOCK: Please the Court, Your Honor.

19 CROSS-EXAMINATION

20 BY MS. PINNOCK:

21 Q I got a few things I want to go over with you. You
22 said that it was after 12 close -- between 12 and one
23 o'clock in the morning on this day, right?

24 A It was after midnight, yes.

25 Q So obviously it's dark outside?

1 A Yes.

2 Q You and Ms. Edwards you said had just gotten back to
3 the parking lot. You're just sitting there talking and
4 the next thing you know there's somebody at your door?

5 A Like I said, yeah, I saw somebody approaching, but,
6 you know, we talking, seen people coming around. So he
7 approach, but I didn't pay attention until he approach me
8 with the gun.

9 Q Okay. Is it because you sometimes you see lots of
10 people walking around just depends on the day, what time
11 it is, but it's not uncommon to see people walking around
12 the parking lot?

13 A People are there, you know, they're going to their
14 cars and something like that. So people out there and we
15 were talking like I said.

16 Q So the first time you started paying attention was
17 that person is at your door and pulling the gun out of the
18 waist band?

19 A Then he show me the gun, yeah.

20 Q Okay. And we're not talking about a ten minute span,
21 right? This is very fast?

22 A What do you mean fast?

23 Q It didn't -- much time minute one, two minutes?

24 A Yeah, a couple minutes I don't know, minutes. It
25 wasn't hours.

1 Q Okay. So it's something that happened -- everything
2 is kind of happening at once. The person's at the car,
3 presenting a gun from the waste band, the demanding money
4 from you and you're telling him I don't have any money?

5 A It wasn't kind -- but we was talking, but, yeah, like
6 it happened. Like you say it was fast like rushing, no,
7 he was calm.

8 Q Okay. But he came up to the car, presented a gun,
9 demanded money, and you told him you didn't have any
10 money?

11 A Yeah, pretty much.

12 Q And then you said you started picking up your phone
13 and offering your phone or questions were asked about your
14 phone?

15 A After he ask me, I said don't have nothing. I was
16 trying to explain I don't have nothing.

17 Q Okay. And then after he finished talking to you, you
18 say he starts making his way to the other side of the car?

19 A He first was trying to get behind to the passenger
20 side after he -- I tried to get out. Like I said again
21 and he punch me back, so I sit back down. So then he
22 still try to get something from me and then he realize
23 nothing, then he was trying to get behind me. The door
24 was closed he couldn't get out -- couldn't get in. So
25 then after that he was getting on the other side to my

1 wife.

2 Q Okay. And at that point you left the car?

3 A At that point I started to think about it. He
4 started to talk to her about, but, you know, he just ---

5 Q Ultimately, you left the car?

6 A When he was trying -- yeah, I was slowly trying to
7 get out the car, so, yeah.

8 Q You left?

9 A Yeah, left outside. I didn't go anywhere, I still
10 was there, but I open the door and tried to get out, yeah.

11 Q You ended up at the Fairfield Inn?

12 A I was trying to find out if he's going to shoot her
13 and I am not going to leave, you know.

14 Q Yes, sir, I'm not trying to trip you up?

15 A I'm trying to tell you exactly how it was. Then I
16 open the door, checked what was going on and get out the
17 car. And I was standing around and looking like what he's
18 going to do. Then he started talking to her and tried to
19 find a good point. After awhile, I got out the car, I was
20 running away, so, yeah.

21 Q Okay. So you called 9-1-1 from another hotel?

22 A Yeah, they called 9-1-1.

23 Q Okay. That's all I was trying to make sure. So you
24 are in a different hotel at this point. And the officer
25 do you remember his name that came and talked to you the

1 first time Mr. Van Valkenburgh?

2 A Yeah, it was kind of hard name. Yes, it was him.

3 Q You think it's him?

4 A Yeah.

5 Q Okay. And you provided a description to Officer Van
6 Valkenburgh on that night when he talked to you
7 originally, right?

8 A I give him the first information what happened and
9 everything. I believe he was kind at the time.

10 Q So he talked to you. You provided a description of
11 the person who was at your car. You said that the person
12 was wearing a wig?

13 A Yes.

14 Q It was a black male?

15 A Yes, ma'am.

16 Q And he asked you specifically whether or not the
17 person had facial hair, right?

18 A Like I said before, I don't know the facial hair. He
19 didn't have and how exactly was he shaved. He was a
20 little bit shaved too much. I don't know maybe.

21 Q Well, do you recall him asking you that question. Do
22 you recall him asking you whether or not the person had
23 facial hair?

24 A What do you mean?

25 Q Did Officer Van Valkenburgh ask you did the person

1 have facial hair?

2 A Probably he ask me, I mean, you see the correction
3 probably he ask me. Like you see, I said probably, it is
4 the reason he put inside that he was completely shaved,
5 but if he was shaved probably, he was. I don't know.

6 Q Yes, sir, and that's what I was trying to ask. He
7 asked you if the person had facial hair and you said, no,
8 he was completely shaven?

9 A I cannot remember for that.

10 Q Okay. You remember saying it or you don't remember
11 if that's exactly what you said?

12 A Cannot remember exactly this correction.

13 Q I'm sorry?

14 A I cannot remember exactly this correction.

15 Q Would you like me to show it to you?

16 A I saw this, I already saw this. Like I said, I
17 cannot remember all correction he ask me, so it is written
18 over there.

19 Q So you would not disagree with me that you described
20 a completely shaven person?

21 A Exactly, but I cannot completely either.

22 MS. PINNOCK: Your Honor, can I approach just
23 for one second?

24 THE COURT: Yes.

25

1 BY MS. PINNOCK:

2 Q Is that your signature at the bottom?

3 A Yes, ma'am.

4 Q Is the statement you gave to Investigator Van
5 Valkenburgh or Officer Van Valkenburgh?

6 A Yes.

7 Q Okay. And you told him at that point the person was
8 completely shaven, correct?

9 A If it is right there. Like I said, I can't remember,
10 yeah.

11 Q And then you talked to him again or you talked to
12 another investigator on the 5th that was Investigator
13 Gilliam?

14 A Yeah, I was talking to him, yes, too.

15 Q The next day?

16 A Uh-huh.

17 Q He spoke to you and Ms. Edwards together in your
18 apartment, right?

19 A Yeah.

20 Q And you provided a description to Investigator
21 Gilliam at that point also?

22 A He came and he shown me. He let me pick up -- if I
23 identify the man.

24 Q On the 5th you did the -- the pictures?

25 A Uh-huh.

1 Q You remember talking to Investigator Gilliam before
2 you looked at the pictures?

3 A I know I was talking to him.

4 Q You don't remember?

5 A He was many times over there, so I don't know exactly
6 when.

7 Q Let me ask you this, after you did look at the
8 pictures, you gave another statement to Investigator
9 Gilliam right on the 8th of August?

10 A I say after eight hours he came again and for the
11 identification of what exactly he was talking about a
12 case. I don't know exactly like it was many times over
13 there.

14 Q Do you recall meeting with him and Ms. Edwards or Ms.
15 Edwards writing a statement for you. You recall that
16 meeting?

17 A I don't know how many times he was doing the
18 statement. It was like long time ago, so it was the first
19 time. It was one where we gave him the first time and
20 then he came again. And then probably we did another
21 statement. I cannot remember how exactly what time
22 exactly how it goes.

23 Q Okay. But you do recall meeting with him on a number
24 of occasions?

25 A Yeah.

1 Q Okay. You recall describing the person at your car
2 is wearing a black hat initially, right?

3 A Camouflage hat.

4 Q You said camouflage hat initially to the first
5 officer you spoke to?

6 A I don't know if I told him camouflage hat. However,
7 I said -- but I can remember the hat. He had a camouflage
8 hat.

9 Q Would you disagree with me if I told you that your
10 original statement said the person was wearing a black
11 hat?

12 A Black hat and camouflage, but I can remember even can
13 go back then he had a camouflage hat. Even he forgot it
14 was in my car, like I found the hat over there.

15 Q You found it?

16 A Yeah, it was over there when we got the car back,
17 everything what was in the car hat camouflage it was in
18 the back seat. So this is what he had on his head.

19 Q So when you went to recover your car, law enforcement
20 found it. You located the black hat and the ---

21 A It was camouflage, it was on the backseat.

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

23 (WHEREUPON, a pause in the proceedings.)

24 MS. PINNOCK: May we approach?

25 THE COURT: Yes. Thank you, ladies and

1 gentlemen. You may stand and stretch.

2 (WHEREUPON, a bench conference was held in the
3 presence of the jury, but out of the hearing of the
4 jury.)

5 MS. PINNOCK: Thank you, Your Honor. I have no
6 further questions.

7 THE COURT: Redirect.

8 MRS. CAMPBELL: Thank you, Your Honor, just a
9 couple questions.

10 REDIRECT EXAMINATION

11 BY MRS. CAMPBELL:

12 Q The person that robbed you is he here in this
13 courtroom?

14 A Yes, ma'am.

15 MS. PINNOCK: This is not an appropriate
16 redirect. I did not talk about any sort of
17 identifications. This is not new information brought out
18 on my cross.

19 THE COURT: Objection overruled.

20 MRS. CAMPBELL: Thank you.

21 BY MRS. CAMPBELL:

22 Q Is he here in the courtroom?

23 A Yes, ma'am.

24 Q And is he the person you identified in the purple
25 shirt sitting at that table?

1 A Yes, ma'am.

2 Q Any doubt in your mind?

3 A (Nodded head.)

4 MRS. CAMPBELL: Thank you.

5 THE COURT: Anything further?

6 MS. PINNOCK: No, sir.

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

8 (WHEREUPON, the witness leaves the witness
9 stand.)

10 THE COURT: Next witness.

11 MR. STEADMAN: The State calls Officer Van
12 Valkenburgh Columbia Police Department.

13 THE CLERK: Do you solemnly swear or affirm that
14 the testimony you're about to give in this case will be
15 the truth, the whole truth, and nothing but the truth so
16 help you God?

17 THE WITNESS: I do.

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

20 THE WITNESS: My name is Officer Jason Van
21 Valkenburgh with the Columbia Police Department.

22 WHEREUPON,

23 Jason Van Valkenburgh,

24 after first having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. STEADMAN:

2 Q Good afternoon, Officer Van Valkenburgh. Where are
3 you employed?

4 A Columbia Police Department.

5 Q How long you been employed there?

6 A Since 2012.

7 Q And in what capacity have you worked with the
8 Columbia Police Department?

9 A I been on patrol in the west region for the last two
10 years and north region for the first two years.

11 Q And in what region is Harbison Boulevard?

12 A That's in the west region.

13 Q And is that area in Richland County?

14 A That area is in Richland County. There's parts of it
15 in Lexington County.

16 Q All right. On August 4th 2014, did you have occasion
17 to respond to a carjacking call that early morning hours
18 of that day?

19 A Correct, I did.

20 Q And do you have your report in front of you?

21 A I do.

22 Q Okay. And feel free to reference your report. About
23 approximately what time, did you respond to that
24 carjacking call?

25 A Around 12:45 in the morning.

1 Q And is that -- what about the dispatch time, what
2 dispatch time was that?

3 A Sorry, I was dispatched around 1:20 to 1:30.

4 Q And once you got to the scene, what did you do?

5 A As soon as I pulled up after looking for the
6 complainant, Mr. Drastich, I believe, is how you pronounce
7 it came up -- walked up to me. And it was just him at
8 first. And he explain that he had just been carjacked or
9 someone came up to him, hit him with a pistol. And then
10 after said a black male with a brown wig was the subject
11 that hit him with the pistol. Stated that he needed a
12 thousand dollars. And then after talking with him, Ms.
13 Edwards came up from ---

14 MR. BAILEY: Objection, Your Honor, hearsay,
15 Your Honor.

16 THE COURT: Objection -- pardon me.

17 MR. STEADMAN: And, Your Honor, I don't know if
18 he was about to say what she said, but I'm just going to
19 go...

20 THE COURT: He said he was questioning someone
21 and someone walked up. Walked up in your presence?

22 THE WITNESS: Yes.

23 THE COURT: Objection's overruled.

24 BY MRS. CAMPBELL:

25 Q And after speaking with Ms. Edwards and beginning

1 your investigation what was the next step?

2 A What do you mean?

3 Q What was the next step in your investigation after
4 talking with Mr. Marck Drastich and talking with
5 Ms. Edwards?

6 A I wanted to get their statements and to locate -- he
7 had gave me a description of a vehicle that was there
8 waiting, which the vehicle he said was a blacked out
9 sports car. And he said it may or may not have been a
10 Mustang, but he said it was definitely like a sports or a
11 muscle car.

12 Q And that was a vehicle that was waiting nearby?

13 A Correct. It was located -- there's a couple
14 businesses in this like driveway and he said that he did
15 notice this blacked out vehicle waiting near the entrance
16 on Columbianna Drive. And so I went to, I guess, see more
17 about that vehicle since it was suspect.

18 Q Okay. And after learning that information about that
19 vehicle, what did you do?

20 A I just wanted to review my notes please. While they
21 gave me the information, there was actually a call out
22 just across the street at Paces Brook apartments, which
23 was some type of civil disturbance over there and another
24 officer had stated that there was a black in color Camaro
25 which was consistent that was lingering in the area that

1 he tried to walk up to and he stated that the vehicle took
2 off from him.

3 MR. BAILEY: Objection, Your Honor.

4 THE COURT: Basis for the objection?

5 MR. BAILEY: Your Honor, we renew our previous
6 objection to this, Your Honor, pretrial.

7 THE COURT: Objection's overruled. Proceed.

8 BY MR. STEADMAN:

9 Q And did you respond to that call at Paces Brook
10 apartment?

11 A I didn't respond to that since I was getting a
12 statement across the street. However, once the vehicle
13 left those apartments, I was able to view that vehicle
14 less than a block down where I started to pursue it.

15 Q So the In-Town Suites where the carjacking occurred
16 and the Paces Brook apartments, what is the distance
17 between those locations?

18 A Less than a 100 yards definitely within eyesight.

19 Q So at some point you saw the black Camaro?

20 A Correct.

21 Q What did you do then?

22 A It was during the nighttime. The Camaro was driving
23 at a very high rate of speed with no lights at all. I in
24 fact turned right from the In-Town Suites as the Camaro
25 was passing me and I almost didn't even see it. I had to

1 turn back left to get behind it since it matched the
2 description.

3 Q And what do you mean no lights?

4 A The lights were completely turned off, so the vehicle
5 was completely blacked out. The vehicle's already black.
6 I almost completely missed it.

7 Q And did you initiate your blue lights?

8 A I did.

9 Q And did you begin a car chase?

10 A I did.

11 Q Where did that car chase take you?

12 A I reviewed the notes, it was quite a chase. We
13 started on Columbianna Drive. Then we went onto Harbison
14 Boulevard. From Harbison Boulevard, we passed the
15 interstate and then did a u-turn to get onto -- just pass
16 the interstate onto -- just past the interstate onto Wood
17 Cross. From Wood Cross, we went onto Fernandina Road.
18 From Fernandina Road, we went onto Piney Grove.
19 Throughout this whole chase, he kept turning his lights on
20 to see. Once he saw -- he would turn his lights on and
21 then would turn them off. Some of the times that he
22 turned the lights off, he would go around corners.
23 Sometimes going into oncoming lane during a corner. It
24 was very dangerous. We went through neighborhoods off of
25 Piney Grove road, through yards. Then we went onto Broad

1 River Road. From Broad River Road, we drove until
2 interstate 20, which is a long stretch of highway. At the
3 intersection of Piney Grove and Broad River Road, he did
4 strike a vehicle. I didn't see at the time focused on the
5 vehicle, but after I saw the -- I believe they called law
6 enforcement and then I reviewed the video and saw that he
7 did strike that vehicle, speeds were incredible. It's
8 definitely the fastest I ever been in a vehicle. My
9 speedometer topped out at 140.

10 MRS. CAMPBELL: Objection, Your Honor.

11 THE COURT: Objection's overruled.

12 BY MR. STEADMAN:

13 Q And did he have his lights on or off during most of
14 this chase or did he have his lights off?

15 A It's hard to say since I was behind him. However, I
16 do know that I couldn't even count how many times he
17 turned them off. So a lot of this chase throughout
18 corners and in oncoming lanes, he had his lights off.

19 Q And I'm showing you a copy of your dash cam video,
20 your in-car video, have you had a chance to watch that
21 video?

22 A I have.

23 Q And is that a fair and accurate depiction of your
24 dash cam during that chase?

25 A Yes.

1 MR. STEADMAN: And, Your Honor, at this point,
2 we move to introduce State's Number 3 into evidence, Your
3 Honor.

4 MR. BAILEY: Your Honor, we object based on our
5 previous arguments to the video being let into evidence.

6 THE COURT: I don't recall your previous
7 arguments.

8 MR. BAILEY: 404(b), Your Honor, we can
9 elaborate if you like outside the presence of the jury.

10 THE COURT: Objection overruled.

11 (WHEREUPON, State's Exhibit No. 3 was admitted
12 into evidence.)

13 MR. STEADMAN: Your Honor, permission to
14 publish?

15 THE COURT: Yes. Does the State have a copy of
16 what the jury is seeing?

17 MR. STEADMAN: Yes, Your Honor, here's the copy.
18 We already have it uploaded on the smart board.

19 THE COURT: You want me to see it as well?

20 MR. STEADMAN: Yes, Your Honor.

21 (WHEREUPON, jury watching DVD of police chase.)

22 BY MR. STEADMAN:

23 Q Officer Van Valkenburgh, the In-Town Suites near
24 Columbianna Drive is that the parking lot in Richland
25 County?

1 A That is.

2 Q Did you apprehend anybody that night from the Camaro?

3 A I did.

4 Q Who was that person?

5 A Mr. Devontae Bryant.

6 MR. STEADMAN: No further questions.

7 THE COURT: Cross-examination.

8 MR. BAILEY: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. BAILEY:

11 Q Officer Van Valkenburgh, what's your rank, sir?

12 A I'm patrolman.

13 Q Patrolman. Should I call you patrolman is the best
14 thing, you tell me?

15 A Anything's fine.

16 Q Okay. I like your shirt. You know who Saul Goodman
17 is?

18 A I do.

19 Q The guy's on Breaking Bad and I say that as a
20 compliment.

21 A Thank you, sir.

22 Q Officer Van Valkenburgh, so I want to ask you about
23 two things in particular. First, I would like to ask you
24 about the chase that we just saw over here on the big
25 screen. This was your dash cam; is that right?

1 A Correct.

2 Q Okay. And y'all chased this automobile for quite a
3 while?

4 A Quite sometime for a chase, yes, sir.

5 Q And then the vehicle wrecked?

6 A Correct.

7 Q Okay. And then there was a foot pursuit?

8 A Correct.

9 Q And the person you were chasing, I believe, he had
10 white shirt; is that right?

11 A I don't recall, it's been two years.

12 Q Okay. It was a black male, right?

13 A It was.

14 Q And you caught a guy, right?

15 A Correct.

16 Q And that was Devontae Bryant?

17 A Correct.

18 Q Okay. In this chase, you weren't able to identify
19 who's driving the car at that time, were you?

20 A I don't believe so.

21 Q Okay. In fact, you can't really identify anybody
22 else except for Devontae Bryant; is that right?

23 A Correct.

24 Q Now, you took the initial statement from Mr. Marck
25 Drastich after he was robbed at the Inn, is that right?

1 A Correct.

2 Q Okay. And his initial description did not have a
3 camo hat in it, did it?

4 A I don't recall.

5 Q Would you disagree with me if I told you it did not
6 have a camo in it?

7 A If that's a statement correct.

8 Q Okay. In fact, the statement mentioned a black cap;
9 is that right?

10 A I don't recall, but that's familiar.

11 Q All right.

12 MR. BAILEY: Court indulgence just a second,
13 Your Honor.

14 (WHEREUPON, a pause in the proceedings.)

15 BY MR. BAILEY:

16 Q And Mr. Drastich described his robber as completely
17 shaven; is that right?

18 A If that's the statement. I don't recall like I said.

19 Q Okay. If I were to tell you -- I mean, I can show it
20 to you?

21 A Correct, no, I believe you.

22 MR. BAILEY: Thank you very much, Officer,
23 appreciate it.

24 REDIRECT EXAMINATION

25

1 BY MR. STEADMAN:

2 Q Did you see two subjects exit the Camaro?

3 A I did.

4 Q Did they go out a passenger side door?

5 A Correct. Whenever I pulled up as you can see the
6 camera, I expected someone to get out of the driver seat
7 at most times. However, one person left the vehicle and
8 the second person left shortly after. I followed chase to
9 the closest one, which was the second person now. And I
10 never lost eyesight. I was probably the maximum length
11 that he got away from me was maybe ten yards. I had
12 complete eyesight of him the whole time and the second
13 individual did go right.

14 MR. STEADMAN: Thank you.

15 THE COURT: Anything further?

16 MR. BAILEY: Yes, Your Honor, just one question.

17 RECROSS-EXAMINATION

18 BY MR. BAILEY:

19 Q Officer, the call that went out for this car said
20 that the driver had dreadlocks; is that right?

21 A I believe so.

22 THE COURT: All right. Thank you. You may step
23 down.

24 (WHEREUPON, the witness leaves the witness
25 stand.)

1 MR. STEADMAN: The State calls Cullen Bennecker.

2 THE CLERK: Do you solemnly swear or affirm that
3 the testimony you're about to give in this case to be the
4 truth, the whole truth, and nothing but the truth so help
5 you God?

6 THE WITNESS: Yes, ma'am.

7 THE CLERK: Please have a seat and state your
8 full name for the record.

9 THE WITNESS: Cullen Thomas Bennecker.

10 WHEREUPON,

11 Cullen Bennecker,

12 after first having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. STEADMAN:

15 Q Mr. Bennecker, where you from?

16 A Newberry, South Carolina.

17 Q How long you live in Newberry?

18 A Been there since first grade about 11 years now.

19 Q And I want to go ahead and fast forward your
20 attention to August 4th 2014, in the early morning hours
21 of that Monday. You remember that night?

22 A Sure do.

23 Q What were you and your -- who were you with that
24 night?

25 A My buddy Zane.

1 Q And what were y'all doing that night?

2 A We were out getting a pack of cigarettes at the Shell
3 Station.

4 Q And whose car were you in?

5 A My buddy's Zane, the Nissan.

6 Q And does Zane live in town?

7 A No, he lives in Charleston.

8 Q Okay. Did he live in town at that night?

9 A Yes.

10 Q And when you were at the gas station you said you
11 were going to get a pack of cigarettes?

12 A Right.

13 Q Did you encounter anybody at the gas station?

14 A Yes.

15 Q And what did -- who did you encounter or what did you
16 encounter at the gas station?

17 A The man driving the blue Oldsmobile. We talked about
18 him buying some beer.

19 Q And did you approach him or did he approach you about
20 buying the beer?

21 A I can't remember if we parked first or if he was
22 parked first, but our cars were side by side and we just
23 started having a conversation.

24 Q And in essence did he agree to get y'all beer?

25 A Yes.

1 Q And did you see anybody else with him?

2 A No, it was just him then.

3 Q And he was driving a blue Oldsmobile?

4 A Right.

5 Q And did you go with him to Wal-Mart to get beer?

6 A Yeah, we followed him to Wal-Mart.

7 Q And when you got to Wal-Mart, did you see anybody
8 else with him?

9 A It was still just him. Him and Zane went inside.

10 And then while they were inside, I stepped out to smoke a
11 cigarette and a guy in a black Camaro pulled up beside us.
12 And I talked to him for a while. Zane and the other guy
13 were inside.

14 Q So you talked to the guy in the black Camaro?

15 A Right.

16 Q And where was Zane and the defendant at this point?

17 A They were inside Wal-Mart.

18 Q And did they eventually come back out of Wal-Mart?

19 A Yes.

20 Q What were you doing in the parking lot in the
21 meantime while they were in the Wal-Mart getting beer?

22 A I stepped out to smoke a cigarette and I walked
23 around to check out the blue Oldsmobile. And they said
24 they were from Atlanta or he said he was from Atlanta, but
25 the plate said South Carolina and there was a cowboy hat

1 in the back dash and he didn't seem like the type to wear
2 a cowboy hat. And I saw a silver pistol holster in the
3 driver seat. So whenever they came back out, they wanted
4 us to follow them to the Ale House. And we told them that
5 we would, but I told Zane about what I saw and so we left
6 and went to the Waffle House.

7 Q And so you told Zane that you saw a gun in the blue
8 Oldsmobile?

9 A Right.

10 Q And did he come out the Wal-Mart with a beer?

11 A No.

12 Q Did you see what he came out of Wal-Mart with?

13 A I don't really remember.

14 Q But with your interaction with him once he didn't
15 come out with the beer, where did y'all decide to go next?

16 A Waffle House.

17 Q And where did the black Camaro and blue Oldsmobile
18 go?

19 A They left out first and, I guess, they went to the
20 Ale House. They were expecting us to follow them there.

21 Q And Zane was driving at this point?

22 A Right.

23 Q And y'all went to Waffle House. And then after y'all
24 ate at Waffle House what did you do?

25 A We went back to the apartment where we were staying.

1 Q Whose apartment was that?

2 A It was Zane's apartment at the time.

3 Q And where is that located?

4 A Paces Brook right across from the mall in Harbison.

5 Q Okay. And when y'all got to the apartment complex,
6 did you encounter the defendant again?

7 A Yeah, we step out of the car and we saw headlights
8 coming in the apartment complex. And we had a feeling it
9 was the Camaro and sure enough both the guys were in the
10 Camaro at this point. And they rolled down the windows
11 and tried to flag us down, but we went around the car and
12 ran up to the apartment and called the police.

13 Q So was the Oldsmobile no longer in the picture?

14 A Right.

15 Q So all you saw was the black Camaro with the two
16 people inside?

17 A Uh-huh.

18 Q And once y'all ran to your apartment, what did you
19 do?

20 A He grabbed his shotgun and called the police and we
21 sat up there and waited.

22 Q And eventually did officers come talk to you guys?

23 A Yes.

24 Q And did you eventually give a written statement?

25 A Sure did.

1 Q And did an investigator come talk to you that you
2 remember?

3 A Not me. They came back up and got our statements,
4 but that was the end of it for me.

5 MR. STEADMAN: No further questions.

6 JUROR: Need a bathroom break.

7 THE COURT: Can't hear you?

8 JUROR: I need a bathroom break.

9 THE COURT: Any others can follow to the jury
10 room. Please do not discuss the case. We'll take a few
11 minutes.

12 (WHEREUPON, a break was taken.)

13 THE COURT: All right. Ladies and gentlemen,
14 whenever you need a break, we'll take a break no problem.
15 If I see one of you all moving, then I know it's time for
16 a break, not a problem. You may proceed.

17 MS. WILLIAMS: Thank you, Your Honor. May it
18 please the Court.

19 CROSS-EXAMINATION

20 BY MS. WILLIAMS:

21 Q I just have one real quick question for you, Mr.
22 Bennecker. Were you at In-Town Suites on August 4th 2014?

23 A Was I where?

24 Q Were you ever at In-Town Suites over off of
25 Columbianna Drive on August 4th those early morning hours?

1 A No.

2 MS. WILLIAMS: Thank you, no further questions.

3 THE COURT: Anything further?

4 MRS. CAMPBELL: No, sir.

5 THE COURT: You may step down.

6 (WHEREUPON, the witness leaves the witness
7 stand.)

8 THE COURT: Next witness.

9 MRS. CAMPBELL: The State calls Lashonda
10 Edwards.

11 MR. BENNECKER: Excuse me, Judge, will there be
12 any more questions for me and Zane or we okay to go?

13 THE COURT: All witnesses -- you may go. He
14 hasn't testified yet, has he?

15 MRS. CAMPBELL: He hasn't testified yet.

16 THE COURT: You can only speak for yourself.
17 You can go.

18 MR. BENNECKER: All right.

19 THE CLERK: Do you solemnly swear or affirm that
20 the testimony you about to give in this case to be the
21 truth, the whole truth, and nothing but the truth so help
22 you God?

23 THE WITNESS: I do.

24 THE CLERK: Please have a seat and state your
25 full name for the record.

1 THE WITNESS: Lashonda Edwards.

2 WHEREUPON,

3 Lashonda Edwards,

4 after first having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MRS. CAMPBELL:

7 Q Ms. Edwards, I think, you're kind of soft spoken, so
8 you have to speak up.

9 A Lashonda Edwards.

10 Q Ms. Edwards, how old are you?

11 A Thirty.

12 Q And do you live here in the Columbia area?

13 A I do currently.

14 Q Are you from South Carolina?

15 A I am.

16 Q Do you have any children?

17 A I do.

18 Q And do you know Mr. Drastich?

19 A Yes.

20 Q And how do you know Mr. Marck Drastich?

21 A He's my husband.

22 Q How long have y'all been married?

23 A For a year and four months.

24 THE COURT: I think, we're going to move that
25 mic about three more inches closer to your mouth, so we

1 can hear what you're saying. Let's test it. What's your
2 name?

3 THE WITNESS: Lashonda Edwards.

4 THE COURT: All right.

5 MRS. CAMPBELL: Thank you, Your Honor.

6 BY MRS. CAMPBELL:

7 Q And I want to turn your attention back to August of
8 2014 where were you working back then?

9 A Bose and In-Town Suites.

10 Q At where?

11 A I was working at Bose in Blythewood and at In-Town
12 Suites.

13 Q So you were working for Bose the company that makes
14 radios?

15 A Uh-huh.

16 Q And at in-Town Suites. What did you do at In-Town
17 Suites?

18 A I was a courtesy officer.

19 Q And as a courtesy officer what did your duties
20 include, do you remember?

21 A I had to make rounds every top of the hour. And if
22 anybody is locked out of their room, I had to let them in
23 their room or notify the general manager if anything
24 suspicious was going on or the authorities.

25 Q Okay. And where were y'all living then?

1 A We were currently staying at the In-Town Suites. In
2 order to work as a courtesy officer, you have to remain on
3 site.

4 Q You have to remain on site. And that's where you
5 were living with your family at that time?

6 A Uh-huh.

7 Q I want to turn your attention to that night of August
8 the 3rd into the early morning hours of the 4th. Were you
9 working that night?

10 A I was.

11 Q And as a courtesy officer do you get breaks?

12 A I do.

13 Q And at some point that night, did you take a break
14 with your husband?

15 A I did.

16 Q And about what time was that do you remember?

17 A I know it was after midnight because I had just did
18 my shift.

19 Q It was after midnight?

20 A Uh-huh.

21 Q And you just finished your shift?

22 A Right.

23 Q And where did y'all go once you finished your shift
24 that night?

25 A We went to Ale House and I think we stop by the gas

1 station.

2 Q Ale House?

3 A Uh-huh.

4 Q And then the gas station?

5 A Or the gas station and then Ale House one of the two.

6 Q And when you left there that night and everything,
7 were y'all walking or driving or how did you go?

8 A We was driving. I was driving.

9 Q And what were you driving that night?

10 A My car.

11 Q What was your car?

12 A '95 Oldsmobile.

13 Q What color was it?

14 A Blue.

15 Q Once you had gone to the Ale House and to the gas
16 station, where did y'all go next?

17 A We went back to the property In-Town Suites.

18 Q And where in the property were y'all, did y'all pull
19 up?

20 A Well, I backed in.

21 Q You backed in?

22 A Uh-huh, directly facing the unit that we was residing
23 in.

24 Q In front of the unit you were residing?

25 A Uh-huh.

1 Q As you look at the In-Town Suites from street, how
2 was it set up?

3 A I couldn't see the street because I was back then
4 facing the apartment, the building. So I was there
5 because even if I'm not working, I'm still like on-call
6 duty. So if somebody calls, I still have to go let them
7 in their room or whatever even though I was off my shift.
8 But I was backed in, so I could see the entire building.

9 Q And what are y'all doing in the car at this point?

10 A We're talking.

11 Q What happened next?

12 A I seen the guy coming from in between, it's like
13 where the laundry room is and then the office is. And I
14 seen the guy coming, but initially I didn't know, you
15 know, what he was going to do or, you know, why he was out
16 of his room or whatever. But I just thought maybe he was
17 coming toward us because maybe he locked his self out of
18 the room, that was my first thought. And then as he came
19 closer to the car, I knew that he was coming to our
20 particular car. So like I said, I thought he was locked
21 out of the room, but I didn't know if he was going to turn
22 and go somewhere else to go to like another car or
23 whatever and they free to do that at night.

24 Q Of course.

25 A So as he approached the car, he came to my husband's

1 side.

2 Q Where was your husband sitting?

3 A In the passenger seat.

4 Q In the front?

5 A Uh-huh.

6 Q Okay, I'm sorry.

7 A So he was sitting there and the guy came up to the
8 car. So when he came up to the car, I believe, the window
9 was half way down, not all the way down, but it was down
10 because we was sitting in the car talking. So as he
11 approached the car, my husband was sitting there and
12 that's when he said -- all I heard was give it up or
13 something like that. I think, that's what he said. And
14 then as he was standing there or whatever, me and my
15 husband was like just looking or whatever and, I guess, he
16 went on and say give me some money or whatever the case
17 may be. And we was like we didn't have any money. And he
18 was like, well, what you got. And so that's when my
19 husband said I got a phone. He was like what kind of
20 phone or something like that and they was talking. And my
21 husband was trying to get out of the car ---

22 Q Slow down a little. You a little nervous today?

23 A I am.

24 Q Okay. Let me stop you there. When he first came up
25 to the car he said something to the effect, what you got

1 or some words to that effect?

2 A Uh-huh.

3 Q And at that point what's going through your mind,
4 what are you thinking?

5 A I didn't know what to think.

6 Q And at that point did you see the gun yet?

7 A I don't think so, uh-uh.

8 Q And at what point do you actually see the gun?

9 A I seen the gun when my husband tried to get out of
10 the car and he hit him in the face with the gun.

11 Q So up until that point, you just hear him making
12 demands?

13 A Right.

14 Q And what do you think's going on?

15 A I don't know, I'm thinking he's trying to rob us.

16 Q Okay. He's trying to rob you. And at that point,
17 you hadn't seen the gun yet?

18 A No.

19 Q As far as who's closer to him, who's closer to him
20 you or your husband?

21 A My husband.

22 Q In fact, is he on the passenger side of the car?

23 A Yes.

24 Q And are there any lights out there in the parking lot
25 that night?

1 A There are.

2 Q And were you able to see that there was a person
3 there and kind of what he look like generally?

4 A Yeah.

5 Q But who was closer to him?

6 A My husband.

7 Q Okay. You said that at some point he was asking for
8 money initially?

9 A Uh-huh.

10 Q But then he was like what you got?

11 A Right.

12 Q And that's when your husband did what?

13 A He was -- he told him that he had a phone or
14 something, so he tried to get out of the car.

15 Q That's when he tried to get out of the car?

16 A Uh-huh.

17 Q That was your husband?

18 A Uh-huh.

19 Q And did he go to open the door?

20 A Yeah, I don't know if the door was already open or
21 not, but, I think, he went -- because -- I think, the door
22 was already open because we was about to get out of the
23 car too, but as he approach, you know, I thought he was
24 going to ask me to get him in his room or whatever because
25 he was locked out. So it just all just...

1 Q Was it scary?

2 A Very.

3 Q And at that point your husband's trying to get out to
4 the car and what happens?

5 A He hits him with the gun.

6 Q And that's when you saw the gun?

7 A Yeah. And I just say him like sit down. I told my
8 husband like just sit down.

9 Q What happened next?

10 A He -- I think he closed the door or something like
11 that and he was trying to get to the backseat behind my
12 husband, but that door something was wrong with it, so he
13 couldn't get in. And so I was telling him, he was like he
14 was going to take us somewhere or crank the car up or
15 something like that. I'm not exactly sure, but he
16 couldn't get in, so he walked around to my side. And
17 then, I think, he got in behind me in the car. And he was
18 sitting in there and he was talking and he was like crank
19 the car up, I'm going to take y'all somewhere or
20 something. And I never crank the car.

21 Q What happened with your husband at this point?

22 A He sitting there on the passenger side.

23 Q And you're still behind the wheel?

24 A Uh-huh.

25 Q But you didn't crank the car?

1 A No.

2 Q Why?

3 A Because I wasn't going nowhere.

4 Q What happened next?

5 A I don't know, I think, the door was still open on the
6 passenger side or maybe my husband open the door because
7 he got out of the car and he came up to the driver side.
8 And he was saying that he was going to crank the car and
9 take us somewhere.

10 Q Okay. And so, at this point the defendant, the
11 robber, gets out of the car?

12 A Uh-huh.

13 Q And he comes up to your side?

14 A Right.

15 Q And was your door open or shut at that point?

16 A I think when he first got out of the car, it was
17 close, but then my husband took off running and that's
18 when I open the door cause he got out of the car.

19 Q He got out too as your husband took off?

20 A Right.

21 Q Okay, got it.

22 A When he got out, I got out too when he was coming up
23 and I was -- because I was like I'm not staying in this
24 car, you're not going to try and get me to scoot over or
25 nothing. So I got out of the car and I was standing up

1 and he was talking. And I just turn around and I was like
2 listen, I don't want to see your face. I don't want to
3 know what you look like. I just don't got nothing. We
4 don't got no money. I was like so, we just don't got
5 nothing, I said but you can take the car because the keys
6 was in the car. And then he was saying something and I
7 was just walking away still talking like we don't got no
8 money, we don't got no money. And then by the time I got
9 to the staircase, I just took off.

10 Q Okay. And why are you telling him I don't want to
11 look at your face and things like that?

12 A I don't know. I didn't want to see him. I didn't
13 know what his intentions was. I didn't want to assume
14 what his intentions was. I didn't want him to think
15 anything, I didn't want to know anything. I just didn't,
16 wasn't thinking but thinking at the same time, just
17 juggling with my life at the same time, so it was just
18 like...

19 Q You wanted to get out alive?

20 A Yeah.

21 Q And you said that you walked away kind of looking
22 down at that point?

23 A I just know when I walked away, I was talking, but I
24 did not look back. And once I reached the stairway, I
25 just ran upstairs and went to the other courtesy officer's

1 room and bang on the door for him to open up.

2 Q You said that you took off when you got to the actual
3 stairwell or something?

4 A Uh-huh.

5 Q And at that point you ran where?

6 A Upstairs.

7 Q At some point, did you hide as you look down at the
8 car?

9 A Well, I ran on the backside and I seen him like
10 trying to get to the car when I did see him downstairs or
11 whatever once I had reach the top of the stairs, so I ran
12 in the back. And it's like little individual things like
13 that's covered like little blockages in between.

14 Q Like holes or something?

15 A Uh-huh. Like the railing, but it's like little
16 things that you can shield myself behind one of those.
17 You can't see through it. So I seen a car coming around
18 once I was on the backside and I was knocking on the
19 courtesy office door, but the first time I knocked, he
20 didn't open and I was pounding. But as I seen the car
21 come around, I kind of stood behind it and kneel down
22 behind the little -- I don't know what you call it like
23 the post. And after I seen the car go all the way around,
24 I bam back on the door and that's when he open the door
25 and I went inside.

1 Q And at that point what did you tell him?

2 A I told the courtesy officer that someone was trying
3 to rob us. And my husband I didn't know where he was when
4 he took off running.

5 Q You didn't know where your husband was at that point?

6 A Uh-huh.

7 Q And when you took off out of the car, did the person,
8 the robber, still have the gun with him?

9 A I don't know. Yeah, I'm sure he did.

10 Q Okay. And when you say you look down and you saw the
11 car in the parking and him trying to get to it, was it the
12 same man that was trying to rob you that was trying to get
13 in your car?

14 A Uh-huh.

15 THE COURT: Ma'am, you have to use words.

16 BY MRS. CAMPBELL:

17 Q Just answer yes or no.

18 A Oh, yes.

19 Q And was anybody else trying to get in your car other
20 than the person that was robbing you?

21 A I didn't see nobody else.

22 Q And could you tell he's the one who drove off in it?

23 A I just know it was the same guy cause it was the same
24 one had the wig on.

25 Q Okay. And that's what I'm getting ready to ask you.

1 You said that you didn't -- you intentionally didn't look
2 at him and you told him that, but did you get a general
3 look at him and what he look like. You didn't get a good
4 look at his face, did you?

5 A No.

6 Q But did you get a general description of what he look
7 like?

8 A When he was coming up to the car when I first
9 initially saw him, I could see like the hair.

10 Q Okay. And tell the jury and describe what he was
11 wearing and what he had on?

12 A I don't know, I think, it was jean pants with a white
13 shirt and it was a wig. He had on like a canvas hat like
14 the one like people go boating.

15 Q Fishing?

16 A Yeah, like a fishing hat type and then some glasses
17 on.

18 Q Some glasses. Now, could you tell if he was a white
19 male or black male or Hispanic?

20 A He was black.

21 Q Okay. After you got to the courtesy officer, what
22 happened next, what did you do?

23 A I was telling him that I was scared and I wanted to,
24 you know, find out if my husband was okay because I didn't
25 know what was going to happen. And so I peeped out the

1 window and I seen the police like coming around the
2 building and I was like it's the police. I was like thank
3 God, so I left out of the room and I went back through the
4 little side way and I ran to the front. And then I seen
5 the police car pull around by the Fairfield Inn and I just
6 took off downstairs and I ran to the police.

7 Q And when you got to the police, they were over at the
8 Fairfield Inn?

9 A They was like in between.

10 Q In between the two?

11 A Uh-huh.

12 Q Is the Fairfield Inn next to the In-Town Suites?

13 A Yeah.

14 Q Are they like the same side of the road?

15 A They like in the same parking lot almost.

16 Q Okay. And when you ran to the police, who was there
17 when you got there?

18 A My husband.

19 Q And was he actually talking to the police at that
20 point?

21 A Yes, ma'am.

22 Q Did you tell the police what had happened as best you
23 could that night?

24 A Uh-huh.

25 Q And then ultimately did you have to go to the

1 hospital that night?

2 A I went to the hospital as well.

3 Q And why did you have to go to the hospital that
4 night?

5 A My nerves were wrecked. I couldn't ---

6 MS. PINNOCK: Objection, Your Honor, can we
7 approach?

8 THE COURT: No, proceed.

9 MRS. CAMPBELL: Thank you.

10 A My nerves were just ---

11 MS. PINNOCK: Objection, Your Honor, relevance.

12 THE COURT: Objection's overruled.

13 A My nerves was just wrecked. I was just excited, I
14 was everything all at once and I just wanted to make sure
15 because I have palpitations of the heart, so I just wanted
16 to make sure I was all right.

17 Q Okay. And did your husband have to get treatment as
18 well?

19 A He did.

20 Q And why was he having to get treatment?

21 A He had a laceration on the lip.

22 Q A cut on his lip?

23 A Uh-huh.

24 Q And how did he get that?

25 A From when he was struck with the gun.

1 Q By the robber?

2 A Right.

3 Q Wearing the wig and the hat?

4 A Uh-huh.

5 Q Let me ask you this, was this a big guy, a slender
6 guy, could you tell?

7 A He was slim.

8 Q Slim?

9 A Uh-huh.

10 Q The gun that you saw you know what type of gun it
11 was?

12 A It was a handgun, it was silver.

13 Q Silver handgun.

14 A Uh-huh.

15 Q The next day did the police come and meet with you
16 and your husband separately to show you some photos?

17 A We was in the same room.

18 Q Okay. Were you able to identify anyone?

19 A No.

20 Q And who got the better look at the person that night
21 you or your husband?

22 A My husband. He was standing right toward him when he
23 did try to get up, but he was more talking to him face to
24 face standing there.

25 Q And did you ultimately give the police a statement

1 about what had happened?

2 A I did.

3 Q Both when they initially asked you and then later?

4 A Uh-huh.

5 Q Okay. Did you ever get your car back?

6 A Yeah, we did get our car back.

7 Q When did that happen?

8 A I think, it was later that day around -- Mr. Gilliam
9 came and got us and took us.

10 Q Was it within a few days after the robbery occurred?

11 A If not that same day -- I mean, the next morning, I
12 can't remember sometime around there. I know he said they
13 had some work to do and fingerprints or something. I
14 think I was going to try to attempt to do something with
15 of that nature.

16 Q During the time period prior to you just making your
17 break for it, did you feel like you were free to leave
18 when he was there with your husband or anything like that?

19 A I didn't want to be anywhere he wasn't. I wouldn't
20 have left him.

21 THE COURT: Ma'am, I cannot -- you're quite a
22 distance away. I hear you mumbling, but I don't
23 understand any words you're using. Can you maybe try and
24 speak into the mic or do you ever speak any louder than
25 you're currently speaking?

1 MRS. CAMPBELL: We'll work on it, Judge.

2 THE COURT: We need to be able to hear what
3 you're saying.

4 BY MRS. CAMPBELL:

5 Q I'm sorry what were you saying?

6 A What was the question, I'm sorry.

7 Q I'll move on. When the man was demanding money and
8 he had the gun, did you feel like you were free to leave
9 at that point?

10 A No.

11 MRS. CAMPBELL: I don't have anything further.

12 THE COURT: Cross-examination.

13 MS. PINNOCK: Thank you, Your Honor. Please the
14 court.

15 CROSS-EXAMINATION

16 BY MS. PINNOCK:

17 Q How are you, Ms. Edwards?

18 A Hi.

19 Q There's a couple of things I want to go over with
20 you, okay. The first time you spoke to law enforcement
21 was the 4th, right, that night?

22 A Right.

23 Q Is it early in the morning or late at night depending
24 on how you look at it, it been dark outside right?

25 A Right.

1 Q You and your husband were sitting in the car next
2 thing you know there's a man standing at your window with
3 a gun, right?

4 A Approaching us first but, yeah.

5 Q Approaching, okay. And then you said he ends up at
6 the car?

7 A Right.

8 Q And that person is demanding money?

9 A Exactly. He said give it, so that's the first thing
10 he said.

11 Q That's what you thought -- gave me your money, give
12 me whatever you have?

13 A That's -- yeah.

14 Q I been out to the apartments. Where is the office
15 located?

16 A As soon as you drive around between the two sections
17 between the building like soon as you drive around, you
18 make that left and the office is right between the
19 division of the laundry room, the office is right there.

20 Q So if I were standing in front of the apartment
21 building on Columbianna Drive if I was looking at it,
22 which side would the office be on my right or my left?

23 A The right ---

24 Q It would be on the right?

25 A Well, through the driveway, it would be on your

1 right -- I mean, to your left.

2 Q To my left?

3 A Uh-huh.

4 Q Where is the office compared to the Fairfield Inn?

5 I'm just trying to picture where everything that you

6 described. So if I'm coming up off of Columbianna Drive,

7 I'm right from Harbison to get into the parking lot to get

8 to the In-Town Suites, right?

9 A Off Columbianna Drive, uh-huh.

10 Q Okay. There's a restaurant here that you get to

11 first on the left?

12 A Right.

13 Q You continue up and then you get to the In-Town

14 Suites and the Fairfield is over here?

15 A Uh-huh.

16 Q Okay. And there's a driveway that goes all like

17 that?

18 A It goes around.

19 Q Okay. So the Fairfield is here. Where is the office

20 compared to the Fairfield?

21 A On the opposite side.

22 Q On the opposite side of the building?

23 A Uh-huh.

24 Q On the complete opposite side?

25 A It's all in the front. Like once you turn into the

1 driveway, everything is right in front. It's facing
2 Columbianna Drive.

3 Q Okay. So on Columbianna Drive side but to the left
4 of the Fairfield?

5 A Uh-huh.

6 Q Got you. Now, I guess I'm not clear was the window
7 to the car up, down, down half way or was the door open?

8 A I think he was attempting to get out of the car.

9 Q So the door was open?

10 A I don't recall. I can't remember. I know the window
11 probably was half way down because, I think, we was about
12 to get out of the car. So I don't know if I was in the
13 process of letting the window up and us exiting the car or
14 if he came sooner than that. I can't really...

15 Q But the first interaction when he got to your car was
16 with your husband?

17 A Right.

18 Q And you just mentioned something you said your
19 husband got a better look at him because he was standing
20 toe to toe with him talking to him?

21 A Well, when he attempt to get out, he raised up, but
22 then once he raised up to him, that's when he knock him or
23 whatever and I just told my husband to sit down.

24 Q Okay. But there was never a conversation, there was
25 a confrontaton? The second your husband stood up, you're

1 saying that he got punched and he sat back down?

2 A Right.

3 Q Okay. And then some other things happened a few more
4 seconds or a minute or so goes by and then the person's
5 making their way to your side?

6 A Right.

7 Q And you just testified that when he arrived at your
8 side, we know that Mr. Marck Drastich left the car, right,
9 because he went and called 9-1-1, he ran?

10 A Uh-huh.

11 Q And you said at the same time that's when you got out
12 of the car?

13 A Right, I stood up out of the car.

14 Q So your husband's running. You're already out of the
15 car and the person with the weapon is where?

16 A He got out of the car too.

17 Q So he's standing there with you?

18 A No, he's out of the car too now and we're all
19 standing. Well, my husband is running, I'm standing, but
20 my back is to him and he's like behind me.

21 Q Okay. So your back is to him. Okay. And you're
22 saying you never turned around and talked to him?

23 A I never turn around and had a -- like was just
24 talking to him, no.

25 Q You never looked in his face?

1 A I seen him when he came up, but I never like turn
2 around and was talking to him, no.

3 Q Okay. But you described him wearing the shoulder
4 length wig?

5 A Uh-huh.

6 Q You described the person having to -- from what it
7 sounds like continuously having to push it out of their
8 face because it was covering their face, right?

9 A Uh-huh.

10 Q So we have a wig in the face. It's shoulder length
11 and you just said that the person was wearing a white
12 shirt, but initially when you talked to law enforcement,
13 you didn't remember the shirt being white?

14 A Yeah. I think it was white.

15 Q Okay. Your husband actually said it was white, so
16 that's why you said, well, it must have been white?

17 A No, I'm just trying to rehash it in my mind to try to
18 think was it white and, I think, it was white, but I won't
19 say for certain whether my husband said that or not.

20 Q Okay. You didn't tell Investigator Gilliam that you
21 didn't recall what color the shirt was?

22 A I told him I thought it was white.

23 Q Because your husband had said it was white?

24 A That's not what I said.

25 Q Okay. You remember talking to Investigator Gilliam?

1 A On several occasions, yes.

2 Q Did you know that you were being recorded?

3 A It didn't matter, that was fine.

4 Q Would you disagree with me if I said that you're
5 recorded saying that your husband said the shirt was
6 white, so it had to be white?

7 A No.

8 Q Okay. So if it's on the recording, you'll agree that
9 it's true, that's what you said?

10 A I think, the shirt was white.

11 Q Okay. You didn't mention -- would you agree with me
12 that you did not mention a hat of any kind before
13 August 8th?

14 A No.

15 Q Is that another statement you gave to law enforcement
16 prior to that date?

17 A I remember the hat.

18 Q You remember that hat ---

19 A Because he was moving the hair out of his face and
20 pulling on the hat, so I saw that.

21 Q Okay. You gave statement to law enforcement on
22 August 3rd or the early morning of August 4th and you gave
23 another one on August 8th. At what point prior to the
24 8th, did you describe this person wearing a hat to law
25 enforcement?

1 A I don't know.

2 Q Would you agree you did not put that in your first
3 statement?

4 A I didn't probably put a lot of things in my first
5 statement. I think we didn't even do the laceration or
6 punch in the face ---

7 Q I'm sorry.

8 A Everything happened so fast. He was getting
9 dispatched and all this on the radio at the same time
10 we're trying to explain to the officer what had happened.
11 So I'm not exactly sure what would be in my first
12 statement.

13 Q Okay. And when you spoke to law enforcement, you
14 were honestly always talked to with your husband. They
15 talked to y'all together Officer Van Valkenburgh did?

16 A Uh-huh.

17 Q Investigator Gilliam did?

18 A Uh-huh.

19 Q So you're always sitting there talking together about
20 what happened?

21 A Yeah.

22 Q Okay. You even wrote your husband's second statement
23 for him, right?

24 A I don't know if I wrote his statement, I know I wrote
25 mine.

1 Q You don't recall writing his?

2 A Probably I did because he wasn't as fluent in
3 English.

4 Q All right. And I get that?

5 A Right.

6 Q All right. I want to ask you real quick. You just
7 said that you purposely didn't look at the person at the
8 car, right?

9 A Once I got out of the car, yes.

10 Q Okay. And that's because you didn't want to get a
11 good look at him because you didn't know what his
12 intentions were and, you know, all that stuff?

13 A A number of reasons, yes.

14 Q Okay. But isn't it true you told Investigator
15 Gilliam that you would never forget that face?

16 A I don't remember telling him that.

17 Q Do you remember telling him that that face is the
18 only face you could see in your mind right now?

19 A No.

20 Q Do you remember telling him that you would definitely
21 be able to pick out that person in a lineup?

22 A No.

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

24 (WHEREUPON, a pause in the proceedings.)

25 MS. PINNOCK: I have no further questions.

1 THE COURT: Anything further?

2 MRS. CAMPBELL: Just a couple.

3 REDIRECT EXAMINATION

4 BY MRS. CAMPBELL:

5 Q She asked you about what you remember about the
6 defendant and was this whole thing scary?

7 A It was.

8 Q But as far as will you ever forget the wig?

9 A No.

10 Q Did he have on the glasses?

11 MS. PINNOCK: Objection, Your Honor, she's
12 leading.

13 A I saw the glasses ---

14 MS. PINNOCK: Objection, Your Honor, she's
15 leading.

16 THE COURT: Objection's overruled.

17 BY MRS. CAMPBELL:

18 Q You told the police about it, right?

19 A Uh-huh.

20 Q That he was slender build?

21 A Yeah, he wasn't big.

22 Q That image still with you?

23 A Uh-huh.

24 MRS. CAMPBELL: Thank you.

25 THE COURT: Further examination?

1 MS. PINNOCK: No, sir.

2 THE COURT: All right. Thank you. Ladies and
3 gentlemen, we'll break for lunch now. I assume it should
4 be here by now.

5 BAILIFF: It is here, Your Honor.

6 THE COURT: Ladies and gentlemen, we'll break
7 for 45 minutes. Please do not discuss the case. Proceed
8 in 45 minutes.

9 (WHEREUPON, the jury retire to the jury room.)

10 THE COURT: Forty-five minutes, what does that
11 put us in? Mr. Locklear, what time would that be?

12 MR. LOCKLEAR: 1:53, sir.

13 THE COURT: Say it again?

14 MR. LOCKLEAR: 1:53.

15 THE COURT: All right, 1:53 -- we'll reconvene
16 at 1:53.

17 THE CLERK: That's not right.

18 THE COURT: All right. Let me try someone else
19 then. 2:10, we'll be back at 2:10.

20 (WHEREUPON, a lunch break was taken.)

21 THE COURT: Anything before the jury comes?

22 MRS. CAMPBELL: We're just getting our first
23 witness cause he's sequestered.

24 THE COURT: All right.

25 Yes, sir.

1 MS. PINNOCK: Your Honor, I would like to put on
2 the record I objected -- well, we approached during the
3 testimony of Mr. Marck Drastich. Information was provided
4 during his testimony about the recovery of his hat and how
5 the witness himself had located the hat himself at a later
6 date and turned it over to law enforcement, that was new
7 information. That's not listed anywhere in his statement
8 or any law enforcement report. We just like to put on the
9 record that that was random information. Again, we
10 renewed our Riddle request asking additional or changing
11 anybody's statement prior to the information.

12 THE COURT: All right.

13 Yes, ma'am.

14 MRS. CAMPBELL: Your Honor, I've never heard
15 that information from Mr. Drastich before. In addition,
16 the hat that he's talking about was located in the
17 backseat. It's actually in evidence.

18 THE COURT: You said it's in evidence? What
19 evidence?

20 MRS. CAMPBELL: In CPD's custody.

21 THE COURT: It's not evidence in this trial?

22 MRS. CAMPBELL: Yes, sir. She has photographs
23 of it in the backseat of the car.

24 THE COURT: I haven't ruled on the admissibility
25 of any evidence.

1 MRS. CAMPBELL: No, I'm just saying that that
2 information was available to them. They have photographs
3 of where the hat was in the back of the car.

4 THE COURT: Okay.

5 MRS. CAMPBELL: But in addition to that, I had
6 never asked Mr. Drastich anything about the hat being in
7 the back of the car. He had never provided that to me.

8 THE COURT: All right. Anything else?

9 MR. BAILEY: Just two seconds, Your Honor.

10 (WHEREUPON, a pause in the proceedings.)

11 THE COURT: You can bring the jury.

12 (WHEREUPON, the jury came into open court.)

13 THE COURT: Okay. Your next witness.

14 MR. STEADMAN: Zane Harris.

15 THE CLERK: Do you swear or affirm that the
16 testimony that you're about to give in this case to be the
17 truth, the whole truth, and nothing but the truth so help
18 you God?

19 THE WITNESS: Yes, ma'am.

20 THE CLERK: Thank you. Have a seat in the
21 witness box please. State your name for the record.

22 THE WITNESS: Zane Elliott Harris.

23 WHEREUPON,

24 Zane Elliott Harris,

25 after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. STEADMAN:

Q Mr. Harris, where do you live currently?

A Charleston, South Carolina.

Q And how long have you lived there?

A Almost two years.

Q Are you from the Columbia area?

A Yes, sir.

Q How long you lived in the Columbia area?

A Until I was 18.

Q And where -- what part of town in Columbia did you live?

A Chapin.

Q And back in August 4th 2014, where did you live?

A I lived in Paces Brook Harbison.

Q Who did you live there with?

A My roommate Sidney Newsome.

Q Did Cullen live there with you?

A He was staying with me at the time, but he wasn't actually officially living there.

Q Were you working at the time?

A Yes, sir.

Q Okay. Did you own a car?

A Yes, sir, I did.

Q What kind of car did you drive?

1 A It was a 370Z Nissan Nismo.

2 Q Is it a stick shift?

3 A Yes, sir, it was six-speed manual.

4 Q What year?

5 A 2011.

6 Q All right. I want to go to August 4, 2014, the early
7 morning hours. Your friend Cullen testified earlier.

8 What were y'all doing in those early morning hours?

9 A We were looking for somebody to buy us a case of
10 beer.

11 Q And where did y'all go to find somebody to buy you
12 beer?

13 A The Shell gas station right off Interstate 26.

14 Q And what happened once you went to the gas station?

15 A Well, I went inside to buy a bottle of water, came
16 back out and Cullen was speaking to those guys. And they
17 said that they would buy us beer if we follow them to
18 Wal-Mart, so we did follow them there. I gave him money
19 when we both went inside. I did grab something in
20 Wal-Mart myself. I don't remember what it was.

21 Q Let me back up just a little bit, if you don't mind.
22 Go back to the gas station, you said Cullen was speaking
23 to the guy. Did you see what kind of car he was driving?

24 A It was a blue Oldsmobile.

25 Q Okay. And was anybody else there with him?

1 A The guy in the Camaro was there, but we didn't speak
2 to him at the gas station I don't believe.

3 Q Okay. Now, fast forward to the Wal-Mart, where you
4 there for him to buy you beer? What was the interaction
5 with you and the defendant like at the Wal-Mart?

6 A Well, they told us they were from out of town and
7 they were wanting to go out to a club or something. They
8 insisted that we come with them after I asked them to buy
9 me beer. He came back out of Wal-Mart, he didn't get it
10 and they kept insisting that we go out with them. So we
11 finally just told them that we would, but when they turned
12 off to go towards the bar, we kept going straight.

13 Q And at the Wal-Mart, did you go inside with him?

14 A I walked inside with him, but I didn't stay in there
15 with him.

16 Q And did you see where he went inside the Wal-Mart?

17 A No, he walked straight towards the -- like where the
18 drinks and stuff are. I mean, he just walk straight down
19 that aisle, I parted with him there.

20 Q And did he buy you beer at the Wal-Mart?

21 A No, sir.

22 Q And when you came out of the Wal-Mart, did you see
23 the Camaro in the parking lot?

24 A Yes, sir, I did.

25 Q And where was the Oldsmobile parked at that time?

1 A He was parked right in front of me in the Oldsmobile
2 and then the guy -- the Camaro he pulled up afterwards
3 while I was inside.

4 Q Where was your car?

5 A My car was in the parking lot. We were close to the
6 front.

7 Q So all the cars pretty close together?

8 A Yes, sir.

9 Q And what was Cullen doing when you were inside the
10 Wal-Mart?

11 A He was talking to the guy who was in the black Camaro
12 when I came out.

13 Q All right. And then you mention that he wanted to go
14 out with you guys. Did he say where he wanted to go with
15 you guys?

16 A It was at Carolina Ale House. It was the only place
17 that was open at that time.

18 Q And where is the Ale House?

19 A In Harbison. I can't remember the name of the road.

20 Q Okay. But you didn't go to the Ale House with him?

21 A No, sir.

22 Q Where did y'all go?

23 A We went to the Waffle House.

24 Q And tell me what you did once y'all ate at Waffle
25 House and left?

1 A I mean, we sat down and ate and we just left and went
2 straight back to my house. And as soon as we got to the
3 parking lot, we were walking out of the car and walking up
4 towards my apartment and we saw them coming over the hill
5 in the apartment complex. And they stopped and they
6 slammed on the breaks and yelled out the window, like,
7 hey, what are you doing or, hey, what's up. But it was
8 really aggressive and both of them started to step out of
9 the car, so we just ran and took off running straight up
10 to my apartment.

11 Q And did you know that the defendant had a pistol?

12 A I did. When I was inside Wal-Mart, Cullen said that
13 he looked in their car and saw the pistol in the front
14 seat. And he told me that once we were in the car driving
15 away.

16 Q And when they yelled at you in an aggressive manner,
17 you ran to your apartment and what did you do?

18 A I told my roommates, you know, to go hide in the room
19 and I was holding on to my shotgun and I just called the
20 police immediately.

21 Q And once you call police, what happened next?

22 A We stayed inside and waited for the cops to show up.
23 I mean, I had all the doors locked, the blinds closed and
24 everything. And as soon as the cops showed up, we heard
25 them come in, yell, freeze get on the ground and then we

1 heard tires spinning and looked out the window and just
2 saw the Camaro taking off down the road with no lights on.

3 Q And when you saw the Camaro before it speed off, did
4 you see how many people were inside the Camaro?

5 A It was two. It was both of them.

6 Q Okay. And at some point you met with an investigator
7 in this case, right?

8 A Yes, sir.

9 Q And he questioned you and got a statement and did he
10 ask you if you got a good look at the person's face?

11 A Yes, sir.

12 Q And did he ask you whether you could do a photo
13 lineup?

14 A Yes, sir, he did.

15 Q And were you able to do a photo lineup?

16 A Yes, sir, I was.

17 Q Do you remember that?

18 A Yes, sir.

19 Q How that went down?

20 A Uh-huh.

21 Q I'm going to show you State's Exhibit Number 2 take a
22 look at that. Does that look like what he showed you that
23 night?

24 A Yes, sir. It does.

25 Q And when did he show you that was it that morning?

1 A Yes, sir. It was right after the chase had happened.
2 They came back to get our statements.

3 Q And is that your handwriting right there next to
4 picture number two?

5 A Yes, sir, it is.

6 MR. BAILEY: Objection, Your Honor, for previous
7 stated -- previous stated reasons, Your Honor, we object
8 to this.

9 THE COURT: Objection overruled.

10 BY MR. STEADMAN:

11 Q And do you see the person you interacted with that
12 night and who you went to buy beer with that night, that
13 you talked to at the gas station, do you see him here
14 today in the courtroom?

15 A Yes, sir, I do.

16 Q And can you please point to that person. What's he
17 wearing?

18 A A purple shirt.

19 MR. STEADMAN: Your Honor, at this point we move
20 to introduce State's Exhibit Number 2 into evidence. It
21 is a photo lineup, Your Honor.

22 THE COURT: May I see it?

23 MR. BAILEY: We take a look at.

24 THE COURT: Show it to him.

25

1 (WHEREUPON, a bench conference was held in the
2 presence of the jury, but out of the hearing of the
3 jury.)

4 THE COURT: Being admitted for identification
5 purposes.

6 (WHEREUPON, State's Exhibit No. 2 was marked for
7 identification only.)

8 BY MR. BAILEY:

9 Q Zane, when you met with the investigator, did he
10 suggest in any way to you who to pick in the photo lineup?

11 A No, sir, he didn't.

12 Q And you did that on your own freewill?

13 A Yes, sir.

14 Q And you're very confident in that identification?

15 A I am.

16 MR. STEADMAN: No further questions.

17 THE COURT: Cross-examination.

18 MR. BAILEY: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. BAILEY:

21 Q Mr. Harris, were you at the In-Town Suites at all on
22 August 4th of 2014?

23 A No, sir.

24 Q Okay. Did you see anything that happened at the
25 In-Town Suites on August 4th 2014?

1 A No, sir, I did not.

2 MR. BAILEY: Thank you.

3 THE COURT: Anything further?

4 MR. STEADMAN: No, Your Honor.

5 THE COURT: All right. Thank you, sir. You may
6 step down.

7 (WHEREUPON, the witness leaves the witness
8 stand.)

9 THE COURT: Get your next witness.

10 THE CLERK: Do you swear or affirm that the
11 testimony that you're about to give in this case to be the
12 truth, the whole truth, and nothing but the truth so help
13 you God?

14 THE WITNESS: Yes, ma'am.

15 THE CLERK: Thank you. Have a seat in the
16 witness box please.

17 THE COURT: If counsel approach.

18 (WHEREUPON, a bench conference was held in the
19 presence of the jury, but out of the hearing of the
20 jury.)

21 MRS. CAMPBELL: Thank you, Your Honor.

22 THE COURT: Yes.

23 WHEREUPON,

24 Michael McMillian,

25 after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

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BY MRS. CAMPBELL:

Q Officer McMillian, where are you employed?

A With the City of Columbia Police Department.

Q What do you do there, sir?

A I'm a patrol officer street division.

Q And how long have you been in law enforcement?

A I been in law enforcement six years.

Q As a patrol officer with the CPD, are there certain regions that y'all patrol?

A Yes, ma'am, there are.

Q And how is it kind of split up just for the jury to know?

A In regional districts. You have an area of west region which would be out bound from the City itself, which encompasses City properties that are out there. We have general regional maps that we go by.

Q Okay. And you're familiar with the Harbison area?

A Yes, ma'am.

Q And is Harbison part of that actually the City of Columbia's jurisdiction?

A Yes, ma'am, it is.

Q And specifically are you familiar with the mall Harbison Mall?

A Yes, ma'am, Columbianna Mall.

1 Q Columbianna sorry.

2 A Yes, ma'am.

3 Q Is it part of the CPD's jurisdiction out there?

4 A Yes, ma'am, it is.

5 Q And then some of the surrounding areas?

6 A Yes, ma'am.

7 Q And actually that area is right where Richland County
8 actually meets Lexington County; is that correct?

9 A The line cuts through the mall, yes, ma'am.

10 Q And y'all actually had jurisdiction in some of
11 Lexington County as well?

12 A Yes, ma'am, we do.

13 Q I'm going to turn your attention back to August the
14 4th of 2014. Were you working that morning?

15 A Yes, ma'am, that was a night shift.

16 Q That was a night shift. And is night shift -- what
17 time did you work?

18 A We work from 6:30 to seven.

19 Q 6:30 in the evening ---

20 A 6:30 p.m. the day before to seven in the morning.

21 Q Okay. So over the midnight hour?

22 A Yes, ma'am.

23 Q And that evening did you become aware of a carjacking
24 that took place?

25 A Yes, ma'am.

1 Q In-Town Suites?

2 A Yes, ma'am.

3 Q And how did you become aware of that?

4 A I heard it over the radio.

5 Q And were you aware of what the officer actually
6 responded to that carjacking initially?

7 A Yes, ma'am, it was Officer Van Valkenburgh and
8 Officer Sjolund.

9 Q And Sjolund?

10 A Yes, ma'am.

11 Q And what were you doing at that point?

12 A I was in my sector, my region, which was on Broad
13 River Road. And I was moving closer in towards that
14 inbound section that's there, which has two areas in it as
15 well which is where those two officers were stationed at,
16 so I was moving closer.

17 Q And at some point in the early morning hours, did you
18 respond to a different call after that?

19 A Yes, ma'am, I took a shoplifting.

20 Q And where did that take place?

21 A At the Wal-Mart.

22 Q At the Wal-Mart?

23 A On Harbison Boulevard.

24 MS. WILLIAMS: Objection, Your Honor, our
25 previous objection from the pretrial.

1 THE COURT: All right. Ladies and gentlemen,
2 I'm going to have you step to the jury room for just few a
3 minutes hopefully. Please do not discuss the case.

4 (WHEREUPON, the jury retire to the jury room.)

5 THE COURT: All right. Yes, ma'am.

6 MS. WILLIAMS: Thank you, Your Honor. At
7 pretrial you said that you were going to kind of hold it
8 up and give more context with regards to the actual
9 shoplifting charges itself.

10 THE COURT: That's why I sent the jury out.

11 MS. WILLIAMS: Yes, Your Honor, as well as the
12 car chase, we have a renewing objection to it again with
13 Officer McMillan speaking of the shoplifting. The
14 shoplifting itself is not pertinent towards or relevant
15 towards connecting our client with the elements of the
16 actual charge in the In-Town Suites or at Brook Pines
17 apartments on the 6th. They've already been able to
18 establish that they placed him there with the car at a
19 Wal-Mart, that's something that's already been -- that
20 come into testimony, which will be the only things that
21 potentially be -- needed to further the story of what was
22 going on. The shoplifting then ultimately ends up just
23 being improper character evidence to hopefully if he's
24 guilty of one thing he's guilty of another.

25 THE COURT: All right. Yes, ma'am.

1 MRS. CAMPBELL: Your Honor, we aren't offering
2 it for character evidence. We're offering it as a series
3 of events that occurred that night, specifically he goes
4 into -- it corroborates Zane Harris' testimony as well as
5 what was found in the Camaro once it wrecks after that
6 speed that chase you seen. Basically, they did a search
7 of the car. And in that car they find the camera which
8 was taken by this defendant because he's going to be
9 identified on the video of this by Investigator Gilliam
10 whose known him forever.

11 THE COURT: The most important part of the
12 Wal-Mart testimony is that that's the clearest view --
13 vision of the defendant being identified ---

14 MRS. CAMPBELL: Exactly.

15 THE COURT: --- that shows the person that
16 everyone else has been talking about.

17 MRS. CAMPBELL: And it shows clearly that it's
18 him and it's not Devontae Bryant.

19 THE COURT: And so we have a picture of him in
20 Wal-Mart, a video and a video of whatever he's doing in
21 Wal-Mart. Is the Wal-Mart video you plan to offer that?

22 MRS. CAMPBELL: Yes, sir.

23 THE COURT: And the video shows him stealing
24 something out of Wal-Mart?

25 MRS. CAMPBELL: It does show him stealing

1 something out of Wal-Mart and then exiting out the front
2 door, which corroborates what Zane Harris says which
3 corroborates what Cullen Bennecker says which then the
4 chase starts shortly after that, Your Honor, within
5 minutes when the -- you already heard from Van Valkenburgh
6 and he's getting ready to talk about -- he's actually
7 involved in seeing the black Camaro at the young man's --
8 the two that just testified at their apartment complex
9 before the chase takes off.

10 THE COURT: All right. This witness responded
11 to what again?

12 MRS. CAMPBELL: He responds to the shoplifting
13 and then subsequent to that he also responds to Paces
14 Brook. And that is where the young man who had already
15 testified said that the two individuals that they had been
16 dealing with earlier at the Wal-Mart came up on them and
17 said something aggressive and they ran. They are the
18 reason that the police actually get called out in that
19 chase actually ultimately happens.

20 THE COURT: He didn't just show up at Wal-Mart.

21 MRS. CAMPBELL: He didn't just show up at
22 Wal-Mart.

23 MS. WILLIAMS: May I briefly respond, Your
24 Honor.

25 THE COURT: Yes.

1 MS. WILLIAMS: Again, the shoplifting charge is
2 a Lexington County case. The video showing -- can show
3 him going in the door. You can say that he exited the
4 Wal-Mart with a camera if they absolutely need to connect
5 that there without putting it as a shoplifting.

6 THE COURT: Well, if you could present their
7 case for them, then you can tell them how to present their
8 case, but they opt to present their case the way they want
9 to present their case. I understand your argument, but I
10 deny your motion and I overrule your objection.

11 MS. WILLIAMS: Thank you, Your Honor.

12 MRS. CAMPBELL: Thank you, Your Honor. One
13 other thing too, in her opening statement, she also said
14 that we're here because the State has chosen to pursue
15 these charges. Your Honor, we would have, of course,
16 chosen to pursue more charges that he's got too and I'm
17 just putting them on notice that if they opened the door
18 anymore, we might want to go into that.

19 THE COURT: To what other ---

20 MRS. CAMPBELL: He has two or three days prior
21 to this that we haven't even gone into of other charges
22 involving other vehicles and other carjackings. I'm just
23 stating that she's the one that made the statement they
24 chose what charges to pursue.

25 THE COURT: All right. Well, they haven't

1 opened that yet. We'll cross that bridge. We have many
2 other rivers to cross.

3 MRS. CAMPBELL: Yes, sir.

4 THE COURT: All right. So we'll take three
5 minutes and then we'll press on.

6 (WHEREUPON, a break was taken.)

7 THE COURT: I didn't realize I be intercepted by
8 agents and other things in the hallway, so extended our
9 three minutes. Let's bring them on.

10 MS. WILLIAMS: Your Honor, just for the record,
11 I like to state that I'll be -- I'm objecting to the
12 entire line of questioning about the shoplifting that we
13 spoke about before on your ruling.

14 THE COURT: What does that mean?

15 MS. WILLIAMS: Just so I don't have to interrupt
16 again for each individual question, I'm objecting to the
17 entire line of questioning about the shoplifting.

18 THE COURT: All right. Bring the jury. I don't
19 recognize continuing objections. The record will speak
20 for itself.

21 (WHEREUPON, the jury came into open court.)

22 THE COURT: All right. You may proceed.

23 MRS. CAMPBELL: May it please the Court.

24 THE COURT: Yes.

25 DIRECT EXAMINATION CONTINUED

1 BY MRS. CAMPBELL:

2 Q We were talking about the early morning hours of
3 August the 4th, I believe, and you were aware that there
4 was a carjacking at the In-Town Suites that morning. I
5 want to turn your attention to around 1:30 that morning.
6 Did you respond to the Wal-Mart?

7 A Yes, ma'am, I did.

8 Q And what kind of call were you responding to?

9 A I was dispatch to a shoplifting ---

10 MS. WILLIAMS: Objection, Your Honor, previous
11 arguments.

12 THE COURT: Objection's overruled.

13 BY MRS. CAMPBELL:

14 Q Go ahead.

15 A I was dispatched in reference to a shoplifting that
16 had occurred at that location.

17 Q And while you were there, did you have the
18 opportunity to review some video?

19 A I looked over some of it inside the office, yes,
20 ma'am.

21 Q And you said that took place in the office?

22 A In the lost prevention.

23 Q In the lost prevention office?

24 A Yes, ma'am.

25 Q And were you able to review some videotape that -- of

1 a person taking a certain amount including a camera ---

2 MS. WILLIAMS: Objection, Your Honor, previous
3 arguments.

4 THE COURT: Objection's overruled.

5 A Yes, they showed the incident to me.

6 Q They showed the incident to you?

7 A Yes, ma'am.

8 Q And the person that you observed did you see him
9 taking an actual camera?

10 A I observed on the camera there of the process
11 involving with the concealment of that item that was in
12 question at the Wal-Mart.

13 Q And in fact he exited with that item?

14 A Yes, ma'am, from what I viewed on video went right
15 out the front door.

16 Q In addition, once he got into the parking lot were
17 you able to observe any vehicles of interest as far as
18 this event?

19 A I observed at least three cars in the parking lot.
20 One of them being a Camaro, another one being an older
21 model car and then a third one being a small foreign car
22 kind of high speed supped up car.

23 Q And were you able to observe actually exiting the
24 parking lot after that?

25 A All three left together.

1 Q And the older model car did you recall what color it
2 was?

3 A On the video footage, it was a bluish-grayish color.

4 Q And did you take a report that night?

5 A Yes, ma'am, I did.

6 Q And I want to turn your attention to about an hour
7 after that a little more maybe. Are you familiar with the
8 Paces Brook apartment complex?

9 A Yes, ma'am.

10 Q And where is that located, sir?

11 A It's located on Columbianna Drive, its address is 113
12 Paces Brook.

13 Q And in relation to the In-Town Suites where is that?

14 A It would be pretty much across the street more kind
15 of an angle from it.

16 Q Kind of catercorner across the street?

17 A Yes, ma'am.

18 Q Is that fair to say?

19 A Yes, ma'am.

20 Q Is that fair to say?

21 A Yes, ma'am.

22 Q That Columbia Drive or Columbianna Drive?

23 A Columbianna Drive.

24 Q That's that loop that runs behind the mall?

25 A Columbianna Drive connects Lake Murray Boulevard to

1 Harbison Boulevard. The Columbianna Drive the mall one is
2 a loop there, it's a private road.

3 Q Okay. That morning did you get a call from dispatch
4 about a civil disturbance?

5 A Yes, ma'am, we was dispatched over to that location
6 for a disturbance that was taking place. It was involving
7 a Camaro. I responded to that location. I parked in the
8 front and I exited my patrol vehicle and I walked through
9 the pathway which in the center there's a small little
10 creek area there with some bridges on that. I walked
11 through that to come up around back behind on the backside
12 of the complex. When I came up around by building eight
13 and I came up the hill, right in front of me was a dark
14 Camaro, lights out, sitting in a handicapped parking
15 space. As I radioed it out, that I had the car sitting in
16 that parking space, I didn't see anybody else around.

17 Q And just to make sure, did that match the description
18 of the vehicle you were looking for?

19 A Yes, ma'am, it matched that distribution.

20 Q When you said this was a call that came out, were you
21 concerned was there something that heightened scrutiny in
22 this case as far as what maybe in the car?

23 A I took a little more precaution with it. I didn't
24 approach the car cause it was running in the parking lot.
25 The lights were out and was sitting in the handicap space

1 and I could not see inside the car the windows were
2 tinted. I radioed out where the car was and where I was
3 located at. At which time an individual came from the
4 building A down the sidewalk. I'm dressed in police
5 uniform and I hollered police, stop, show me your hands.
6 At which time that individual dove in front of the car. I
7 took cover next to the car next to me in the parking lot.
8 I continued to give commands, show me your hands, show me
9 your hands. Statement was made I ain't done nothing. The
10 individual ran around ---

11 Q Who said that the same individual?

12 A The same individual that duck down in front of the

13 ---

14 Q Said I ain't done nothing?

15 A I ain't done nothing. That individual got into the
16 driver side of the car. The car then exited the parking
17 space at a high rate of speed and then took off out to its
18 left. And it went down and around coming up the outer
19 road. There was two units up there. My corporal and
20 sergeant were in patrol vehicles and there was an Officer
21 Sjolund was on foot right up the hill across the parking
22 lot from me. As I ran up there, I could see the Camaro
23 leaving out with no headlights on as it kind of jipped and
24 jived between the patrol cars. It got out to the front
25 and then I heard Officer Van Valkenburgh on the radio key

1 up saying that he sees the car has no headlights on it. It
2 was heading towards Harbison Boulevard, that's when the
3 chase ensued between Officer Van Valkenburgh and the
4 Camaro.

5 Q Let me back up a little bit. You said that there
6 were other officers on foot in the apartment complex?

7 A Officer Sjolund was on foot in the apartment complex.
8 He came in through the back gate.

9 Q Okay. And is that the area where the car went first?

10 A The car was in the very back and it has pretty much a
11 one way in, one way out. You would have to pull up to the
12 gate, stop your car and sit on a pressure pad for the gate
13 to open. There was a patrol car that was near that area
14 as the Camaro was coming down the back straight away going
15 out to the front and exited out onto Columbianna Drive and
16 was headed towards Harbison.

17 Q Did you see actually any interaction between Officer
18 Sjolund and the car?

19 A I could only see the car and the patrol car as I was
20 coming up the hill. As far as where Officer Sjolund was,
21 he would be a little bit further back from that from what
22 I could see from my angle down below the hill.

23 Q Okay. Once you said it exited the apartment complex
24 and then you mentioned that Officer Van Valkenburgh?

25 A Officer Van Valkenburgh picked it up and I heard him

1 on the radio. He picked up the car. My corporal drove me
2 down to my patrol car. I got into my patrol car and made
3 my way out to Harbison Boulevard and I pretty much know
4 the area out there. I been out there for almost six years
5 and where they were going Van Valkenburgh's chase was
6 ensuing. I went down the interstate and got off on St.
7 Andrews Road. When they picked back up onto Broad River
8 and they were heading inbound on Broad River, so I came up
9 St. Andrews. And when I entered the intersection and
10 looked over to the left, I could see the Camaro coming
11 with no lights on. As I pulled up, the Camaro hit its
12 breaks and I could hear it slid past as I looped back
13 around and picked up when they up got on I-20.

14 Q On I-20?

15 A They were taking I-20 towards Florence when they went
16 up and then got off on Monticello.

17 Q And were you still in pursuit at that point?

18 A They were still in pursuit of that car, yes, ma'am.

19 Q The individual that you saw come out when you
20 observed the car initially in the parking lot at Paces
21 Brook?

22 A Yes, ma'am.

23 Q What was he wearing?

24 A If I remember correctly, it being a white shirt and
25 had short dreads and that's about what I remember when he

1 came out. That area back there is street lamp lit and
2 it's not extremely bright, but I was maybe about 50 feet
3 away from him, but I could make out the shirt.

4 Q You're sure about the shirt?

5 A I believe it was white, yes, ma'am.

6 Q Were you there when the chase actually came to its
7 end?

8 A Yes, ma'am.

9 Q And were y'all able to apprehend one person out of
10 the vehicle?

11 A We did.

12 Q Were you able to apprehend the second person that
13 night?

14 A No, ma'am, we did not.

15 Q And did you actually apprehend Devontae Bryant or
16 were other officers involved in that?

17 A Other officers were actually involved in that. I was
18 there. I was in part of the foot pursuit, but some of the
19 officers that were there on scene first caught him.

20 Q That night did you go back to Paces Brook apartment
21 after the chase?

22 A Yes, ma'am, I did.

23 Q And did you make contact with anybody?

24 A We did a follow up with the two individuals that
25 called in the disturbance to find out exactly what the

1 disturbance was and what was going on from there and had
2 some statements taken.

3 Q And before I go back, I want to turn your attention
4 to August the 6th. Were you involved in helping to locate
5 the Oldsmobile that was seen in the video at Wal-Mart?

6 A The actual car that was taken?

7 Q Uh-huh.

8 A No, ma'am, that would have been Officer Sjolund
9 recovered that.

10 Q That was Officer Sjolund?

11 A Yes, ma'am.

12 Q Let me ask you this, I'm going to show you what has
13 been marked as State's Exhibit Number 4. Do you recognize
14 this?

15 A Yes, ma'am.

16 Q And does this show the general area where we been
17 talking about as far as the apartment complex at the
18 In-Town Suites and things of that nature?

19 A Yes, ma'am, it does.

20 MRS. CAMPBELL: Your Honor, at this time we
21 offer State's Exhibit Number 4 into evidence.

22 MS. WILLIAMS: No objection, Your Honor.

23 MRS. CAMPBELL: May the witness step down for a
24 minute?

25 THE COURT: All right. It is admitted without

1 objection. You may step down.

2 (WHEREUPON, State's Exhibit No. 4 was admitted
3 into evidence.)

4 BY MRS. CAMPBELL:

5 Q We been talking about the In-Town Suites different
6 areas back there behind the mall. Where is the mall
7 located in this diagram?

8 A This is the mall here and Dillard's.

9 Q That's Dillard's. I was going to ask you that. And
10 the road we're talking about?

11 A This is Columbianna Drive.

12 Q This is Columbianna Drive right here?

13 A This is Columbianna Drive right there through here,
14 Paces Brook apartments right here.

15 Q And this is actually the entire complex right here?

16 A The entire complex right here is Paces Brook. And
17 when you turn here to the left, the front office is
18 located right here where the pool area and there's some
19 paths back up in this area here over.

20 Q And did you mention that you observed this Camaro
21 parked at the backside of Paces Brook?

22 A I did. This parking lot right here there's
23 nowhere -- you can't get out from here. It's a dead end.
24 Building eight is over here at this location as well and
25 the Camaro was parked in the lot just in the handicapped

1 space right there.

2 Q Okay. And as you observed the person who was
3 wearing the white shirt jump into the car and take off,
4 which direction did it go?

5 A It pulled out and then came down and around. And as
6 it came around this way, it just picked up speed on its
7 way out.

8 Q And it can exit out where?

9 A It had to come back around to come out here because
10 there were two patrol cars up in this area. This is the
11 outer road right here where you actually have to stop and
12 park. It's an auto gate. It only lets cars out. I never
13 been able to get in that gate when I was patrolling.

14 Q Okay. The In-Town Suites you see that here. I
15 believe it's next to the Fairfield Inn?

16 A That's it right there. This one is not marked.

17 Q This one right here?

18 A This is the In-Town Suites right here.

19 Q And is this the Fairfield?

20 A That is the Fairfield Inn right there, but this is
21 In-Town Suites where the first incident in reference to a
22 carjacking took place.

23 Q Okay. And this parking lot area what's this right
24 here do you know?

25 A I'm not for sure what it was now, but it was -- they

1 were building there at the time. I believe it's a
2 restaurant now.

3 Q It's a construction site at the time?

4 A They were doing some construction there. Sometimes
5 there was an old building that was there. They tore it
6 down.

7 Q Okay. And as he came out as far as which direction
8 he went in, he went this way or this way?

9 A When it exited out from radio transmission, the car
10 was coming down Columbianna Drive heading towards Harbison
11 Boulevard, which is down here which would put him turning
12 right and coming out going towards Harbison.

13 Q Harbison Boulevard will be somewhere down here?

14 A Harbison Boulevard is down here.

15 Q And then Lake Murray ---

16 A And Lake Murray Boulevard is down here.

17 Q Thank you, sir. And pretty much those were your
18 observations that evening?

19 A At that point, yes, I didn't pick up observation of
20 the Camaro until St. Andrews Road and Broad River Road.

21 Q And Van Valkenburgh -- I don't know why I can't say
22 his name. He was the one that actually has been -- he was
23 the first car after?

24 A He initiated the initial chase. He was the initiate
25 chasing car that saw the Camaro on Columbianna Drive

1 heading towards Harbison. And he was on him all the way
2 up through even when I saw the Camaro go by me at St.
3 Andrews and Broad River and I did a u-turn at that point
4 and picked up as well.

5 Q And the rates of speed that y'all reach that night?

6 A They were well in excess of 130.

7 MRS. CAMPBELL: Thank you, sir. I don't have
8 anything further.

9 CROSS-EXAMINATION

10 BY MS. WILLIAMS:

11 Q Just one quick question, Officer McMillian. You
12 stated that the person that you saw jumped into the
13 driver's side had dreads?

14 A Yes, ma'am.

15 MS. WILLIAMS: Thank you no.. Further questions.

16 THE COURT: Anything further?

17 MRS. CAMPBELL: Nothing, Your Honor.

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

19 (WHEREUPON, the witness leaves the witness
20 stand.)

21 THE COURT: Next witness.

22 MRS. CAMPBELL: The State would call Officer
23 Sjolund.

24 MS. PINNOCK: Your Honor, may we approach before
25 this witness comes?

1 THE COURT: Yes.

2 (WHEREUPON, a bench conference was held in the
3 presence of the jury, but out of the hearing of the
4 jury.)

5 THE CLERK: Do you swear or affirm that the
6 testimony that you're about to give in this case to be the
7 truth, the whole truth, and nothing but the truth so help
8 you God?

9 THE WITNESS: I do.

10 THE CLERK: Have a seat in the witness box
11 please. State your name for the record.

12 THE WITNESS: Officer Mark Sjolund.

13 WHEREUPON,

14 Mark Sjolund,

15 after first having been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MRS. CAMPBELL:

18 Q Officer Sjolund, where are you employed?

19 A City of Columbia Police Department.

20 Q How long you been in law enforcement?

21 A I believe it's November 7th 2007 be nine years.

22 Q And what region are you currently assign to?

23 A What unit, south region B squad.

24 Q Back in August of 2014, where were you working?

25 A Would have been the west region.

1 Q West region. And is that include the Harbison area
2 Columbianna?

3 A It does.

4 Q I want to turn your attention to the early morning
5 hours of August the 4th of that month. Did you have
6 occasion to respond to a call at Paces Brook apartment?

7 A I did.

8 Q And when you got there were you the only officer
9 there?

10 A No, I was not.

11 Q Who all was there that you recall?

12 A That I recall would have been myself, Officer
13 McMillian and Corporal Holmes would have been on scene
14 that I know about.

15 Q Can you tell the jury what kind of call you were
16 responding to?

17 A Would have been a disturbance call in that complex.

18 Q What did you do when you got to the scene that night?

19 A When I got there, I parked on the cross bow side at
20 the secondary exit and then got in on foot.

21 Q Kind of that back exit?

22 A Yeah, it's over there by building 12?

23 Q Okay. And you said that you got out on foot?

24 A Uh-huh.

25 Q And what were you doing once you got out on foot?

1 A I was standing there and waiting.

2 Q And why were you standing there waiting?

3 A Officer McMillian was attempting to get out with the
4 said vehicle.

5 Q So at that point when you pulled up, you got out on
6 foot and then you got a call from Officer McMillian?

7 A I actually heard him verbally and over the radio.

8 Q So you were close enough you could actually hear him
9 verbally?

10 A Uh-huh.

11 Q And you can't say what he said over the radio, but
12 as a result of that call, you stayed put?

13 A What's that?

14 Q Why were you staying there?

15 A Because he was stating that the vehicle was trying to
16 leave.

17 Q Okay. So you were blocking the entrance or exit?

18 A I was standing at the exit, yes.

19 Q Okay. Tell the jury what happened or what you
20 observed while you were standing there?

21 A Well, the first thing I observed -- actually heard
22 the first thing was the spinning of the tires and the
23 revving of the engine of this vehicle. And then the
24 vehicle came at me at an extremely high rate of speed. I
25 jumped out of the way. And the vehicle had no headlights

1 on at all, flew through the complex and then out towards
2 Columbianna Drive.

3 Q And how close the vehicle actually get to you?

4 A I saw it coming, so it was probably -- I estimate
5 probably 50, 60 feet, so I got out the way in plenty of
6 time.

7 Q In plenty of time?

8 A Yeah.

9 Q And once he went past you what, if anything, did you
10 do that night?

11 A I attempted to try to get over the fence I couldn't.
12 I had to actually have -- I believe, one of the people
13 there pull their car up and let me out of the rear
14 entrance because you have to have a weighted vehicle to
15 open it.

16 Q And at any point did you actually follow in pursuit
17 of the car?

18 A No.

19 Q Okay. That was McMillian?

20 A Yes.

21 Q Two days later, I want to turn your attention to
22 August the 6th, did you recover a vehicle at 217 Wigger
23 Court?

24 A I remember recovering a vehicle. I don't remember
25 that date.

1 Q Look at your report to refresh your memory?

2 A Yes, ma'am, I do remember that.

3 Q And that would have been the officer's report?

4 A Yes.

5 Q And first of all what car did you find there?

6 A It was an older Oldsmobile.

7 Q An older Oldsmobile light blue in color?

8 A Yeah.

9 Q And when you found that, tell the jury how you found
10 it and what you did once you did found it?

11 A I mean, it was just on normal patrol after the
12 incident and was riding around parking lots in the area.
13 And I got through, came up Columbianna, down onto Lanew
14 and went through the Holiday Inn and then I went through
15 the next one which was the Wingate went to the left it was
16 parked on the left-hand side.

17 Q And that's when you found the car?

18 A Yes.

19 Q And were you actively looking for the car or you knew
20 it was an alert out for it?

21 A I knew there was an alert out for it, but we hadn't
22 seen it.

23 Q Once you found the car, did you call it in and
24 confirm in fact it was the car from the carjacking?

25 A Yes.

1 Q Okay. And Lanew Court you just say a little bit.
2 But is that close in proximity to Paces Brook?

3 A Yes. If you make a right-hand turn out of Paces
4 Brook on Columbianna, then you go towards Harbison which
5 will be east bound and you make a right-hand turn where
6 you see the Fazoli's where it is just straight back down
7 there.

8 Q Right behind the Fazoli's?

9 A Uh-huh.

10 Q So it's definitely within walking distance of where
11 we're talking about?

12 A Yes.

13 Q And once you called the car in, was it towed to be
14 processed?

15 A Yes.

16 Q Okay.

17 MRS. CAMPBELL: Thank you, Your Honor. That's
18 all I have.

19 THE COURT: Cross-examination.

20 MS. PINNOCK: Please the Court, Your Honor.

21 CROSS-EXAMINATION

22 BY MS. PINNOCK:

23 Q What date did you say you located the car at the
24 Wingate?

25 A The date that it was on the incident report was the

1 6th. I don't remember off the top of my head the date.

2 Q Okay. It could not have been the 6th. Could it have
3 been before that?

4 A I remember it being the next morning, but I could be
5 mistaken.

6 Q Okay. So possibly on the 4th?

7 A I don't recall 100 percent.

8 Q And did you say that somebody told you to go to that
9 area and look or did you just happen ---

10 A Normal patrol, ma'am.

11 MS. PINNOCK: Thank you, Your Honor. No further
12 questions.

13 THE COURT: Anything further?

14 MRS. CAMPBELL: No, sir.

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

16 (WHEREUPON, the witness leaves the witness
17 stand.)

18 THE COURT: You may call your next witness.

19 MR. SHELLENBERG: The State calls Josh Cessna.

20 THE CLERK: Do you swear or affirm that the
21 testimony that you're about to give in this case to be the
22 truth, the whole truth, and nothing but the truth so help
23 you God?

24 THE WITNESS: I do.

25 THE CLERK: Thank you. Have a seat in the

1 witness box please. State your name for the record.

2 THE WITNESS: Josh Cessna.

3 WHEREUPON,

4 Josh Cessna,

5 after first having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. SHELLENBERG:

8 Q Mr. Cessna, where do you work?

9 A I am asset protection associate for the Wal-Mart at
10 360 Harbison Boulevard.

11 Q And how long you been doing that?

12 A I been doing it about four years now.

13 Q And what exactly do you do asset protection?

14 A What do I do?

15 Q Is it essentially a loss prevention officer for a
16 layperson?

17 A Yes.

18 Q And what do you do as a loss prevention officer?

19 A My main duty is to apprehend shoplifters.

20 Q And does that involve keeping surveillance of the
21 store?

22 A Absolutely.

23 Q And in keeping surveillance, you do that in a normal
24 course of business?

25 A Yes, I do.

1 Q And how does the surveillance system work in as far
2 as uploading the videos and storing them on what kind of
3 system?

4 A We have DVR's which throughout the day DVR's upload
5 the video constantly and is stored in the DVR's for about
6 approximately 30 days. When we make a video for police
7 department, prosecutor's office, we go back and pull the
8 clips that they need for their cases and put them onto a
9 disk.

10 Q How often within say we're looking at the day of
11 August 4th, how close to that day the video saved? Where
12 is it saved on that day?

13 A What do you mean?

14 Q If it uploads from that date to the system, is it
15 done immediately on that day it's saved?

16 A Yes.

17 Q Okay. And then when we send a subpoena for it or
18 when an officer comes to check on it such as Investigator
19 Gilliam, what do you do then with the video?

20 A What we do is we pull it from the DVR. Like I said,
21 put it on a disk. The officer and an investigator will
22 fill out a video request form. At which point we hand
23 them the copy of whatever the case that they need holds
24 video to them. We also make ourselves a copy to put in
25 our file as well.

1 Q And did that happen in this case?

2 A Yes.

3 Q And what was the video that they ask for, did you
4 have a chance to see it?

5 A Yes, I did.

6 Q And it was given to us from your location?

7 A Yes.

8 Q Does it accurately depict what occurred on that date?

9 A Yes, it does.

10 Q I'm going to show you what's been marked as State's 5
11 do you recognize that?

12 A Yes, I do.

13 Q And what do you recognize that as?

14 A It's the DV that we have made for the date August 4th
15 on a shoplifting that happened in our store.

16 Q August 4th 2014?

17 A Yes.

18 MR. SHELLENBERG: At this time we move to admit
19 State's 5 into evidence.

20 THE COURT: Any objection?

21 MR. BAILEY: Yes, Your Honor. We object for
22 previously stated reasons.

23 THE COURT: Okay. It's admitted over objection.

24 (WHEREUPON, State's Exhibit No. 5 was admitted
25 into evidence.)

1 MR. SHELLENBERG: Thank you, Your Honor. Beg
2 the Court's indulgence.

3 THE COURT: Cross-examination, Mr. Bailey.

4 MR. BAILEY: No, Your Honor, no cross.

5 THE COURT: You may step down.

6 (WHEREUPON, the witness leaves the witness
7 stand.)

8 THE COURT: Call your next witness.

9 THE CLERK: Raise your right hand please. Do
10 you swear or affirm that the testimony that you're about
11 to give in this case to be the truth, the whole truth, and
12 nothing but the truth so help you God?

13 THE WITNESS: Yes, ma'am.

14 THE CLERK: Thank you. Have a seat in the
15 witness box please. And state your name for the record.

16 THE WITNESS: Kiane Warner.

17 WHEREUPON,

18 Kiane Warner,

19 after first having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. STEADMAN:

22 Q Good afternoon, Kiane, how are you?

23 A Good, are you?

24 Q Where do you live currently?

25 A Augusta, Georgia.

1 Q Have you lived in Columbia before?

2 A Yes.

3 Q What time frame did you live in Columbia?

4 A Before August the 6th, 2014.

5 Q And how long did you live in Columbia?

6 A Really like off and on my whole life.

7 Q And what part of town exactly did you grow up in
8 Columbia?

9 A Over here off like Two Notch Road and Barnaville
10 Road.

11 Q And do you have a copy of your statement in front of
12 you today the written statement?

13 A No, it's out there.

14 Q Okay. Do you know the Keylan Durham, the defendant,
15 in this case?

16 A Yes.

17 Q How long have you known Keylan?

18 A Since, I was in the eighth grade.

19 Q What is your relationship with Keylan?

20 A It's my boyfriend.

21 Q And when did y'all start your relationship?

22 A Well, we started going together when I was in the
23 eighth grade, but we was off and on. But we still like
24 was together together in 2012 after graduating from high
25 school.

1 Q Y'all have any children together?

2 A Yes.

3 Q How would you describe your relationship with Keylan
4 today?

5 A We have a good relationship.

6 Q Is he still your boyfriend?

7 A Yes.

8 Q I want to go ahead and fast forward to August 4th
9 2014, while we are here today. Did you see Keylan before
10 August 4, 2014, driving a black Camaro?

11 A I mean, I don't remember the dates but...

12 Q But you did see him driving a black Camaro?

13 A I seen him in it, yeah.

14 Q And then on August 4th 2014, did you see Keylan after
15 he ran from the cops that morning?

16 A Yes.

17 Q Did he come back to your apartment?

18 A Yes.

19 Q What did he say about burning the cops?

20 A He just said that he had took them on a high speed
21 chase and when he got on the highway, he hit a curb.

22 Q Did he say how he popped the tire?

23 A He ran into something.

24 Q And did he say how he got out of the car?

25 A He got over Vonnie and got out the car.

1 Q So he told you he had to crawl over Devontae Bryant
2 to get out?

3 A (Nodded head.)

4 Q And did he tell you if Devontae got caught that
5 night?

6 MS. WILLIAMS: Objection, Your Honor, leading.

7 THE COURT: All right. Objection sustained.

8 Ma'am, pull the mic closer to you or get closer to the
9 mic, so we can hear you a little better and talk a little
10 bit louder for me.

11 BY MR. STEADMAN:

12 Q Did you ever get in Keylan's Camaro?

13 A No.

14 Q Did he tell you that Devontae got caught that night?

15 A I mean, he told me that somebody had told him that it
16 was on the news and that he had got caught.

17 Q Approximately what time did Keylan come home Monday
18 morning?

19 A I don't know the time, but I know it was like the sun
20 was coming up.

21 Q The sun was coming up?

22 A Uh-huh.

23 Q And where did you get the European currency?

24 MS. WILLIAMS: Objection, Your Honor, leading.

25 THE COURT: The objection is sustained.

1 BY MR. STEADMAN:

2 Q Did Keylan ever give you European currency?

3 MS. WILLIAMS: Objection, Your Honor, leading.

4 THE COURT: Objection's overruled.

5 Yes or no?

6 A Yeah.

7 Q Did Keylan give you that money?

8 A Yes.

9 Q Where did you put it once he gave it to you?

10 A Well, I look to see how much -- well, I looked it up
11 on Google and then I just had put it in my purse.

12 Q Did he ask you to look up that money?

13 A Yes, just see what it was.

14 Q Did he also ask you to call a tow service Happy Daddy
15 Towing?

16 MS. WILLIAMS: Objection, Your Honor, leading
17 again.

18 THE COURT: Objection's overruled.

19 A No, he didn't tell me to call Happy Daddy, but he
20 told me to call a tow yard to see if the car was there.

21 Q And do you know what car he was looking for?

22 A The black Camaro.

23 Q And do you know what he believe was inside that
24 Camaro?

25 A Some money that he ---

1 MS. WILLIAMS: Objection, Your Honor,
2 speculation. She has no idea what he was thinking or what
3 might be in a vehicle.

4 THE COURT: What's your response?

5 MR. STEADMAN: Your Honor, she does have
6 knowledge of that and I can get that out.

7 THE COURT: Well, want you ask her then.

8 MR. STEADMAN: Okay.

9 BY MR. STEADMAN:

10 Q Did he ask you specifically -- did he tell you
11 specifically what he was looking for in that black Camaro?

12 A It was just some money.

13 Q And did he tell you where that money was in the black
14 Camaro?

15 A In a purse.

16 Q Now, I want to fast forward to August 6th 2014, when
17 the officers came to your apartment that day where were
18 you living at the time when they came to your apartment?

19 A In Brook Pines.

20 Q And did they tell you they were looking for Keylan
21 that day?

22 A Yeah, they came and knocked on my door and they
23 said -- they ask me was he in there and they told me that
24 if he was in there, they was gone take me to jail along
25 with him. They told me that they came to serve him with

1 some warrants and I told them they could look in my house
2 because he wasn't in there.

3 Q And when they told you they were looking for Keylan,
4 did they ask you to do anything to get Keylan to come back
5 to the apartment?

6 A They ask me to call him, but he ain't had no phone on
7 him or my brother didn't have a phone.

8 Q And did Keylan at some point come back to your
9 apartment that day?

10 A Yes.

11 Q Tell me what you remember about that?

12 A I just know when they left out my house, they was at
13 my house for a few minutes. Then I heard gunshots and I
14 ran down the stairs with my baby.

15 Q Did you see Keylan hit the cops with his car?

16 A No, the only thing I saw was my car hit another car
17 and hit the light pole out there.

18 Q So did you come outside and see the car while it was
19 moving?

20 A Yes, I seen it when it hit the light pole.

21 Q Kiane, can you take a look at those two pictures.
22 You recognize those pictures?

23 A (No response.)

24 Q Are these pictures of the Euro's that were found in
25 your purse? And is that your billfold the Euro's are

1 inside of?

2 A Yeah, but they took it from me.

3 Q And were these the Euro's that Keylan gave you?

4 A Yes.

5 MR. STEADMAN: Your Honor, at this point we move
6 to introduce State's 6 and 7 into evidence.

7 MS. WILLIAMS: No objection, Your Honor.

8 THE COURT: They are admitted.

9 (WHEREUPON, State's Exhibits No. 6 and 7 were
10 admitted into evidence.)

11 BY MR. STEADMAN:

12 Q You saw the car hit the pole. Who was driving your
13 car at that point?

14 A Nobody from what my brother said. Key Man jumped in
15 the backseat and was balled up in the backseat, so really
16 the car was rolling by itself and my brother was in the
17 passenger seat with his hands up.

18 Q So you didn't see Keylan driving your car?

19 A Nope. I seen them pull my brother through the driver
20 seat and him out the backseat.

21 Q And is Keylan here today in the courtroom?

22 A Yes.

23 Q Where is he seated?

24 A Over there.

25 Q What color shirt is he wearing?

1 A Purple.

2 MR. STEADMAN: No further questions.

3 THE COURT: Cross-examination.

4 MS. WILLIAMS: May it please the Court.

5 CROSS-EXAMINATION

6 BY MS. WILLIAMS:

7 Q Hi, Ms. Warner.

8 A Hey.

9 Q Ms. Warner, you stated that Keylan is your boyfriend?

10 A Yes.

11 Q And he was your boyfriend in August of 2014?

12 A Yes, ma'am.

13 Q In fact, he's more than just your boyfriend, right?

14 A Yes, ma'am.

15 Q He's the father of your child?

16 A Yes, ma'am.

17 Q You two have a two year old together?

18 A Yes, ma'am.

19 Q Keylan, Jr.?

20 A Uh-huh.

21 Q And Keylan, Jr., was with you on August 6th?

22 A Yes, ma'am.

23 Q Now, when Keylan showed you the Euros, you don't know
24 where he got those Euros, do you?

25 A No, ma'am.

1 Q You don't know how long he had those Euros?

2 A No, ma'am.

3 Q You don't really know anything about those Euros
4 other than at some point he had them?

5 A Yes, ma'am.

6 Q Now, you did also inform law enforcement that you
7 never seen Keylan with a gun?

8 A Yes, ma'am, I never seen him with a gun.

9 Q And you don't know Devontae Bryant as well as you
10 know Keylan Durham?

11 A No, not as well as I know him, but I went to school
12 with him.

13 Q You haven't seen him in a while?

14 A Uh-uh.

15 Q He just started showing up?

16 A Yeah.

17 Q Pretty recently?

18 A Uh-huh.

19 Q In 2014?

20 A Uh-huh.

21 Q In August?

22 A Uh-huh.

23 Q So you wouldn't know whether or not he carried a gun?

24 A No, I wouldn't.

25 Q Now, you also informed law enforcement that Keylan

1 told you about being involved in a car chase?

2 A Uh-huh.

3 Q You weren't with him when it happened though?

4 A No, ma'am.

5 Q You don't know where Keylan was before that chase?

6 A No, ma'am.

7 Q Or where he was after?

8 A Uh-uh.

9 Q You don't know where Devontae Bryant was either, do
10 you know?

11 A Uh-uh.

12 Q You don't know what he did before or after the chase
13 either?

14 A No, ma'am.

15 Q They asked you about August the 6, 2014, and what you
16 remembered and you stated that you heard gunshots?

17 A Uh-huh.

18 Q And you ran outside with your baby in your arms?

19 A Yes, ma'am.

20 Q Now, your brother is Quinten Warner? And he was with
21 Keylan day, correct?

22 A (No response.)

23 Q You told law enforcement that Quinten was with him,
24 didn't you?

25 A Yes, ma'am.

1 Q So they knew that he would be potentially in the car
2 with Keylan?

3 A Yes, ma'am.

4 Q Was it upsetting to hear 21 shots fired outside your
5 home?

6 A Yes, ma'am.

7 Q In the middle of the day?

8 A Yes, ma'am.

9 Q In your residential neighborhood?

10 A Yes, ma'am.

11 Q And you saw them pull Keylan out of the backseat of
12 the vehicle?

13 A Yes, ma'am.

14 Q And Quinten out of the passenger side?

15 A Well, they pulled him out of the driver side, but he
16 was sitting in the passenger side.

17 Q I understand. Thank you. And your car how did your
18 car look when you saw it after it hit the pole?

19 A It look bad. I don't know what to say. It didn't
20 look like a car.

21 Q One of the tires was turned in half and the rear was
22 really badly damaged?

23 A Yes, ma'am.

24 MS. WILLIAMS: Thank you. I appreciate your
25 answers. No further questions.

1 THE COURT: Anything further?

2 MR. STEADMAN: Yes, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. STEADMAN:

5 Q How close would you say Keylan was with Devontae?

6 A I mean, I don't know. I can't say they was close
7 cause he wasn't really around like that.

8 Q Well, how often did you see Keylan with Devontae?

9 A Not a lot.

10 MR. STEADMAN: No further questions.

11 THE COURT: Anything further?

12 RE-CROSS-EXAMINATION

13 BY MS. WILLIAMS:

14 Q How many times was your brother shot, do you know?

15 A Three times.

16 Q Do you know where he was shot?

17 A In his back, his neck and in his leg.

18 MS. WILLIAMS: Thank you, I'm sorry.

19 THE COURT: All right. You can step down,
20 ma'am.

21 (WHEREUPON, the witness leaves the witness
22 stand.)

23 THE COURT: Next witness.

24 MR. STEADMAN: Devontae Bryant.

25 MS. PINNOCK: Your Honor, may we approach again

1 please?

2 THE COURT: Yes, ma'am. While they're
3 approaching, give you a chance to go to the jury room for
4 a moment. Please do not discuss the case.

5 (WHEREUPON, the jury retire to the jury room.)

6 THE COURT: Yes, ma'am.

7 MS. PINNOCK: Yes, Your Honor. Thank you.
8 Mr. Bryant is the other individual charged in this case.
9 As of right now, we have not gotten any updated
10 information. Mr. Steadman just said that nobody has
11 spoken to him. His lawyer has been here in the courthouse
12 since Thursday of last week. We have five statements from
13 this individual. If there's any information that
14 Mr. Bryant's going to be testifying about that's outside
15 of those statements, I would ask that they be turned over
16 to us because we been given no information other than
17 what's in these statements. One of which was a concern
18 yesterday that we got yesterday before coming to court.
19 So if there's anything we need to know about as far as
20 Mr. Bryant's statement, I would like the answer for that
21 now.

22 MRS. CAMPBELL: Your Honor, we have not spoken
23 to him. I'll be glad to ask his lawyer if there's any
24 Riddle information that he wants to turn over.

25 THE COURT: What's Riddle information?

1 MRS. CAMPBELL: It's what they talk about all
2 the time.

3 THE COURT: I know, but I have to keep getting
4 reminded as to what it means. What is that Riddle
5 information, Ms. Pinnock, in a nutshell?

6 MS. PINNOCK: In a nutshell, Your Honor, we
7 filed original Rule 5 Riddle vs. Ozmit was the case where
8 the Solicitor's officer was provided information and they
9 been to a scene with a witness and failed to turn that
10 information over to the defense. The State's argument, I
11 believe, in that case -- it's been a minute since I read
12 it. The leading argument was that they had an open-file
13 policy and the Court in that case said that that was not
14 sufficient. They had a continuing duty to update and
15 inform the defense about any changes and any new
16 information via written down, something they heard, but
17 they have an ongoing obligation ---

18 THE COURT: Any exculpatory information or
19 just...

20 MS. PINNOCK: Any information, Your Honor.

21 THE COURT: So everything the State knows, the
22 defense is entitled to know?

23 MS. PINNOCK: Inculpatory, exculpatory, yes,
24 sir.

25 THE COURT: All right. That's in a nutshell.

1 All right. Anything else?

2 MRS. CAMPBELL: No, sir, Your Honor. I just
3 spoke to Mr. Mill. He indicates he just went over the
4 statement with him and there's nothing. We haven't talk
5 to him.

6 THE COURT: All right. His name is Mister.

7 MRS. CAMPBELL: Bob Mills.

8 THE COURT: I know Mr. Mills.

9 MRS. CAMPBELL: Devontae Bryant.

10 THE COURT: Mr. Bryant, how are you doing?

11 MR. BRYANT: Good.

12 THE COURT: All right. Well, you all ready to
13 press on. You think they ready to come back. You might
14 want to take another minute.

15 BAILIFF: Two more minutes.

16 (WHEREUPON, a break was taken.)

17 THE COURT: All right. We're going to go back
18 on the record. With regard to the photo lineup, the
19 defense objected to it going into evidence on the basis
20 that the cover sheet says that the witness -- was a
21 witness who the defendant committing a carjacking -- use
22 of the word carjacking. And the witness -- his testimony
23 was that he met with the defendant accompany after the --
24 that alleged crime occurred. So what do you want me to do
25 about that exhibit, Mr. Bailey?

1 MR. BAILEY: Thank you, Your Honor. I know that
2 you know we've already objected to the ID in general, but
3 we understand it's getting in and we definitely object to
4 it. We have an issue with the fact that it says
5 carjacking on the little cover sheet. We would ask that
6 you redact it in some way. They need to keep something
7 else there for purposes of evidence we understand, but
8 that way it says carjacking on the cover sheet makes it
9 look like Mr. Zane Cullen (sic) is a witness to a
10 carjacking. And in the very least, he positively
11 identified a guy related to a carjacking. We think it's
12 confusing and misleading especially with this many
13 witnesses. We would just ask that -- you know, related to
14 this that we could have carjacking redacted, black magic
15 marker through it something to that effect, Your Honor.

16 THE COURT: All right. What says the State?

17 MRS. CAMPBELL: Whatever you do, Your Honor. I
18 mean, we're here on a carjacking charge.

19 MR. BAILEY: Sure, but it's inappropriate for it
20 to go back to the jury related to his testimony.

21 THE COURT: So you did different ones on each,
22 so we have two different photo lineups exhibit number one
23 says carjacking, that's the person who was carjacked. And
24 number two it says the same thing, but regarding this guy.
25 Zane or whatever his name was, but he didn't witness the

1 carjacking is what it says, which is the person who
2 committed the crime of carjacking. The phrase his
3 conclusion regarding the defendant committing a carjacking
4 was the basis for the objection. Anything from the State
5 regarding that?

6 MRS. CAMPBELL: It says sees him with the car,
7 Your Honor. If we can just put in said committed the
8 carjacking.

9 THE COURT: He was arrested for carjacking.

10 MRS. CAMPBELL: That's fine.

11 THE COURT: Use the word arrested?

12 MR. BAILEY: I have to look at it again, Your
13 Honor. They don't know anything about when he was
14 arrested or what. All they know is they recognized the
15 guy.

16 THE COURT: Well, you don't know. I guess, the
17 police told them that he committed the carjackings.

18 MR. BAILEY: I don't think he testified anything
19 about him being arrested for carjacking. All he knows is
20 ---

21 THE COURT: Well, you don't know all he knows
22 because you don't know what the police told him at or
23 before or after the sign.

24 MR. BAILEY: We do know what he said on the
25 stand.

1 THE COURT: But you don't know what police told
2 him. Anyway you all not ready to resolve that. Bring the
3 jury. We'll pick it up at some point in time.

4 (WHEREUPON, the jury came into open court.)

5 THE COURT: Next witness.

6 MR. STEADMAN: State calls Devontae Bryant.

7 THE CLERK: Do you swear or affirm that the
8 testimony you're about to give in this case to be the
9 truth, the whole truth, and nothing but the truth so help
10 you God?

11 THE WITNESS: Yes, ma'am.

12 THE CLERK: Thank you. Have a seat on the
13 witness stand please. State and spell your full name for
14 the record please.

15 THE WITNESS: Devontae Bryant D-E-V-O-N-T-A-E
16 B-R-Y-A-N-T.

17 WHEREUPON,

18 Devontae Bryant,

19 after first having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. STEADMAN:

22 Q Mr. Bryant, how are you doing this afternoon?

23 A All right.

24 Q What is your relationship with Keylan Durham?

25 A Friends.

1 Q Can you pull the mic just a little bit closer, so
2 everybody can hear you?

3 A Friends.

4 Q And do you call him Keylan or do you call him by
5 another name?

6 A By another name.

7 Q What's that other name?

8 A Key Man.

9 Q Key Man. I want to go ahead and fast forward to
10 August 4th 2016, when you and Keylan went to the Ale
11 House?

12 MS. PINNOCK: Objection, Your Honor, it's
13 leading.

14 THE COURT: Did someone say something?

15 MS. PINNOCK: Your Honor, objection to leading.

16 THE COURT: Don't lead the witness.

17 BY MR. STEADMAN:

18 Q What were y'all doing around 1:00 a.m. on August 4th
19 2016, over on Harbison Boulevard?

20 A I can't remember at that exact time.

21 Q Do you remember going to the Ale House?

22 MS. PINNOCK: Objection, Your Honor, he's
23 leading.

24 THE COURT: Objection's overruled.

25

1 BY MR. STEADMAN:

2 Q Do you remember going to the Ale House with Keylan?

3 A Yes.

4 Q What kind of car were y'all in?

5 A A Camaro.

6 Q I need you to speak up just a little bit more?

7 A A Camaro.

8 Q Was it a black Camaro?

9 A Yeah.

10 Q Who was driving the car?

11 A He was.

12 Q What did y'all do at the Ale House?

13 A Nothing, went in. Then stayed for like two or three
14 minutes and left.

15 Q And after the Ale House, where did Keylan drive you
16 to?

17 A We ended up at the hotel room the In-Town Suites.

18 Q And who was driving at that point the Camaro?

19 A He was.

20 Q Did he tell you anything what he was about to do at
21 the In-Town Suites?

22 A No.

23 Q What did he say to you?

24 A Just like he was about to go handle something that's
25 it.

- 1 Q He was about to go handle something?
- 2 A (Nodded head.)
- 3 Q Did he get out of the car?
- 4 A Yeah.
- 5 Q Did you see where he went at the In-Town Suites?
- 6 A No.
- 7 Q Did you see what he had on? Did he have a pistol?
- 8 A No, I didn't see it.
- 9 Q You didn't see the pistol?
- 10 A No.
- 11 Q Did you see him with a wig?
- 12 A No.
- 13 Q Okay. When did you next see Key Man or Keylan
- 14 Durham?
- 15 A I don't know the exact name of the store, but it was
- 16 a gas station.
- 17 Q Was that gas station on Harbison Boulevard?
- 18 A Yeah.
- 19 Q And what car was Keylan driving at that point?
- 20 A It was like an old kind of car. I don't know the
- 21 exact model. It was like old.
- 22 Q Was it a 1995 blue Oldsmobile?
- 23 A I can't be sure the exact, but I know it was old.
- 24 Q And what kind of car were you driving?
- 25 A The Camaro.

1 Q Did you talk to two white males that day name Zane
2 Harris and Cullen Bennecker at the gas station?

3 A No, at Wal-Mart.

4 Q Did you see him talking to them at the gas station?

5 A When I seen him, he was in the car?

6 Q And after that y'all went to Wal-Mart. What did
7 y'all do once y'all got to the Wal-Mart?

8 A I was just sitting in the car.

9 Q What car were you siting in?

10 A The Camaro.

11 Q And what car was Key Man?

12 A He was outside the car.

13 Q Did he go into the Wal-Mart?

14 A Yeah.

15 Q Did you see him come out of the Wal-Mart?

16 A Yeah.

17 Q What did he do once he come out of the Wal-Mart?

18 A I say we stayed in the parking lot probably like
19 another minute. Then I follow him to -- I don't know the
20 name of the hotel room.

21 Q What did he do with the '95 blue Oldsmobile?

22 A Parked it.

23 Q Do you remember where he parked it?

24 A At the hotel room. I don't remember like exactly
25 where though.

1 Q And then -- did he then get into the Camaro?

2 A Yeah.

3 Q Did he get in the driver seat of the Camaro?

4 A Yes.

5 Q Where were you sitting in the car?

6 A In the passenger seat.

7 Q Where did y'all go once he started driving?

8 A We ended up at the -- I don't know the name of the
9 apartment complex, but they in Harbison Boulevard
10 somewhere.

11 Q Was it the Paces Brook apartment complex?

12 A I think so.

13 Q What did y'all do when y'all got to the Paces Brook
14 apartment complex?

15 A We pulled in the front entrance. Then we rolled
16 around to the back and parked.

17 Q Did y'all see Zane and Cullen again?

18 A Yeah, when they was getting out of their car and
19 going to the apartment building.

20 Q Do you remember what he said to them?

21 A Nothing.

22 Q Then what happened once those two guys ran off?

23 A We parked and that's when he got out of the car.
24 Then like two minutes later the police officer walked up
25 with the flashlight.

- 1 Q What was Keylan doing outside the car?
- 2 A I don't know he had walk between the buildings.
- 3 Q And when the police showed up with flash lights, what
- 4 did Keylan do then?
- 5 A Then we ran to the car and jumped in and that's when
- 6 a high speed chase started.
- 7 Q Do you remember how far the car chase went?
- 8 A To Monticello Road.
- 9 Q And did Keylan wreck the car?
- 10 A Yeah.
- 11 Q And when he wrecked the car what happened?
- 12 A And we jumped out and we start running.
- 13 Q Did he crawl over you to get out of the car?
- 14 A Yeah.
- 15 Q So you were the second person out of the car?
- 16 A Yeah.
- 17 Q And then what happened when you started running?
- 18 A I ran behind the house and that's when I got
- 19 arrested.
- 20 Q Did you talk to officers after you were arrested?
- 21 A Yeah.
- 22 Q Did you meet with Investigator Gilliam?
- 23 A Yeah.
- 24 Q Did you know that he was armed with a gun that night?
- 25 A Early that day, but at night I don't remember seeing

1 it like physically, but it wasn't in the car or nothing
2 like that when he left the car when I was sitting in it.

3 Q But at some point earlier that day you saw him with a
4 gun?

5 A Yeah.

6 Q Have you been convicted of burglary second degree
7 three counts in 2011?

8 A Yes.

9 Q Have you been convicted of burglary in the third
10 degree in 2013 and petty larceny?

11 A Yes.

12 Q And are you aware of the pending charges you had in
13 our office currently?

14 A Yes.

15 Q Do you know that you have a possession of crack
16 charge that pending right now carry zero to three?

17 A Yes.

18 Q Do you know that you have a possession of stolen
19 vehicle charge that carries zero to five?

20 A Yes.

21 Q Do you know that you have an auto breaking charge
22 that carries zero to five?

23 A Yes.

24 Q Do you know that you have an unlawful carry of a
25 pistol charge that carries up to a year?

1 A Yes.

2 Q Do you know that you have an accessory before the
3 fact to carjacking that carries up to 20?

4 A Yes.

5 Q Do you know you have possession of stolen vehicle
6 that carries zero to five?

7 A Yes.

8 Q Have any promises been made to you in exchange for
9 your testimony today?

10 A No.

11 Q You hope that one day the State will consider your
12 testimony but nothing has been promise to you, correct?

13 A Yes.

14 Q I'm going to approach you with a statement that you
15 gave to police that day. Can you just look at the
16 highlighted portion. Is that your handwriting?

17 A No, his -- the officer.

18 Q Do you remember him -- telling him that part?

19 A Yeah, but I also remember saying something else after
20 that, but I don't see it in here.

21 Q So do you remember him, Key Man, having a gun on him
22 when he got out at In-Town Suites?

23 A I didn't see it and it wasn't in the car, but I know
24 he had one on him early, that's why I say I didn't see
25 like what I had said after that. I had explain to him why

1 I told him.

2 Q But you knew he had one on him?

3 A Yeah.

4 MR. STEADMAN: Thank you.

5 THE COURT: Cross-examination.

6 CROSS-EXAMINATION

7 BY MS. PINNOCK:

8 Q How you doing, Mr. Bryant?

9 A I'm doing all right.

10 Q How many times did you speak to law enforcement do
11 you remember?

12 A No, ma'am.

13 Q Was it more than once?

14 A Yes.

15 Q More than twice?

16 A Not that I could remember. I thought it was just
17 like twice.

18 Q Would you be surprised if you talk to them five times
19 that we know of?

20 A Not really. I mean -- like separate days.

21 Q Sometimes multiple times during one day?

22 A Oh, yes.

23 Q Where you were talked to over and over and over and
24 over again?

25 A Yes.

1 Q And you were talked to by Investigator Gilliam?

2 A Yes.

3 Q Okay. Did you know you were being recorded when you
4 were talking to him?

5 A Yes, the first one.

6 Q The first one?

7 A Uh-huh.

8 Q Did he record your second one?

9 A No.

10 Q Did he record the third one?

11 A I don't know.

12 Q Okay. But you know you were being recorded the first
13 time you talked to him?

14 A Yes.

15 Q You were arrested on the fourth, correct?

16 A Yes, ma'am.

17 Q What time do you remember that day?

18 A I don't remember.

19 Q Okay. But it was early in the morning?

20 A Yeah, it was early in the morning.

21 Q Okay. And you were arrested as you were running from
22 this Camaro?

23 A Yes, ma'am.

24 Q How many law enforcement officers were chasing you?

25 A I can't count, it was a lot.

1 Q It was more than five, right?

2 A Yes, ma'am.

3 Q Okay. And you were arrested at that point?

4 A Yes, ma'am.

5 Q You were taken into custody, you were taken to
6 headquarters and they were placing you under arrest?

7 A Yes, ma'am.

8 Q And one of the main things you wanted to know from
9 Investigator Gilliam was what you were being charged with?

10 A Yes, ma'am.

11 Q You wanted to know what your charges were going to be
12 and wanted to know when you were going to bond court, that
13 was your number one concern?

14 A Yes, ma'am.

15 Q And he told you on your first meeting with him that
16 he wasn't quite sure what he was going to charge you with
17 yet, right?

18 A Yes, ma'am.

19 Q He wanted to talk to you first, see what you could
20 help him out with and then he was going to decide your
21 charges?

22 A Not necessarily, he just was -- I didn't really know
23 what I was being charged with. Then, I guess, after that
24 is when the armed robbery stuff came apart and I told him
25 I didn't.

1 Q But he told you he didn't know what he was charging
2 you with yet?

3 A Yes, ma'am.

4 Q He wanted to talk to you first?

5 A Yes, ma'am.

6 Q And then he would decide on the charges?

7 A Yes, ma'am.

8 Q And at what point did he tell you that you were
9 looking at armed robbery charges, do you agree with that?

10 A Probably say like after ten or 15 years or something
11 like that.

12 Q Ten or 15 minutes you found out that he was
13 potentially going to charge you with armed robbery?

14 A Yes, ma'am.

15 Q Potentially charge you with carjacking?

16 A Yes, ma'am.

17 Q Potentially charge you with kidnapping?

18 A Yes, ma'am.

19 Q So he told you all of those things?

20 A Just the armed robbery, but I know those was like
21 coming.

22 Q Okay. And then he starts questioning you about what
23 happened?

24 A Yes, ma'am.

25 Q What were you doing, who were you, where did you go?

1 A Yes, ma'am.

2 Q And you explain all this to him, right?

3 A Yes, ma'am.

4 Q It's about seven o'clock in the morning give or take?

5 A I think so.

6 Q Okay. And what you're telling him you were picked up
7 in Brook Pines apartments?

8 A Yes, ma'am.

9 Q You were out by the pool and this buddy of yours just
10 showed up?

11 A Yes, ma'am.

12 Q You get in the car and name a number of places you go
13 around Columbia throughout the day, Columbia, Lexington,
14 but you ultimately end up in Harbison Boulevard?

15 A Yes, ma'am.

16 Q And you just described what you just testified to was
17 that Keylan was driving the Camaro said I need to go take
18 care of something, gets out of the car and just leaves you
19 sitting the car?

20 A Yes, ma'am.

21 Q So you decided to leave the passenger seat and get to
22 the driver seat?

23 A Yes, ma'am.

24 Q And now you're driving the car?

25 A Yes, ma'am.

1 Q Okay. But you just said you had no idea what was
2 going on?

3 A No.

4 Q You didn't know if Keylan was going to come back to
5 the car in two seconds?

6 A I thought he was.

7 Q Okay. But you ended up in the driver seat?

8 A Yes, ma'am.

9 Q And you're driving this car?

10 A Yes, ma'am.

11 Q And you say you're randomly riding around. You leave
12 the hotel. And you just happen to be at this gas station
13 and all of a sudden you see him there at the gas station?

14 A Yes.

15 Q And then you don't talk to him, but you just follow
16 him over at Wal-Mart, right?

17 A Yes.

18 Q And then everybody leaves together?

19 A Yes.

20 Q All right. But isn't it true when you spoke to
21 Investigator Gilliam you told him that Little Kev is the
22 person you're around with, right?

23 A Yes.

24 Q And Little Kev lived in Pine Hurst?

25 A Yes.

1 Q You didn't know where he lived now, but that's where
2 he was from?

3 A Yes.

4 Q And that's what you told him when you talk to him the
5 first time?

6 A Yes, ma'am.

7 Q Beg the Court's indulgence. Devontae, you named on a
8 number of charges that you're currently facing. Mrs.
9 Campbell's prosecuting you, right?

10 A Yes.

11 MS. PINNOCK: Thank you.

12 THE COURT: Any redirect?

13 MR. STEADMAN: No, Your Honor.

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

15 (WHEREUPON, the witness leaves the witness
16 stand.)

17 THE COURT: Your next witness.

18 MR. STEADMAN: The State calls Marcus Brown.

19 THE CLERK: Do you swear or affirm that the
20 testimony that you're about to give in this case to be the
21 truth, the whole truth and nothing but the truth so help
22 you God?

23 THE WITNESS: I do.

24 THE CLERK: Thank you. Have a seat in the
25 witness box please.

1 MS. PINNOCK: Your Honor, I do apologize. We
2 have a brief issue that we need to take up outside the
3 presence of the jury.

4 THE COURT: All right. Ladies and gentlemen,
5 I'm going to have you go to the jury room for this brief
6 issue.

7 (WHEREUPON, the jury retire to the jury room.)

8 THE COURT: Yes, ma'am.

9 MS. PINNOCK: Thank you, Your Honor. It was
10 brought to our attention Tuesday of last week, Judge, and
11 has been mentioned a few times since that point, that
12 there are potentially some -- I say continuing medical
13 issues with Officer Brown. We have been provided no
14 medical records, no doctors notes, no any further
15 information except other than the initial ER visit that
16 documented an abrasion and a bruise. So there if there's
17 going to be any -- attempt to be any testimony about that,
18 we would go ahead and object to it because we been
19 provided no information whatsoever about what those
20 injuries would be. The extent of those injuries. It was
21 just brought up to us out of an abundance of precaution
22 take care of the issue now.

23 MRS. CAMPBELL: Your Honor, Investigator Brown
24 she's got the initial documentation where he went to the
25 hospital, that his injuries were photographed and that was

1 turn over to her. We did turn over the fact that when we
2 met with Investigator Brown he in fact had surgery just
3 last Thursday on his arm as a result of these and is
4 having continuing problems with that, that's the extent of
5 it. He will be testifying about his own condition. I
6 don't know that we are required to bring in medical
7 authority to do that. We can, but we have not.

8 THE COURT: All right. Anything further?

9 MS. PINNOCK: Your Honor, I think the issue is
10 -- I fail to mention this. We're also aware there's been
11 a Workers' Comp claim filed and along with those there is
12 testimony and transcripts and, you know, hearings that
13 happened. We know it's been filed. The initial
14 information we had was that he had a bruise and a scratch,
15 which is what we have -- we have been provided that stuff.
16 We're not challenging that information. I think alleging
17 that the acts the situation that happened on August 6th
18 has now a year and a half later led to having surgery. I
19 think, we are entitled to the medical documentation
20 proving that because anybody can get on the stand and say
21 I fell off of that tree over there and then two years
22 later I'm having back surgery. You have to prove it.

23 THE COURT: What do you want me to do?

24 MS. PINNOCK: Your Honor, I would ask that you
25 exclude any testimony outside the medical records that we

1 been provided. This is the only information we've had for
2 a year and a half. And I would argue it's been
3 appropriate at this time to have him sit up there and
4 testify to this extended injury that's requiring surgery
5 without the State having to provide us any evidence of it.

6 THE COURT: Says the State?

7 MRS. CAMPBELL: Your Honor, I think he's
8 entitled to testify just to his own injuries and what
9 happened as a result of this incident.

10 THE COURT: All right. We'll rule as the case
11 goes. I don't see any basis for the jury to have been
12 sent out. You can bring them back in.

13 (WHEREUPON, the jury came into open court.)

14 THE COURT: All right. You may proceed.

15 MS. PINNOCK: Your Honor, I do have an
16 objection. We just saw a statement being handed up to
17 Officer Brown. I think, it's improper to hand that up.
18 It does not fall under Rule 612 at this point, so it's
19 improper for the witness to be handed a copy of the
20 statement from the Solicitor's office prior to testifying.

21 THE COURT: Solicitor.

22 MR. STEADMAN: Your Honor, he wanted copy of his
23 statement, so I provided him with one.

24 THE COURT: You may proceed.

25

DIRECT EXAMINATION

1 BY MR. STEADMAN:

2 Q Marcus, where you employed?

3 A I'm employed with the City of Columbia Police
4 Department.

5 Q And what is your title with the City of Columbia?

6 A I'm currently a MPO, but I work under Fugitive
7 Investigation Unit.

8 Q Can you briefly describe for the jury your background
9 and training in law enforcement?

10 A Yes, I have approximately 18 years of experience. I
11 work Orangeburg and Richland County and now the City. I
12 work during the course of my career SWAT teams, different
13 specialized units and narcotics. Now, assign to the
14 fugitive investigative team for the City of Columbia.

15 Q What do you do with the Fugitive Investigative Team?

16 A My main duty is to search for anybody have
17 outstanding warrants within the City of Columbia. We only
18 look for people -- violent offenders that have warrants
19 with the City of Columbia.

20 Q And is this a task force?

21 A It's a task force of sorts. We also work closely
22 with Richland County and SLED and sometimes U.S.
23 Marshalls.

24 Q And when the task force gets warrants that need to be
25 served on a fugitive, how do you organize that and how do

1 you take lead and to execute that?

2 A Whatever agency has the warrants is usually the
3 agency that takes the lead. This case it was City of
4 Columbia warrants. We sent information to SLED fugitive
5 center who does the background on the defendant that we're
6 looking for then we follow the lead until we capture them.

7 Q And what warrants did you have to serve?

8 A We had several warrants. We had carjacking,
9 kidnapping. I think, it was a robbery or attempted
10 robbery warrants that associated with the defendant.

11 Q And who were those warrants for?

12 A Mr. Durham.

13 Q Mr. Keylan Durham?

14 A Yes, sir.

15 Q And how did you go about getting information on his
16 whereabouts?

17 A Like I said before, we gathered his information name,
18 date of birth. We sent that information along with the
19 BOLO that came out in office. We sent that to SLED
20 fugitive center. The analyst there they search different
21 data basis and they try to find relatives and friends of
22 the person until we can go try to attempt to locate them.

23 Q And did you eventually get information about where he
24 would be?

25 A Yes, we did. Fugitive center sent us information

1 back that his name came up in a report or I'm not really
2 sure exactly, but it was information came in the report
3 that his name and, a female who we assume because of the
4 age, we assume was a girlfriend and gave us an address, so
5 we went to the address. We staged up probably about ten
6 blocks away at the region four office, which is off of
7 Beatty Road not far from Brook Pines apartments.

8 Q And was Brook Pines apartments the place that he was
9 believe to have gone?

10 A Well, Brook Pines was a place that we knew he had a
11 possible girlfriend that he might be staying with, so that
12 was one of the first places that we wanted to look. We
13 knew they had the child in common, so that was one of the
14 first places we wanted to look for them.

15 Q And once you staged up at region four headquarters,
16 what was your next step?

17 A We briefed the other agencies. It was SLED and
18 Richland County there. We briefed them on the -- on
19 Mr. Durham, what his charges were and that the City of
20 Columbia just had a high speed chase with him. He also
21 assaulted a victim -- pistol whipped a victim, so there
22 was a gun involved. We did consider him a flight risk and
23 a danger to society. So we wanted to make sure we had
24 enough people to apprehend him safely.

25 Q So do you approach a situation differently when

1 somebody is suspected to be a violent offender?

2 A Yes, we do.

3 Q So then you went to Brook Pines apartment complex,
4 how did y'all set up?

5 A Originally, we had the whole building surrounded,
6 that's when Agent Thrower and someone else went up to the
7 front door and knocked on the door. They spoke with the
8 girlfriend, but then relayed further information to them.
9 And they related over the radio to the rest of us. We
10 then moved back. We set a perimeter little bit wider.
11 Agent Thrower told us that he was not there, but he should
12 be coming back soon. Myself and my partner set up on
13 Broad River Road, so we could see the entrance and see the
14 vehicles traveling back and forth. And once we did that
15 several hours later, he ended up coming back.

16 Q Did you eventually see him pull into the apartment
17 complex?

18 A I personally didn't see him pull into the apartment
19 complex, but another officer radioed said that he saw the
20 vehicle and he identified Durham and he was driving the
21 vehicle and they were coming into the complex.

22 Q And whose vehicle was he driving at this point?

23 A He girlfriend's vehicle the Sonata.

24 Q And once you saw him pull -- once you got word that
25 he was pulling into the apartment complex, what was your

1 next step?

2 A So at that time we had planned to take him down in
3 his parking lot, which is adjacent to the building. But
4 he passed by the building, went pass the parking lot and
5 turn into another parking lot several buildings passed it
6 and turn into that parking lot. I was the passenger in
7 another patrol car unmarked vehicle and followed him down.
8 As he parked, they sat -- him and another person sat in
9 the vehicle. My partner pulled in catercornered. And as
10 she stop the vehicle -- well, attempted to get out the
11 vehicle and ---

12 Q How were the vehicles positioned him and yours?

13 A Well, he was in a parking space. You parked in the
14 space and my partner came in at an angle like this. So as
15 I got out the vehicle, I guess, her front bumper was
16 probably a couple of feet away from his rear bumper off to
17 the side catercorner. As I exited the vehicle, I looked
18 at the -- at that time I can only see one person. I was
19 keying in on the driver because that's who we had the
20 warrants for. I thought we had them pretty well blocked
21 in, so I was thinking he was just going to run off and
22 jump out the car and start running. And I'm a little bit
23 quicker than my partner, so I thought I could quickly get
24 to him as he was exiting the car and tackle him or
25 something right there in the parking lot. So as I'm

1 getting out of the vehicle, I look at the rear of the
2 vehicle, I'm looking at the driver in the side mirror. He
3 looks down in the mirror, then I see the red lights come
4 on -- not red lights reverse lights. I hear the car
5 engine like he's gunning the motor. And as he throws it
6 in gear, it clicks into gear and I see the back end raise
7 up and it's coming straight back for me. At that time I
8 jumped to the side as far as I could because I'm next to
9 the patrol car. I was sandwich in between the vehicle.
10 The rear bumper hit me and spun me around to the patrol
11 car. He was trying to turn out. So when he turned out,
12 the side of the car pinned me up against the vehicle and
13 the mirror clipped my arm and broke the mirror off. He
14 kept on going pass me. I was able to draw my gun at that
15 time or probably around the same time and I fired several
16 shots as he drove pass me. He hit a tree. It impacted --
17 he was going so fast the impact of the tree, the car went
18 up the tree, so the back of the vehicle was up off the
19 ground and we closed in. At that time another officer was
20 coming at the same time to try to catch him. As he pulled
21 in and he got out his vehicle, the vehicle came down off
22 the tree and spun around and came back at us again. We
23 fired again. The other officer fired and it hit a parked
24 car, kept going until it hit. As he hit the parked car,
25 between hitting another car because he almost hit another

1 officer and that's when that officer fired again, fired
2 his shots. In between him hitting a tree and hitting a
3 parked car, I fired again because he was coming at the
4 other officer. When he hit the parked car and spun
5 around, he went at another officer and I fired again,
6 fired some more, went through the telephone pole, cut it
7 completely in half. Then rest in a parking space right
8 next to -- also almost to the exit of the parking lot. At
9 that time the vehicle was stopped, the passenger -- I saw
10 the passenger look like he was going for a gun. I started
11 firing again. When I saw that he was actually trying to
12 take his seat belt off, I stopped firing. I reloaded the
13 magazine and that's when he got in tactical L basically
14 like this angle here like that around the vehicle. And we
15 were telling the officers to come around the other side,
16 so they wouldn't be in the line of fire. As we got to
17 that side, we tell them to unlock the door so we could
18 open the door to get them out the vehicle. My partner
19 told me to take my baton out and the break window, so we
20 can unlock the car. So I took my baton, smashed the
21 window in, the driver side window. We all were -- two
22 officers were in front of the vehicle. I was along the
23 side. My partners next to me in making that tactical L.
24 As I broke the window out, they reached in, unlocked the
25 door, open the door and that's when they pulled the

1 passenger out through the driver side. And the other
2 officer went around and got the driver out of the
3 backseat. Once it clipped the telephone pole, he actually
4 jumped to the backseat and sprawled out on the backseat.
5 So they pulled him out the backseat and we secured the
6 scene, call EMS. Because it was three agencies involved
7 in the shooting and once the command staff got there, they
8 called Lexington County Sheriff Department to investigate
9 the shooting because usually SLED will investigate our
10 shooting, but they were also involved. EMS was called to
11 attend to both of the people in the vehicle. Then they
12 were transported. My supervisor came and he transported
13 me to Richland Memorial Hospital.

14 Q Was Keylan in the driver seat the whole time?

15 A He was in the driver seat the whole time until he cut
16 the telephone pole in half, that's when he jump to the
17 backseat.

18 Q And what did he do when he jumped to the backseat?

19 A He was laid there with his eyes closed.

20 Q And you said you were transported to the hospital?

21 A Yes.

22 Q What were the injuries to you?

23 A At the time I didn't think it was that much or that
24 big of a deal. My shoulder was sore. My arm was sore. I
25 had a bruise on my forearm and just the pressure of the

1 vehicle on my legs was bothering me. Other than that, I
2 didn't think anything was wrong until ---

3 MS. PINNOCK: Objection, Your Honor.

4 THE COURT: Objection's overruled.

5 A Until later on when I went to occupation therapy and
6 I was trying to get therapy for my shoulder and then they
7 discovered it was actually a tear in my shoulder, in my
8 arm. The tendon to my bicep -- the tendon connects to my
9 bicep to my shoulder actually the ligament was torn off.
10 And I had some other -- to clean up the cartilage and
11 stuff inside the shoulder laparoscopic surgery on the
12 shoulder. And then last week I had nerve surgery done on
13 my hand. I had six stitches in that hand.

14 Q What about injuries to your leg?

15 A I haven't received medical help with conditions on my
16 leg.

17 Q And were all these injuries caused by Keylan Durham
18 driving the car at you?

19 A Yes.

20 Q And let me back up just briefly. When you got out of
21 your car, how were you marked to show him that you were
22 police?

23 A I had a tactical vest that had police on the front
24 and on the back.

25 Q And did you identify yourself as police?

1 A As I got out of the vehicle, I said police. As I was
2 getting out the car to run toward the vehicle, then I
3 stopped when I saw those lights. I said police. As he
4 looked in the mirror, put it in gear, gun the motor and
5 came back at me, then I tried to jump out the way.

6 Q And you mentioned you tried to jump out of the way as
7 best you could, but what part of the car struck you?

8 A The actual -- the rear bumper actually hit my right
9 leg and spun me around to my back was up against the --
10 the car I was in. And then the side of the vehicle as he
11 was trying to angle his car out to, I guess, avoid our
12 vehicle. The front bumper and the mirror hit my left arm.

13 Q And if you had not gotten out of the way would that
14 car have hit you straight on?

15 A Oh, yes, it would have definitely ran straight over
16 me.

17 Q If you will please take a look at those. You
18 recognize those?

19 A Yes.

20 Q Were those the pictures that were taken by
21 investigators that day?

22 A Yes, it was.

23 Q And they're a fair and accurate depiction of how you
24 look that day?

25 A Except for I didn't have my vest on.

1 Q Besides not having your vest on is that the only one
2 difference?

3 A Yes.

4 MR. STEADMAN: Your Honor, at this point we
5 would introduce State's 8 through 12 into evidence.

6 MS. PINNOCK: No objection, Your Honor.

7 THE COURT: They're admitted.

8 (WHEREUPON, State's Exhibits Nos. 8-12 were
9 admitted into evidence.)

10 BY MR. STEADMAN:

11 Q And pursuant to the investigation by the Lexington
12 County Sheriff Department, did you turn over your weapon
13 and anything else that they asked for?

14 A Yes, I turned over my weapon and the magazines that I
15 had at the time.

16 Q And were you the one that pulled Keylan Durham out of
17 the vehicle?

18 A No, I was not.

19 MR. STEADMAN: Thank you. One more thing, Your
20 Honor.

21 BY MR. STEADMAN:

22 Q Do you see the person that hit you with his car that
23 day in the courtroom today?

24 A Yes, I do.

25 Q And can you please point him out?

1 A The gentleman wearing the purple shirt.

2 MR. STEADMAN: Thank you.

3 THE COURT: Cross-examination.

4 MS. PINNOCK: Thank you, Your Honor. Please the
5 Court.

6 CROSS-EXAMINATION

7 BY MS. PINNOCK:

8 Q Good afternoon, Officer Brown.

9 A Good afternoon.

10 Q Officer or investigator?

11 A Officer.

12 Q Officer, okay.

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

14 (WHEREUPON, a pause in the proceedings.)

15 BY MS. PINNOCK:

16 Q Officer Brown, I need to start so we can try and
17 understand the area that you were in, okay. So you were
18 at Brook Pines apartments?

19 A Yes.

20 Q And is it a large neighborhood or a small
21 neighborhood?

22 A It's pretty large a lot of apartments, half of it is
23 in the City, half of it's in the county.

24 Q Okay. And where you positioned when you originally
25 heard the call -- that Keylan was coming back?

1 A We were at the -- we actually were on Broad River
2 Road. We were originally stationed at the car wash on
3 Broad River Road.

4 Q Okay.

5 A But because someone saw another Sonata come down, we
6 had pulled out thinking that was it. No, they said, no,
7 that's not it. And before we could get turned back
8 around, that's him. So we actually still on Broad River
9 Road. So we actually still on Broad River Road.

10 Q When you come into Brook Pines, it's a driveway sort
11 of seen coming in?

12 A It's a long driveway.

13 Q It's a main road through the -- for the main entrance
14 of that apartment complex?

15 A Correct.

16 Q Okay. The first building you were at was the one
17 that you thought that Keylan would be going to,
18 Ms. Warner's apartment?

19 A It's not the first building in the apartment complex.

20 Q That's where everybody thought he was going to go?

21 A Right.

22 Q Okay. So this is the main road?

23 A Uh-huh, yes.

24 Q Where is Ms. Warner's apartment building is it on the
25 right or the left side of the street?

1 A It's on the left side.

2 Q Okay. So it will be up here, yes?

3 A Okay.

4 Q And is her building line this way or does it come
5 perpendicular? Does it go this way or this way?

6 A This way.

7 Q Okay. So this her building?

8 A Yes.

9 Q And there's a parking lot here?

10 A Correct.

11 Q And that's where everybody thought he was going to
12 go?

13 A Correct.

14 Q Okay. Now, this building it's not a solid building
15 with one entrance, right? It's a normal apartment
16 building?

17 A Right, it's walk ways on both sides I think.

18 Q Okay. Open breezeways?

19 A It's open breezeway. Some of them you can -- it's
20 only one way into -- if I'm not mistaken, you can get into
21 that building from the backside on that first floor or
22 really the second floor they have like a lower level.

23 Q So there's openings here and here on this side and
24 the same thing over here. You can walk straight through?

25 A You can't walk straight through. You have to walk

1 like -- if I remember correctly, it's been a long time
2 since I been over there, but I think you have to go down
3 and that's a first floor. To go up, you have to actually
4 go -- start going back up the stairs.

5 Q Okay. But you would agree with me you can get out of
6 the backside of the building?

7 A Yes.

8 Q Okay. Is there a parking lot on this side or what is
9 over here? Is it grass?

10 A It's like a little field, trees open areas, not
11 really open and then the next building, I think, is the
12 actual office.

13 Q Okay. So we have some trees and stuff over here, but
14 Keylan's car that he was driving didn't pull into this
15 parking lot, right?

16 A No.

17 Q He continued down the main road and took a right into
18 the parking lot down here?

19 A Correct.

20 Q Okay. And that parking lot goes this way if you turn
21 into it you're coming this way?

22 A If you coming down that street, you make a right.

23 Q Okay. So there's our road. We got the parking lot
24 here. Does that work?

25 A That's not to scale, but we'll go with it.

1 Q Well, it's not to scale, but is it safe to put the
2 parking lot here?

3 A Yes.

4 Q Okay. And it kind of cuts off at the end with some
5 more grass, right?

6 A Yes, sir.

7 Q Trees -- it's pretty much a wooded area on this end?

8 A Yes, I think so.

9 Q Okay. There's a small little parking on this end or
10 right beside this one?

11 A It's another parking lot up above that parking lot.
12 It's kind of like up a small hill or incline.

13 Q And there's a building here, right?

14 A Correct.

15 Q Okay. This building is apartments?

16 A Correct.

17 Q Okay. There's a light pole. Now, the light pole the
18 parking lot kind of has a little dip in it, right, like
19 that?

20 A Like one parking space right there.

21 Q Okay. And then there's some sidewalk that lines?

22 A Right.

23 Q And there's sidewalk on this side too?

24 A Yes.

25 Q Okay. And there are other people's cars that live in

1 this neighborhood. People are parked here, right?

2 A Correct.

3 Q Okay. You recall how many cars were in the parking
4 lot?

5 A No, I don't.

6 Q Okay. But when you -- so you're riding passenger
7 with Officer Brown -- I mean, sorry, Officer Balley?

8 A Correct.

9 Q You follow the Kia into the parking lot and the Kia
10 parks?

11 A Correct.

12 Q Is it safe to say about half way down the parking
13 lot?

14 A That's pretty much half way.

15 Q And black Kia pulls head into the parking space?

16 A Correct.

17 Q And isn't it true that there's a car parked right
18 here beside it?

19 A I don't remember if it's next to it or a space over.
20 I think, it was space over I'm not sure.

21 Q You don't recall where it is?

22 A No.

23 Q Okay.

24 A I know it's a vehicle in that general area, but I
25 don't know specifically if it's right next to it.

1 Q All right, fair enough. So when you pull in the Kia
2 has pulled here.

3 MS. PINNOCK: Your Honor, can I have the witness
4 step down?

5 THE COURT: Yes.

6 MS. PINNOCK: Thank you.

7 BY MS. PINNOCK:

8 Q Would you mind showing me where -- well, how your car
9 pulled in behind the black Kia?

10 A I'm just going to make this a car here.

11 Q Okay. So y'all pulled in at an angle?

12 A Correct.

13 Q Do you know who was behind you in the car law
14 enforcement wise?

15 A Yes, another law enforcement vehicle right here.

16 Q Make somebody park over here that was surveilling?

17 A No.

18 Q No law enforcement was parked over there?

19 A Not that I recall. Everybody was in another parking
20 lot.

21 Q Right. That's a smaller one, right?

22 A It's almost the same. I think, it's the same length
23 as this one. We had officers parked right here.

24 Q Okay.

25 A And I think another officer was somewhere up in here

1 and there's some more officers back here.

2 Q And then there was a few parked up here blocking the
3 entrance?

4 A Well, they came up after the fact.

5 Q Okay.

6 A But it was originally staged back here in the back of
7 the apartments. And we had mostly everybody was here
8 because we thought he was coming up here. So we had
9 unmarked vehicles in this parking lot here and again here
10 and then that space right there.

11 Q Okay. Thank you. You can have a seat. Thank you.
12 But I could have asked you to point this out. The tree
13 that was hit is it directly across from where the car was
14 parked or was it kind at an angle?

15 A You want me to step back down?

16 Q Yes, please if you don't mind please. I'm sorry.

17 A The tree was somewhere like right in here.

18 Q Okay. And where is the telephone pole or the light
19 pole?

20 A The light pole was on the sidewalk area somewhere
21 right here.

22 Q Okay. And the other car it struck?

23 A The parked car was like right there.

24 Q Okay. Thank you. I promise I want ask you up again.
25 So your car pulls up, you immediately get out of the car,

1 correct?

2 A Yes.

3 Q Okay. Did you have your gun drawn or was it still in
4 its holster?

5 A I can't remember if I had it drawn at that time or
6 not, but I think I would have had it drawn.

7 Q Okay. So you get out of the car, you immediately
8 going up to ---

9 A The driver's side.

10 Q The driver's side of this car?

11 A Yes.

12 Q So you are here. Officer Balley is driving. You're
13 exiting on this side of the car?

14 A Correct.

15 Q And the second you get out of the car, you start
16 announcing who you are and you say you look in the
17 rear-view mirror. The next thing you know the lights are
18 on reverse lights?

19 A Right.

20 Q Okay. And the car you said you thought you had it
21 locked in, but he was able to get out of the parking
22 space?

23 A Correct.

24 Q And as he's reversing he didn't hit the car, right?.

25 A No, he hit me. He didn't hit the car.

1 Q So the car is here. He's reversing out of the
2 parking space, right?

3 A Correct.

4 Q So to get out of the parking space, the car has to go
5 at an angle?

6 A Correct.

7 Q Okay. And he's doing this as you're originally
8 running up to the driver's door?

9 A Correct.

10 Q And then the driver's door is on the left side of the
11 car, right?

12 A Right.

13 Q And when you -- the car starts moving. You say that
14 the car hits you. Well, before the car starts moving, you
15 say the tires are squealing?

16 A No, I said the engine was revved up high.

17 Q And did you say that the back of the car lifted?

18 A Yes.

19 Q What year car is this?

20 A I don't know.

21 Q Okay. But it was a sedan, right?

22 A Yes.

23 Q A small sedan?

24 A Uh-huh. It was a mid-size sedan.

25 Q It was a 2011 Kia Sorento, right?

1 A Sorento, yes.

2 Q So the engine revs and the next thing you know the
3 car is going at a high rate of speed in reverse?

4 A Correct.

5 Q Out of the parking space?

6 A Correct.

7 Q All right. And the car clipped you on your arm as
8 it's going out of the parking space?

9 A It first strikes me on my leg and that spins me
10 towards my car and then the mirror clips my arm. And the
11 front of the car hits my other leg as he's swinging out to
12 try to make -- to try to avoid hitting our car, you see
13 what I'm saying. As he swinging back, the front of the
14 car comes back at me.

15 Q Okay, right. Because you said you got out as you
16 were approaching the door over here?

17 A Right.

18 Q And then you testified that the rear bumper hit your
19 legs first as you were coming up through driver door,
20 right?

21 A Correct.

22 Q And then the car mirror hit your arm hard enough to
23 knock the mirror off?

24 A Correct.

25 Q And at that point you pull your weapon?

1 A Not -- like I said before, I said I don't recall when
2 I pulled my weapon, but I would like to think that I had
3 it out before I ran up to the vehicle.

4 Q Well, at least we know at that point you started
5 shooting at the car?

6 A Right.

7 Q All right. And the car is pulling -- stilling moving
8 backwards out of the parking space and you're shooting at
9 it?

10 A Correct.

11 Q Okay. And at this point Officer Balley is out of the
12 car?

13 A I don't know, I can't see her.

14 Q At some point is she not standing beside you?

15 A I didn't see her until we actually -- the car had
16 went through the telephone pole. I didn't see her again
17 until we were doing that tactical L around the vehicle and
18 then she was off to my right side.

19 Q So you don't remember her walking towards the car
20 with you while you're shooting?

21 A No.

22 Q Okay. You wouldn't argue that she wasn't there. You
23 just don't remember being there?

24 A I don't remember seeing her because during that type
25 incident, you have tunnel vision and you kind of focusing

1 on what you're looking at, so your peripheral vision is
2 closed in. So I wasn't really seeing people that were
3 next to me only thing I saw was the car. And then as the
4 car moved I would see the person if they were close enough
5 to where the car was.

6 Q Okay. So you don't remember her being there, but you
7 would not dispute the fact that she was standing right
8 beside you?

9 A Yeah, I'm sure she got out of the car at some point
10 because she was next to me when the car hit the telephone.

11 Q All right. And as the car is reversing across the
12 parking lot before it hits this tree, you're shooting into
13 the windshield of this vehicle, right?

14 A At some part of the vehicle. At some part of the
15 vehicle, I know I at least struck the engine part of it.

16 Q How many times did you pull your trigger where the
17 car was going before the tree?

18 A I couldn't tell you.

19 Q You don't recall shooting into the windshield?

20 A No, I don't recall shooting -- I shot into the
21 windshield at some point I'm sure.

22 Q How many times?

23 A I don't know.

24 Q How many times did you shoot into the top of the car?

25 A I don't know.

1 Q How many times did you pull your trigger total?

2 A The report said -- I forgot what the actual report
3 said. I thought it was over ten.

4 Q Fourteen sounds right?

5 A That sounds about right.

6 Q So the car's going in reverse. You are at this point
7 advancing on the car. You're coming towards the car as
8 its traveling away from you, right? Because you're still
9 trying to arrest Keylan Durham?

10 A At the ---

11 Q When it leaves here and it's heading to here, you're
12 walking towards the car?

13 A Yes.

14 Q The car hits the tree with such force that it's spun
15 around?

16 A Correct.

17 Q And then you put in your statement that he threw the
18 car back in drive and came at you again?

19 A Yes, that's what I believe happened.

20 Q Okay. But then you went on to say that when the car
21 was thrown into drive and come back at you again, it hit
22 this other parked car and jumped back in reverse and
23 continued cross the parking lot in reverse?

24 A That's what I thought happened at the time.

25 Q You thought he had put the car back in drive to come

1 at you. The car hits an inanimate object and then all of
2 a sudden ends up in reverse again?

3 A Correct.

4 Q Okay. That car never moved forward again, did it?

5 A From...

6 Q From hitting the tree? That car never moved in the
7 drive gear again, did it?

8 A I'm not sure. Like I said, what I remember what the
9 other investigators on scene remember totally different.

10 Q I completely agree with that.

11 A And what I remember in my mind is I see the front of
12 the car coming at me again. And it clips the front of the
13 parked vehicle, spins around and is going in reverse,
14 that's what I remember, but they remember something
15 different.

16 Q Okay. And the light pole is back on the original
17 side that the car started on?

18 A Correct.

19 Q And part of the reason y'all had this heightened
20 awareness of what was going on was because of the pending
21 warrants?

22 A Yes.

23 Q And because you had been told that Keylan Durham is
24 going to run away?

25 A And it was a weapon used in a -- one of the crimes he

1 was charged with.

2 Q Right. The pending warrants and in fact that he was
3 going to run away?

4 A And he had used the gun in one of the crimes.

5 Q Did you believe he was going to run away?

6 A Yes.

7 Q Everybody on scene was of the opinion that this man
8 was going to try to run away?

9 A Yes.

10 Q And that's what y'all went there to prepare for?

11 A Correct.

12 Q How many officers were on scene in the parking lot
13 total?

14 A It was several agencies. I couldn't tell you a total
15 number of people. We didn't do a head count.

16 Q How many people were in this small parking lot
17 because you said they're everywhere, so how many people
18 were in this area?

19 A Because of the way he deviated from what we thought
20 he was going to do, it was four people in that parking
21 lot.

22 Q Four people in this parking lot?

23 A Yes.

24 Q You, Officer Brown ---

25 A I'm Officer Brown.

1 Q You are Brown you're not Balley. Sorry. You,
2 Officer Balley, Deputy Britt?

3 A Yes.

4 Q And Agent Thrower?

5 A Yes.

6 Q Okay. But Agent Thrower's car wasn't here. He had
7 parked over there?

8 A Right, he ran over.

9 Q Okay. Now, after the car comes to a rest, the car
10 has taken out this light pole here and is parked or kind
11 of resting here?

12 A Correct.

13 Q And you knew that Quintin Warner was in the vehicle
14 also?

15 A I knew it was another person, I didn't know who he
16 was.

17 Q Okay. Nobody bothered to tell you who else was in
18 that car?

19 A At some point I'm sure they did after the fact. What
20 I'm saying at the time of the incident, I didn't know who
21 he was.

22 Q You didn't know the first thing about that person?

23 A No. I just know what the girlfriend had relayed to
24 officer -- Agent Thrower who related back to us.

25 Q After the fact?

1 A No, prior to us.

2 Q Okay. So you were aware that her brother was inside
3 this car?

4 A Yes.

5 Q Okay. How many times did you shoot into the
6 passenger side of that car after it stopped moving?

7 A I couldn't tell you.

8 Q More than two?

9 A That's possible.

10 Q Four?

11 A I don't know.

12 Q And Quintin Warner was the one who was the passenger
13 in that car?

14 A Correct.

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

16 (WHEREUPON, a pause in the proceedings.)

17 BY MS. PINNOCK:

18 Q And just so we're clear, there was no weapon found in
19 the car, right?

20 A There was no weapon found in the car.

21 MS. PINNOCK: Thank you.

22 THE COURT: Anything further?

23 MR. STEADMAN: No, Judge.

24 THE COURT: All right. Thank you. You may step
25 down.

1 (WHEREUPON, the witness leaves the witness
2 stand.)

3 THE COURT: Call your next witness.

4 MRS. CAMPBELL: State calls Keith Thrower.

5 THE CLERK: Do you swear or affirm that the
6 testimony that you're about to give in this case to be the
7 truth, the whole truth and nothing but the truth so help
8 you God?

9 THE WITNESS: I do.

10 THE CLERK: Thank you. Have a seat in the
11 witness box please. And state your name for the record.

12 THE WITNESS: Keith Thrower.

13 WHEREUPON,

14 Keith Thrower,

15 after first having been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MRS. CAMPBELL:

18 Q Agent Thrower, where are you employed?

19 A At South Carolina Law Enforcement Division.

20 Q And how long you work there?

21 A Since 2002.

22 Q What do you do at the South Carolina Law Enforcement
23 Division?

24 A I'm currently assign as a lieutenant for SWAT
25 operations and also K-9 operations.

1 Q I want to turn your attention back to August of 2014.
2 What were you doing back then?

3 A I was working on the fugitive unit or what we call at
4 SLED as our surveillance and intelligence unit.

5 Q And as part of the surveillance and intelligence
6 unit, what did your duties include?

7 A Working violent fugitives. I work primarily a lot
8 with the City of Columbia and Richland County fugitive
9 units. And I also work some other counties around the
10 state whenever we get the call, but I primarily work with
11 them.

12 Q As part of those duties, did it include also trying
13 to apprehend people that were considered to be dangerous?

14 A That was normally what we would always go after which
15 is violent fugitives.

16 Q And prior to doing that in the course of business,
17 would y'all come up with a plan or a way to try to
18 apprehend someone safely?

19 A That was generally always what we were trying to do.
20 Sometimes we were able to very safely apprehend a suspect
21 sometimes. You know, we were put in positions where we
22 could have gotten hurt, but all the time we would try and
23 have some type of a plan to mitigate the risk to not only
24 the officers, but the public and also the suspects
25 themselves.

1 Q I want to turn your attention to August, I believe,
2 it would be the evening of the 5th into the 6th, were
3 y'all asked or tasked with the duty of trying to arrest
4 Keylan Durham?

5 A Yes, ma'am. City of Columbia had contacted me with
6 warrants for Mr. Durham. I had passed the information
7 onto our information analyst at the fugitive center and
8 they were able to pull together for -- some information
9 for us in locations for us to go check and people to talk
10 to.

11 Q Was there any information that you were given on the
12 front end that caused y'all to have some concern as far as
13 this defendant's apprehension?

14 A Just the warrants themselves when you read them it's
15 obvious that he fled just on the warrants alone that we
16 were looking for him on. Also if I remember correctly, a
17 couple of the City Columbia officers that had prior
18 dealings with him and that he had always fled ---

19 MR. BAILEY: Objection, Your Honor. May we
20 approach?

21 (WHEREUPON, a bench conference was held in the
22 presence of the jury, but out of the hearing of the
23 jury.)

24 THE COURT: If you will go to the jury room for
25 a few minutes.

1 (WHEREUPON, the jury retire to the jury room.)

2 THE COURT: What was the last question that
3 cause counsel to want to approach?

4 MRS. CAMPBELL: I believe it was his answer that
5 they had information that he had fled before.

6 MR. BAILEY: The witness said that Mr. Durham
7 had prior dealings, that they had prior dealings. The
8 City of Columbia had prior dealings with him, that's very
9 broad. It makes it sound like he's just out there doing,
10 you know, bad stuff. Then I said, you know, as we
11 approach the bench I said, well, you know, he can't just
12 talk about other bad things that Mr. Durham is alleged to
13 have done in the City of Columbia. Now, Mrs. Campbell
14 said, well, we just talked about the car chase. And I
15 said, well, if you want to restrict to the car chase,
16 that's fine, but you can't have both. We can't just have
17 this broad he does things, Columbia knows he's a bad guy
18 kind of a thing. We like to restrict it to what we're
19 here for and what is admissible.

20 THE COURT: Mrs. Campbell.

21 MRS. CAMPBELL: I don't know that that was his
22 exact response what he just said, just refer to the
23 record. In addition, Your Honor, I'm just talking about
24 they are the ones who just cross-examined Marcus Brown ad
25 nauseam on the fact why do we all concern about the gun

1 and everything else. I mean, the basis of their concern
2 was that his history, that I'm restricting it to, you
3 know, he just would put into evidence of the prior chase
4 two days before.

5 MR. BAILEY: And we know that chase is in
6 evidence, so let's leave it --

7 THE COURT: Well, you don't want to know why
8 they're concerned about whether or not he would run,
9 that's the whole basis of the -- I'm pointing to you not
10 talking to you. Wanting to know why they were concerned
11 about and set up the -- or acting as they were in being
12 concern about what to do.

13 MR. BAILEY: Ms. Pinnock never asked why.

14 THE COURT: Bring the jury back.

15 MR. BAILEY: For the record, Ms. Pinnock never
16 asked why he was concerned. She said ---

17 THE COURT: And the records is the record. I
18 don't need you to repeat the record. The record is the
19 record.

20 MR. BAILEY: I apologize.

21 THE COURT: With regards to this issue, she
22 can't go into specific instances, but on the question of
23 were they concerned and in general they can talk about it,
24 that's what you all are asking the other witness about if
25 he knows. I don't know if he knows or not.

1 (WHEREUPON, the jury came into open court.)

2 THE COURT: You may continue.

3 MRS. CAMPBELL: Thank you, Your Honor.

4 DIRECT EXAMINATION CONTINUED

5 BY MRS. CAMPBELL:

6 Q Officer, as we said, y'all took precautions as far as
7 making sure that y'all had a plan that you thought would
8 keep everyone safe?

9 A Yes, ma'am. We had an extension plan for this
10 particular case because we were very worried about him
11 fleeing in the vehicle.

12 Q I want to move to that morning. When y'all got
13 together that morning, about how many different people
14 were involved with the actual apprehension itself, do you
15 know?

16 A I'm trying to think. It was both Richland County's
17 Fugitive Unit and City of Columbia and myself, so probably
18 anywhere from eight to ten people maybe give or take.

19 Q And gearing up for it and putting on clothes, do
20 y'all have anything -- do y'all wear anything that you use
21 as identifiers so that you can clearly see who you are?

22 A Yes, ma'am, at the time when I was working fugitives,
23 I would wear a tactical vest with a tan colored vast with
24 black across it with white police in large letters across
25 my chest and my back. And I did that specifically so that

1 it would be easily recognizable during the day and also at
2 night people could identify me as a police officer. Also
3 had a velcro badge on there too and a badge on my waist,
4 if I need to put that on too.

5 Q That day what was the plan as far as that Wednesday
6 morning the 6th, what was the plan to try to apprehend him
7 safely?

8 A The initial plan was to go to the apartment to try
9 and make contact with Ms. Warner. If we were able to
10 apprehend at the apartment, then, you know, that's where
11 the plan ended. If he was not there, then we would start
12 to develop our plan from there. After making contact with
13 Ms. Warner and her saying that he just left, but was
14 planning on coming back. After she gave a describe of her
15 vehicle, I sent the rest to the deputies and officers that
16 were with us out to kind of circulate the area just to
17 look for him while I stayed with Investigator Zwolak with
18 the City of Columbia and stayed with Ms. Warner and talk
19 to her to see about when he might be coming back.

20 Q And you actually stayed there with Kiane Warner in
21 her apartment?

22 A Yes, ma'am.

23 Q With Investigator Zwolak?

24 A Yes, ma'am.

25 Q And at some point was she able to make contact with

1 the defendant in this case?

2 A I don't recall how that all transpired. I just know
3 that he ended up calling her phone from somebody else's
4 phone and she asked him, you know, I think she had an
5 appointment or something to go to and she asked when are
6 you going to come pick me up and he said I'm on my way.
7 So that's when I alerted everybody by radio that
8 Mr. Durham was on the way back in Ms. Warner's vehicle.

9 Q And at this point are you still in the apartment?

10 A Yes.

11 Q What happened next?

12 A The unit set up in the Brook Pines area. My truck
13 was parked at Ms. Warner's building and I think there was
14 some units behind it and then some units at the front.
15 And the idea was that he was going to pull into her
16 building. My truck was parked a little ways down from it,
17 so that the units coming in would, you know, it's almost
18 like pushing him. If he bailed out of the car, he would
19 push him straight to me and Investigator Zwolak. We were
20 just waiting on this side while the rest of the units were
21 coming from this side. So that was the initial plan was
22 for him to park in front of the building to jam his car in
23 to make sure he couldn't move. And then if he foot bailed
24 or something like that, we would have plenty enough people
25 to apprehend him safely.

1 Q But what happened?

2 A I think initially they spotted him coming into Brook
3 Pines. Somebody relayed over the radio that they
4 identified him driving the Kia pulling in. I watched
5 through my rear view or rear window of my pickup truck as
6 Mr. Durham drove by Ms. Warner's apartment. I saw the
7 other police units coming by at that time.

8 Q And were those marked units or unmarked units?

9 A Unmarked units, but I recognized them as the vehicles
10 that were with us.

11 Q And were you in a marked unit or unmarked unit?

12 A I was in an unmarked pickup truck.

13 Q But each individual as they exited had some type of
14 identifying ---

15 A All the sheriff's department guys are wearing black
16 vests with gold lettering saying sheriff deputy or deputy
17 sheriff. I'm not sure which way it goes. And City of
18 Columbia guys are black vest with white police lettering
19 on their vest too.

20 Q Continue with what was going on?

21 A Once I saw the police units go by, I looked at
22 Investigator Zwolak and I said I think he's made us. I
23 think he knows that we're here.

24 Q Why did you say that?

25 A Just because it made no sense for him to drive past

1 the building.

2 Q He was actually driving past ---

3 A He was driving past Ms. Warner's building which would
4 make no sense because he was coming back to pick her up.

5 And then with the other units coming behind him, you know,
6 just 18 years of law enforcement experience I knew that he
7 was trying to get away. So I told Investigator Zwolak I
8 said that I think we need to get out and get on foot
9 because I think he's getting ready to bail out of the car.

10 Q What happened next?

11 A As we were getting out of the car, had to run and go
12 through a breezeway to cut through Ms. Warner's building.
13 And as I'm trying to get through the breezeway, I'm
14 hearing, you know, like an engine really revving up loud.
15 And as I clear -- and I'm also hearing officers -- I
16 remember hearing like stop stop, but there was other
17 commands being given. As I cleared the breezeway, I
18 started through the grassy area headed towards the parking
19 lot, I can see him accelerating at an extremely high rate
20 of speed, I mean, a very erratic way out of the parking
21 lot. I started to get tunnel vision at this time and
22 really focus on the car. I started to hear shots, but I
23 didn't know who was shooting. I continued to run towards
24 that parking lot as that car spun back and it swung into a
25 large tree as I was coming into that parking lot. I

1 really started to kind of get tunnel vision into the
2 vehicle and, I guess, I had some auditory exclusion too
3 because I never heard the car revving or anything. But in
4 an instant, it launched off the tree straight at my
5 position of where I was standing in the parking lot
6 because I could see the back of it and tactically that's
7 the best angle to go at. I thought when it hit the tree,
8 it was done because it hit with such force and impact.
9 And to me and it still in my mind I haven't recollect or
10 reconciled with how that vehicle launched off that tree
11 that fast and I was in fear for my life. And I still
12 don't know how I got out of the way and fired my weapon at
13 Mr. Durham in an attempt to try and get out of the way all
14 at the same time. And it end up hitting the light pole
15 which disabled the vehicle and stopped it. I don't
16 remember where anybody was at the time because I was so
17 focused on that vehicle. And like I said, you know, when
18 you have a critical incident like that sometimes your mind
19 doesn't -- it plays little tricks on you. So I didn't see
20 anybody. I had no peripheral vision, but once it hit that
21 light pole, it was like the lights turned on. I saw
22 everybody, where everybody was and that's when I started
23 yelling cross fire, cross fire, you know, let's get in
24 position. It was just over. And we were able to safely
25 extract the suspect and the passenger out and started

1 administering first aid to him.

2 Q Let me back up for a second when you said the car was
3 coming towards you, it actually hits the tree and then
4 comes off the tree. Is it still going backwards at this
5 point?

6 A From what I saw, it swung around and hit the tree and
7 launch back off the tree and came straight back across the
8 parking lot towards me. I kind of ran past ---

9 Q He was aiming towards you?

10 A Yes, ma'am. I came across near where the light pole
11 was as I was coming across the parking lot.

12 Q And then you said that you actually had to get out of
13 its way?

14 A Yes, ma'am.

15 Q And that's when you discharged?

16 A Yes, ma'am.

17 Q And how many times did you shoot your gun, do you
18 know?

19 A I think I told the investigator at the time I thought
20 four or five. I think they said five. I can't remember
21 right offhand.

22 Q And then he hit the light pole. What happened to the
23 light pole when he hit it at that point?

24 A You know, it snapped in half at the bottom of the
25 light pole. I've never seen -- I mean, the distance is

1 not enough for a vehicle like that to do that. It's just
2 it was -- it's the most incredible thing that I've seen
3 that it could get going that fast. And I guess because my
4 proximity to it, it just -- it snapped that pole and the
5 pole -- I don't know how it didn't hurt other officers
6 with that pole falling down because now all the officers
7 are converging on it. It was -- it ended at that point
8 right there.

9 Q Did you actually see the car actually hit an
10 unoccupied vehicle?

11 A No, ma'am, I did not. I did not see that because
12 like I said I was focused in on that backside and, I
13 guess, when it was coming at that vehicle, it was also
14 coming in my direction at that time.

15 Q You mention that you were able to -- once the vehicle
16 was disabled because after it hit the light pole, could it
17 go anywhere?

18 A No. I mean, I'm not a mechanic or anything, but to
19 me the car had just slammed into a tree, had just cut a
20 light pole in half. I felt like it was over finally at
21 this time. I thought it was over at the tree, but it
22 wasn't.

23 Q So at the time, you didn't know if the axle had
24 broken or anything like that?

25 A No, I didn't know anything like that.

1 Q But y'all were able to get the people out of the car.
2 Where did the driver of the car end up after it finally
3 stopped?

4 A He ended up in the backseat.

5 Q And do you know how he got in the backseat?

6 A I did not see him jump in the backseat, but I'm
7 assuming that he did right at the end of it because he had
8 to have had his foot still on the accelerator for it to
9 come off the tree and straight at me and then hit that
10 light pole.

11 Q And the passenger was he still in the passenger seat?

12 A Yes.

13 Q Was EMS called?

14 A Yes, immediately.

15 Q And did EMS come out and actually treat?

16 A They did and because of the proximity to my
17 headquarters, we have guys on our own SWAT team that are
18 advanced EMT's. They all responded and were able to start
19 treating the suspect immediately. We're waiting on EMS to
20 arrive too because there was a little bit of a delay, but
21 they were already there treating the suspects and getting
22 them what they needed.

23 Q And Marcus Brown was he also treated?

24 A I don't know. We kind of started getting separated
25 and, you know, my command pulled me and that kind of

1 stuff.

2 Q And then once EMS got there they were transported to
3 the hospital?

4 A That's what I was told, yes, ma'am.

5 Q Did you know the extent of Mr. Durham's injuries?

6 A No, I did not. Not at the time, I did not.

7 Q Was Lexington County also called in to assist in the
8 investigation?

9 A Once I got back to my headquarters, I was told that
10 the -- I guess, the chief for the City of Columbia and my
11 chief got together and Lexington County handled the
12 officer involved?

13 Q And ultimately you gave a statement to them?

14 A Yes, I gave them a statement.

15 Q And ultimately you also gave your revolver for any
16 testing that needed to be done or anything?

17 A I gave them the -- I gave them my Glock .22
18 immediately once I got to headquarters. They took
19 possession of that.

20 MRS. CAMPBELL: Beg the Court's indulgence.

21 (WHEREUPON, a pause in the proceedings.)

22 BY MRS. CAMPBELL:

23 Q The driver of the car did you ever get a look at him
24 that day?

25 A No, not from my position in the parking lot. They

1 had already passed me and then it was coming back towards
2 me and I think he was slouched down because I couldn't see
3 the head on the seat.

4 Q But his friend, Mr. Warner, was actually in the
5 passenger seat?

6 A Yes, when it stopped, yes.

7 Q And the driver was the one that ended up in the
8 backseat?

9 A Yes, ma'am.

10 Q And were you there when Mr. Durham was extracted from
11 the backseat?

12 A Yes, but I did not place him under arrest or extract
13 him.

14 MRS. CAMPBELL: Thank you. I don't have
15 anything further.

16 MR. BAILEY: May it please the Court, Your
17 Honor.

18 THE COURT: Yes, sir.

19 CROSS-EXAMINATION

20 BY MR. BAILEY:

21 Q Special Agent Thrower, so you were at the time of
22 this incident you were originally parked in another
23 parking lot behind the apartment building; is that right?

24 A I was parked at Ms. Warner's apartment building down
25 away towards the fence away from where you would drive

1 into it.

2 Q Okay. And when did you first realize it was actual
3 conflict with the video -- I mean with the vehicle when
4 did you first realize?

5 A When I was going through the breezeway as I stated
6 earlier, I heard the engine reeving and I heard loud
7 verbal commands as I was coming through the breezeway.

8 Q Okay. So you're coming through breezeway to --
9 you're running to this scene; is that right?

10 A Yes.

11 Q You heard the car revving?

12 A Yes.

13 Q And you're probably moving fast, right?

14 A Yes, I was running.

15 Q Okay. And you heard some yelling; is that right?

16 A Yes.

17 Q Okay. And then you heard gunshots I guess?

18 A Actually, as I came through the breezeway and started
19 to cut across a field, the car was backing out at that
20 time, that's when I started to hear gunshots.

21 Q Okay.

22 A Like I said, I was focused in on the vehicle. I
23 didn't see who, I just kept hearing it at that time. And
24 then it was -- the car was backing out at that time as I
25 was coming that way.

1 Q Okay. So you couldn't see who was shooting?

2 A No.

3 Q Okay. And you couldn't see who was in the car from
4 where you were, could you?

5 A No, but I knew that that was the car that Mr. Durham
6 was in.

7 Q Because somebody else told you?

8 A Via the radio that they said he was coming in to let
9 the officers relay that were sitting at the front.

10 Q Okay. You could not see the car; is that right?

11 A No, I could not.

12 Q Do you know what bedlam is? The word kind of chaos?

13 A Okay.

14 Q Okay. So this kind of bedlam. There's a lot
15 happening here. There's yelling, right? There's cars
16 revving and now there gunshots, right?

17 A Uh-huh.

18 Q You're running toward it?

19 A Correct. That's what we do as police officers, you
20 know, we respond to critical situations.

21 Q Okay. But you didn't really know everything that was
22 going on there while you were running toward it, did you?

23 A I think with 18 years of experience in law
24 enforcement, I pretty much knew exactly what was going on.
25 He was trying to run over anybody he could to get away and

1 that's exactly what he was doing.

2 Q Okay. So you ran into the path of his vehicle?

3 A No. His vehicle was stopped at the tree when I was
4 coming as an approach to the rear of the vehicle.

5 Q Okay. That's kind of interesting. We measured it,
6 it's about 46 yards and you said that you saw it from
7 quite a distance away, so you were obviously moving very
8 quickly. I'll certainly give you that. So are you saying
9 that this vehicle that was at a high rate of speed -- you
10 did say high rate of speed, right?

11 A Yes.

12 Q Okay. So this vehicle stopped at the tree to hang
13 out while you moved in its path; is that correct?

14 A No.

15 Q Okay. Because I'm trying to -- I mean, you're
16 talking about how fast this vehicle is. So the first time
17 you see the vehicle, you're in the breezeway, right?

18 A No.

19 Q No. Okay. I'm sorry how close were you to the
20 breezeway?

21 A The first time I saw the vehicle it drove past me on
22 the road. The second time I saw the vehicle it was after
23 I cleared the breezeway and was moving through the grassy
24 area to cross over the road to get into that parking lot.
25 I saw it backing out.

1 Q Okay. I mean, obviously this isn't to scale.

2 A Not at all.

3 Q Maybe the jury will get to see the scene later. All
4 right. So we've got you over here. You're at a building
5 over here; is that right?

6 A Yes.

7 Q Okay. And you saw Officer Brown testify earlier
8 relating to this board, right?

9 A Yes.

10 Q Okay. So you're somewhere -- you're coming out of a
11 breezeway here; is that right?

12 A Yes.

13 Q And your testimony was just you had to run through
14 the grass through a road? You can say that again.

15 A There's a small area that's obviously not driven to
16 scale, but there's a small area and then the road and then
17 you're right there at the parking lot.

18 Q Well, I actually been there. I was there last week.

19 A Okay.

20 Q We've also mentioned ---

21 MRS. CAMPBELL: Objection, Your Honor, to the
22 commentary.

23 THE COURT: Objection's sustained.

24 BY MR. BAILEY:

25 Q All right. So you're coming out -- you're coming out

1 of this vehicle, you're coming out of his breezeway and
2 that's when you first see the vehicle here. Now, you run
3 about 46 yards and in that time this car at a high rate of
4 speed hits this tree?

5 A At some point when I left that breezeway is when I
6 started to see the vehicle. I don't know if it was
7 immediately when I left the breezeway or somewhere in the
8 grassy area, I don't know, but that's when I started to
9 see what the events were unfolding.

10 Q Okay. Did the car stop while you were running and
11 had a chance to stand in the path of the telephone pole,
12 did the car stop at any time?

13 A From my perception that it stopped at the tree when
14 it hit the tree because I was running.

15 Q Okay. So your testimony is this car at a high rate
16 of speed stops, then you appear beside the telephone pole;
17 is that right?

18 A No, I didn't appear there. I was running, I was
19 sprinting from that breezeway to that parking lot.

20 Q I'm sorry I'll say arrive. Then you arrived at the
21 area here?

22 A Okay.

23 Q Okay. So you arrived around this area and I assume
24 your weapon was drawn at this point?

25 A Yes, because I was approaching -- in my mind, I

1 wanted to approach the car from the rear.

2 Q Okay. And you started shooting, right?

3 A As the vehicle came towards me, yes.

4 Q Okay. You were shooting and you shot five rounds,
5 that was your testimony I believe, right?

6 A I said four to five rounds I think.

7 Q And what were you shooting at?

8 A I was shooting at the vehicle where the driver was.

9 Q Okay. So you were shooting at the vehicle where the
10 driver was. Specifically what was your plan, what were
11 you trying to get?

12 A I was trying to stop the threat which is the driver,
13 that was my plan. We're talking a short second or less of
14 reaction time to do what I needed to protect myself and
15 the other officers around me.

16 Q Okay. So in that split second with this vehicle
17 moving at a high rate of speed and you decided that you
18 had to shoot the driver; is that right?

19 A Yes, to protect myself and other officers around me
20 absolutely.

21 Q Now, you didn't actually see who was in car, did you?

22 A No.

23 Q Okay. And you didn't know if anybody was in the
24 passenger seat, did you?

25 A No.

1 Q Okay. And it turned out Quinten Warner was in the
2 passenger seat; is that right?

3 A Well, Ms. Warner had said that her brother was with
4 Keylan Durham.

5 Q Right, but she also said that the car was going to
6 come around to the parking lot you were at. You were
7 wrong about that. So you didn't know that Mr. Warner was
8 in the passenger seat?

9 A No, not at that time, no.

10 Q Okay. You didn't know if anybody was in the
11 backseat, did you?

12 A No, not at that time.

13 Q Okay. What if a child had been in the passenger
14 seat?

15 MRS. CAMPBELL: Objection, Your Honor.

16 THE COURT: Objection's overruled.

17 BY MR. BAILEY:

18 Q What if a child had been in the passenger seat?

19 A I was aiming for the driver.

20 Q Okay. So -- well, if you looked at the car, the car
21 has since been shot up about 20 rounds have you looked at
22 it?

23 A No, I have not.

24 Q I can tell you they don't all go right in the driver
25 seat. What happens if there's a child in the passenger

1 seat that you cannot see?

2 A I don't know you tell me.

3 Q Okay. What if a child was in the backseat?

4 A I think that Mr. Durham made a decision that day and
5 that decision put a lot of officers lives at risk
6 including his own life and his passenger's life.

7 Q So if a child or if any innocent person got shot,
8 it's Mr. Durham's fault?

9 A I mean, ultimately we're all wearing police outfits.
10 We're all -- he knows he's wanted.

11 Q I mean, let's talk about an innocent person that was
12 shot. Quinten Warner he was shot three times. I assume
13 you know that, right?

14 A Yes.

15 Q And he was not a suspect in this case at all, was he?

16 A No.

17 Q He was not wanted by the State?

18 A (No response.)

19 Q Now, you didn't ask these questions, but earlier you
20 talked about mitigating risk those were your words
21 mitigating risk?

22 A Yes.

23 Q Do you believe that mitigating risk involves firing
24 21 shots in broad daylight in a residential area?

25 A Do I believe that's mitigating risks?

1 Q Does that sound like mitigating risks to you?

2 A If it's mitigating the risk of the officers that are
3 around a reckless person who is trying to run people over,
4 yes, I would say that's mitigating a risk.

5 Q You also described an extensive plan. Do you think
6 that shooting at least -- well, 21 once accounted for.
7 Twenty-one shots in a residential area with mothers and
8 children; is an extensive plan?

9 A I guess by what you're telling me is that I should
10 have just let him run over everybody and then let him get
11 away.

12 Q Let him get away, right. I'm not telling you
13 anything. I'm asking you was this part of your extensive
14 plan?

15 A Of course, this wasn't apart of our extensive plan.

16 Q You sat with Kiane Warner in her apartment with her
17 child earlier that day, right?

18 A Yes, sir.

19 Q Okay. So you saw her residence?

20 A Yes.

21 Q And there are women and children living in this
22 apartment area; is that right?

23 A Yes.

24 Q Okay. August 6th would you agree that's before
25 school starts?

1 A I guess, I don't know Richland County's start date
2 is.

3 Q Okay. Well, you wouldn't disagree with me if I said
4 this was before school started?

5 A If you're telling me that is a fact, then I will
6 agree with you.

7 Q And this what happened around one o'clock in the
8 afternoon on August day; is that right?

9 A Yes, I am assuming around that time, yes.

10 MR. BAILEY: Court's indulgence just for a
11 second. I like to mark this for ID purposes only Defense
12 2.

13 MRS. CAMPBELL: Your Honor, I want to see what
14 he's talking.

15 MR. BAILEY: I'm so sorry.

16 (WHEREUPON, Defendant's Exhibit No. 2 was marked
17 for identification only.)

18 BY MR. BAILEY:

19 Q I'm going to show what's marked Defense Exhibit 2
20 just for identification purposes. We're not showing this
21 to the jury, take a look at that. Does that look like a
22 car that was being driven by Mr. Durham on the day of
23 August 6th, 2014?

24 A That appears to be the car.

25 Q Okay. Does the car have two mirrors?

1 A If that's the car, yes.

2 Q Okay. Does the car appear to have bullet holes in
3 the seat of the passenger area and the passenger front
4 windshield?

5 A Yes.

6 Q Were any weapons recovered on Mr. Durham?

7 A Not that I'm aware of.

8 Q Okay. Were any weapons recovered on Quinten Warner?

9 A Not that I'm aware of.

10 Q Okay. And none were recovered in the vehicle, I
11 guess, that you were aware of either?

12 A No.

13 MR. BAILEY: Thank you. No further questions.

14 THE COURT: Any redirect?

15 MRS. CAMPBELL: Just briefly, Your Honor.

16 REDIRECT EXAMINATION

17 BY MRS. CAMPBELL:

18 Q Agent Thrower, whose actions caused anyone to fire
19 anything that day?

20 A Mr. Durham's.

21 Q And there's no dispute he backed into the tree
22 ultimately back towards you hitting the pole and snapping
23 it in half?

24 A No, ma'am.

25 Q And would he have had time to observe any small

1 children in the parking lot area that day before he was
2 backing over things?

3 A Mr. Durham, no.

4 MRS. CAMPBELL: I don't have anything further.

5 RECROSS-EXAMINATION

6 BY MR. BAILEY:

7 Q Okay. Special Agent, have you ever heard the term --
8 I'm sorry, Special Agent. When Mr. Durham's or the car
9 passed you, you did not see the driver's head; is that
10 right?

11 A It would -- it was so fast I didn't.

12 MR. BAILEY: Thank you. No further questions.

13 THE COURT: You may step down.

14 (WHEREUPON, the witness leaves the witness
15 stand.)

16 THE COURT: Call your next witness.

17 MRS. CAMPBELL: Your Honor, may we approach?

18 THE COURT: Yes.

19 (WHEREUPON, a bench conference was held in the
20 presence of the jury, but out of the hearing of the
21 jury.)

22 THE COURT: Ladies and gentlemen of the jury, if
23 you will go to the jury room please.

24 (WHEREUPON, the jury retire to the jury room.)

25 THE COURT: Okay. All right. We'll take a few

1 minutes.

2 MRS. CAMPBELL: Thank you, Your Honor.

3 (WHEREUPON, a break was taken.)

4 THE COURT: All right, ready?

5 MR. STEADMAN: Yes, Your Honor.

6 MS. PINNOCK: Yes, sir.

7 THE COURT: Bring them on.

8 (WHEREUPON, the jury came into open court.)

9 THE COURT: All right, next witness.

10 MR. STEADMAN: The State calls Jerry Hall, III.

11 THE CLERK: Do you swear or affirm that the
12 testimony that you're about to give in this case to be the
13 truth, the whole truth and nothing but the truth so help
14 you God?

15 THE WITNESS: Yes, ma'am.

16 THE CLERK: Thank you. Have a seat on the
17 witness stand please. And state your name for the record.

18 THE WITNESS: Jerry Hall, III.

19 WHEREUPON,

20 Jerry Hall, III

21 after first having been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. STEADMAN:

24 Q Mr. Hall, there was some testimony about the fugitive
25 team. I'm not going to go into too much more redundant

1 stuff, but what was your role that day in apprehending
2 Keylan Durham?

3 A I was called to assist in apprehending the defendant
4 that day. After they had made contact with some people at
5 the apartment complex, they determine that Keylan was
6 operating a certain vehicle and we decide they put a game
7 plan together and decided that we would spread out across
8 the complex and try to create a trap so to speak for him
9 to fall into.

10 Q And what apartment complex was it again?

11 A Brook Pines.

12 Q And is that apartment complex in Richland County?

13 A Yes, it is.

14 Q And if you don't mind taking a look at this, do you
15 recognize that I'm showing the witness State's 13?

16 A That's the parking lot where I was parked at and the
17 parking lot where the shooting occurred.

18 Q Does this show pretty much everything relevant of
19 that day?

20 A It shows a complete area of everything, yes.

21 MR. STEADMAN: Your Honor, at this point I move
22 to introduce State's 13 into evidence?

23 THE COURT: Any objection?

24 MS. WILLIAMS: No objection.

25 THE COURT: It's admitted.

1 (WHEREUPON, State's Exhibit No. 13 was admitted
2 into evidence.)

3 BY MR. STEADMAN:

4 Q Jerry, if you don't mind stepping down and showing
5 the jury. You don't mind show the jury where you're
6 position that day?

7 A This day I was parked right about this area right
8 here where this vehicle is parked at.

9 Q And were you backed in the space?

10 A I actually I was forward.

11 Q Were you facing this parking lot?

12 A No, I was -- my nose was forward, so I'm over here
13 and my driver's side is over here.

14 Q When you got word that Keylan had pulled into the
15 apartment complex, what did you do?

16 A I actually watched him drive in through here. Come
17 all the way around, turn in and park around where these
18 two cars would be right here. I could see him through his
19 rear view. My vehicle is tinted, so the reason why I'm
20 parked in forward is because if I'm backed in people can
21 see me because I have the yellow writing that says deputy
22 sheriff across my chest. So I parked forward so I could
23 use tip for concealment, so if somebody's looking for me
24 can't hardly see me. So I use my rear view -- actually, I
25 watch them drive in, so I can pull in using my rear view.

1 I waited one to two seconds as -- when he pulled in, I saw
2 Marcus pull up. Investigator Britt pulled here. And then
3 I jumped out and started approaching from the front of
4 what would be his vehicle where he was parked at to the
5 front of his vehicle.

6 Q Where was the girlfriend's apartment?

7 A The girlfriend's apartment is somewhere over here.

8 Q Okay. And that's where you believe he was going go
9 to go to?

10 A We believe he was going over here and was going to
11 make contact with someone over here, so we spread out just
12 to help re-enforce the idea if he went pass or if he
13 bypass it. Someone could still stay on him. We were all
14 on the same radio channel that day, so when he came in
15 there were a couple of officers up here. And they stated
16 on the radio that he had bypassed where we assumed he
17 would go. And once they said that, then that's where we
18 looked over and saw him drive in.

19 Q And once Marcus pulled in behind him, what did you
20 do?

21 A Once Marcus pulled in behind him, I saw them pull up.
22 I jumped out of my vehicle and started approaching in a
23 ready position, which is my weapon in a ready position.
24 And then as we started approaching then Marcus approached,
25 that's when the incident started.

1 Q So at that point when you're standing here, are you
2 facing the defendant?

3 A Yes, I'm facing the front of his vehicle facing him
4 and the passenger in the vehicle.

5 Q And did you get a good look and what they were doing
6 inside the car?

7 A It was difficult for me to see as I'm running up, it
8 was difficult, yeah.

9 Q And then once Keylan put the car in reverse, what did
10 you do?

11 A I saw Keylan put the car in reverse, actually
12 witnessed him -- the back of the vehicle strike officer
13 Marcus Brown to the right side -- the gun side -- actually
14 saw it pushing, so I could see his body go like that. So
15 I could see the back bumper strike him. And I remember
16 seeing the muzzle of his weapon, so I stepped off line
17 because I'm in front of the vehicle and he's -- so I'm
18 here. The car's here. Marcus is right here. I see the
19 vehicle strike him as it goes in reverse. It was loud
20 engine and strikes Marcus. I could see Marcus and the
21 muzzle of his weapon. So I step off line. So what I mean
22 by that when I step offline is somebody in cross fire. If
23 he decides to fire, I want to be standing in front of him.
24 So I step off line of his line of sight and I step over
25 here this direction here and I start hearing the shots.

1 And the vehicle's taken off really loud going through --
2 between two vehicles. So Marcus and Anne Balley's vehicle
3 is right here. Justin Britt's vehicle was right here. So
4 you had a little bit of a path, so you went through
5 without striking any of those vehicles all in reverse.
6 Somewhere in here there's a tree and he strikes it. And
7 it's almost like the vehicle climbs the tree still in
8 reverse, comes over and lands with the back end facing
9 this way. And I'm still hearing shots, I'm still hearing
10 shots. So I'm still trying to find some cover in this
11 direction and then I can see the vehicle just take off
12 like a slingshot, like very very quickly like a slingshot
13 across the parking lot; strike a light pole. The light
14 pole actually falls down on top of the vehicle and the
15 vehicle rests. I remember thinking that, you know, when
16 it hits this tree and it was like almost like a silence
17 for like a split second. I was thinking it can't go much
18 further, there's too much damage. And just the chaos and
19 the mayhem that ensued, I thought, oh, surely it was over.
20 He give up or he'll get out and run. And then like I said
21 when it landed back on it's back end like that, it just
22 shot across like a sling shot across this parking lot and
23 slams that light pole and falls down. So I approach, I'm
24 somewhere in here as all this is going on and I approach
25 with my weapon up towards my vehicle. When the light pole

1 falls on top of the car and it becomes quiet again, I see
2 Keylan, who's the driver, jump from the driver seat and
3 jumps into the backseat and lays down. I approached, I
4 believe, it was Deputy Cavanaugh of the K-9 unit we had
5 out there. I approached with him. We give commands to
6 show some hands. He either doesn't hear us or he's
7 playing possum in the backseat, so I walk around to the
8 passenger side, which is on my side now because of the
9 vehicles, the back end is here. Walk around to the
10 passenger side with my gun raised and I reach in and
11 unlock it. Deputy Cavanaugh opens the door. Keylan's in
12 the backseat. Cavanaugh pulls him out of the backseat
13 onto the ground. I see he's got some type of -- a little
14 bit of blood on his shirt. We get him on the ground
15 somewhere right around in here. He's still not talking to
16 us or anything like that. He's handcuffed. After he's
17 handcuffed, I reach down and I check a pulse on his neck.
18 and I can feel a pulse. And from there, we let him rest
19 there until the medics got there. There were some medics,
20 I believe, that responded from SLED because one of the
21 officers we were with is from SLED. So I'm only assuming
22 that he heard the radio traffic over that officer's
23 channel and so they responded to give treatment to Keylan
24 at the time. Once everyone got there, stepped off and
25 stayed in my car. We was given orders later to do certain

1 paperwork.

2 Q Thank you. You can have a seat. And do you see the
3 person here today that you pulled out of the vehicle that
4 was driving the vehicle that day?

5 A Yes, sir, he's in the courtroom.

6 Q And can you point him out and tell me what he's
7 wearing?

8 A He's wearing a purple shirt.

9 MR. STEADMAN: Thank you.

10 THE COURT: Cross-examination.

11 CROSS-EXAMINATION

12 BY MS. WILLIAMS:

13 Q Good evening.

14 A Hi, how are you?

15 Q Good.

16 A Good.

17 Q Mr. Hall, you were at Brook Pines apartments on
18 August 6th 2014?

19 A Yes, ma'am.

20 Q And you were in -- your testimony on direct was that
21 you were in the parking lot next to where the incident
22 location happened?

23 A Or directly in front, correct ---

24 Q Yes.

25 A Directly in front of him where he parked at.

1 Q So if he's coming along in here, you were in this
2 parking lot?

3 A I would say the first parking lot and he's swinging
4 the second parking lot.

5 Q Okay, great. Probably half of y'all couldn't see
6 that. So you were in this parking lot the first one that
7 you would reach after going pass building three Kiane
8 Warner's building?

9 A Yes, ma'am, the first one on the right.

10 Q And where the incident and where Mr. Durham parked
11 was this parking lot?

12 A Yeah, I would call that the second parking lot.

13 Q Okay. We'll call it the second parking lot.

14 A There's a buffer zone in between the two grass and
15 trees and things of that nature.

16 Q Okay. And you said you were facing head in on this
17 side of the parking lot?

18 A Yes.

19 Q So the rear of your vehicle was closest to the
20 incident parking lot -- second parking lot?

21 A Correct.

22 Q Okay. But you could see it in the rear view and your
23 side view mirror?

24 A I could see my rear view and then was also up and
25 over like that, the same way. I could see him pull up.

1 Q Okay. And you testified that you saw him pull in and
2 parked somewhere across the way from where your car was
3 parked?

4 A I would say directly across the way from where my car
5 was parked.

6 Q Okay. So you were parked about half way down the
7 parking lot roughly?

8 A Yeah.

9 Q Okay. So like here would be okay?

10 A Yes, ma'am.

11 Q Okay. And he was you said almost directly across
12 from you?

13 A Yes, ma'am.

14 Q Now, was there any cars parked next to it?

15 A I believe there was a car to the right and a vehicle
16 to the left. Civilian cars not police vehicles, civilian
17 cars.

18 Q Yes, sir. And there was one directly next it to on
19 the left as well?

20 A I believe so, yes, ma'am.

21 Q Okay. So like right to it or maybe one space over?

22 A Either one. I just know there's a vehicle there. I
23 don't know exactly how much.

24 Q Got you. And you saw -- that's the Kia. You saw him
25 pull in and park here head first?

1 A Yes, ma'am.

2 Q Okay. And then you saw Officer Balley's CPD vehicle?

3 A Yes, ma'am.

4 Q And it parked where?

5 A Not directly behind it, passed it, so where the
6 bumper is almost parallel with the bumper of the Kia, so
7 passed it.

8 Q So ---

9 A Would you like me to come up and draw it for you?

10 Q Yes, that would be great. Thank you.

11 A So this is the Kia. This is going to be -- they came
12 in and they pulled in passed it, so this is going to be
13 like that. I'm going to mark it P for police.

14 Q Okay. Was anyone else any other enforcement cars in
15 the space?

16 A Investigator Justin Britt. So his vehicle is going
17 to be right about here. I'm going to mark it P for
18 police.

19 Q Great. Thank you very much I appreciate that. Now,
20 you testified that you waited a couple seconds and you got
21 out of your vehicle?

22 A Yeah.

23 Q And you were in the driver seat?

24 A Yes.

25 Q And you were with reserve Deputy Jerry Hall, Jr.?

1 A Correct.

2 Q Okay. He was in the passenger side?

3 A That's correct.

4 Q And you began walking over -- walking across your
5 parking lot?

6 A Not walking I say a light jog.

7 Q Okay. A light jog and that's when you heard the car
8 start?

9 A The car was already running.

10 Q You heard it -- the engine rev?

11 A Rev, yes, ma'am.

12 Q And you saw it turn out at an angle?

13 A It's hard to say it happened so fast. You hear it
14 rev and takes off. How he made it through without hitting
15 those two cars, you know, is pretty close.

16 Q But he didn't hit either one of those cars?

17 A No, he did not.

18 Q Okay. And you stated that he had came around and
19 smacked into the tree?

20 A Yes, ma'am.

21 Q Okay. And you said it was pretty forceable?

22 A Pretty forceable and very loud.

23 Q Okay.

24 A And that was after striking Marcus and all that, yes,
25 ma'am.

1 Q Okay. And the -- in fact the car came up on -- kind
2 of off its wheels?

3 A Yeah, I would say it came up and it was on two wheels
4 and actually like on an axes and then turned and landed
5 back.

6 Q Got you. And once the car -- when did you see or
7 hear agent -- Officer Brown start begin shooting?

8 A Almost immediately.

9 Q Okay. Almost immediately after the revving of the
10 engine?

11 A Almost immediately after being struck. You have to
12 understand something it's very fast, it's very quick.

13 Q Yes.

14 A It's not like -- there's no instant replay. It's
15 not going slow. This is -- this whole situation from
16 beginning to end probably lasted less than eight seconds.

17 Q Okay. So shots were fired before it hit the tree?

18 A I can't say for sure.

19 Q That's okay. And then you said you say it kind of
20 turn and then land on its reverse -- its tires again and
21 sling shot across the parking lot?

22 A In reverse, yes, ma'am.

23 Q So it's going in reverse and did you see it hit a
24 patrol car?

25 A It's reverse the whole time.

1 Q Okay, in reverse the whole time. And it ends up
2 hitting the electrical pole over here?

3 A The light pole, yes, ma'am.

4 Q And it hit it really hard too?

5 A Yes, it did.

6 Q Broke it in half. There were more than one officer
7 that shot at the car?

8 A Right.

9 Q During that incident?

10 A Right.

11 Q Beg the Court's indulgence. And after the target
12 vehicle hit the lamp post, Mr. Durham you said that you
13 saw him move to the backseat of the car and lay down?

14 A He went from the driver's side where the steering
15 wheel is up over to the back passenger side, the right
16 side.

17 Q And lay down?

18 A Yes, ma'am.

19 Q And you were the one that helped remove him from the
20 vehicle?

21 A I unlocked the door. I believe Cavanaugh removed him
22 from the vehicle.

23 Q All right. That's when you noticed blood on him?

24 A A little bit, but I didn't know where it was coming
25 from.

1 Q Okay.

2 A I didn't know if it was glass or if it was a gunshot
3 wound.

4 Q Got you. And you also in your statement you said
5 that you noticed that after he was handcuffed on the
6 ground, he was motionless, that he wasn't really
7 responding so much so that you checked his pulse?

8 A Absolutely.

9 Q Because -- and in fact he was injured, he was shot
10 once?

11 A I didn't know it at the time.

12 Q I understand, but ultimately that was determined he
13 was injured?

14 A I'm required to give him aid no matter what.

15 Q Of course.

16 MS. WILLIAMS: Beg the Court's indulgence.

17 (WHEREUPON, a pause in the proceedings.)

18 MS. WILLIAMS: No further questions. Thank you.

19 THE COURT: Anything further?

20 MR. STEADMAN: No, Your Honor.

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

22 (WHEREUPON, the witness leaves the witness
23 stand.)

24 THE COURT: And we'll call it a day. Thank you
25 very much and we will start back at 9:30 tomorrow morning.

1 Please do not discuss the case or allow anyone to discuss
2 it with you or in your presence. Thank you.

3 (WHEREUPON, the jury excused for the day.)

4 THE COURT: Okay. All right. Anything else
5 before we check out?

6 MRS. CAMPBELL: No, sir.

7 MR. STEADMAN: No, Your Honor.

8 MS. PINNOCK: No, Your Honor.

9 THE COURT: See you in the morning.

10 MS. PINNOCK: What time.

11 THE COURT: At 9:30.

12 (WHEREUPON, the proceedings were concluded for
13 the day to be reconvened on April 13, 2016.)

14 THE COURT: Good morning. Any matters or issues
15 before we bring the jury in?

16 MRS. CAMPBELL: No, sir.

17 MR. BAILEY: Your Honor, I just wanted to double
18 check on when you like to be heard on our motion for site
19 visit, probably at the end of the State's case.

20 THE COURT: When someone establishes the
21 necessity for one in the Court's view.

22 MR. BAILEY: And you like us to attempt that
23 when?

24 THE COURT: At some point in time, but if it's
25 -- you can't establish it through saying you want one. It

1 has -- the evidence has to reveal some necessity.

2 MR. BAILEY: We can certainly wait until the end
3 of the State's case to make our case if you like to.

4 THE COURT: Okay. I assume the case is being
5 made from the -- as we're progressing through the trial as
6 to some basis for the jury --

7 MR. BAILEY: I would argue a lot has already
8 been said to show that there's confusion that can be
9 clarified by a site visit, but I'll be heard whenever you
10 want to be heard.

11 THE COURT: All right.

12 MR. BAILEY: Oh, Your Honor, and also the lineup
13 of that State's Exhibit 2, I approached Mrs. Campbell and
14 the solicitors and try to reach a compromise about there
15 being a mention of a carjacking on the man's ID and he
16 didn't testify or see anything carjacking. I've got a
17 proposal. They were not ---

18 THE COURT: And what is it?

19 MR. BAILEY: If I may approach?

20 THE COURT: I know what the form says.

21 MR. BAILEY: It says, you know, picked out the
22 guy black male who -- for the crime of carjacking. If we
23 could just get rid of the -- I like that whole line that
24 says which is the person who committed the crime of
25 carjacking, if we could just have that whole line taken

1 out it'll still say I picked out number two at this
2 residence yadda yadda showed me six pictures. And then it
3 shows the photo lineup and it limits it to what he is
4 doing which is identifying the guy that, you know, he saw
5 in the Wal-Mart and rode around with and that kind of
6 thing. I think that it is more than enough for the State
7 to do without anything improper and misleading. We
8 believe that that's misleading, Your Honor, because under
9 Rule 403 we think it's more -- it's not probative at all.
10 It's highly prejudicial because it has nothing to do ---

11 THE COURT: Well, it's clearly improper, that's
12 not an issue. It's clearly improper, it's not a question
13 of all the reasons. It's improper period, so I ask what
14 your proposal and you've gone into a long presentation.

15 MR. BAILEY: I apologize, Your Honor, sometimes
16 I get more than necessary. Thank you for stopping me. I
17 would propose that we keep, you know, everything. I
18 picked out picture number two and then we get rid of the
19 line if we could whiteout which is the person male, black
20 who committed the crime of carjacking if we get rid of
21 that. And then it would still be a complete thought
22 sentence I picked out picture number two at 330
23 Columbianna Drive, Columbia, South Carolina.

24 THE COURT: All right, says the State?

25 MRS. CAMPBELL: Your Honor, I just told him that

1 I wasn't going to do a thing without your telling me what
2 to do.

3 THE COURT: All right. It's similar to, you
4 know, trials back when you only had fingerprints or
5 they're identifying a defendant based on a jailhouse
6 photo. You can't have them there. He's referencing to
7 crimes on things of that nature, so it should be on that
8 particular one. It should be taken off. It's just a
9 simple thing, just use the same form for more than one
10 person. It's not a big deal just take out -- remove the
11 line so it's not prejudicial. It's not one way or the
12 other whether it's that proposal or just striking out
13 committed the crime of. We'll deal with that that's not a
14 problem.

15 MR. BAILEY: Thank you, sir.

16 MRS. CAMPBELL: Thank you, Your Honor.

17 THE COURT: All right. With regard to this
18 whole site visit, you know, I've done site visits on
19 cases, many of them or some of them, but jurors go and
20 they don't -- you're not going to explain anything you
21 just go through there and they just look at a parking lot
22 and whether they see bark off a tree where a car ran up
23 the tree before or whether they see this or whether they
24 see that who knows, but it's usually a waste of time
25 because its nothing revealing, you know, if you have a

1 tight space they said he tried to run them over. Now,
2 how spending two hours of taking a jury out there and
3 looking around and saying to them before you go you can't
4 talk to each other. You can't talk to anyone. No one can
5 talk to you. You just going to ride through a parking
6 lot, that's the gist of it. They're not going to be
7 getting any explanations about anything and it's just
8 typically a waste of time, but we'll ponder it all and
9 we'll see.

10 MR. BAILEY: All right. Thank you, Your Honor.

11 THE COURT: What else?

12 MR. BAILEY: Nothing from us at this time, Your
13 Honor.

14 THE COURT: All right. We ready for them to
15 come in.

16 (WHEREUPON, the jury came into open court.)

17 THE COURT: Good morning. Welcome back day
18 number three. Next witness.

19 MRS. CAMPBELL: Thank you, Your Honor. State
20 calls George Smith.

21 THE CLERK: Do you swear or affirm that the
22 testimony you're about to give in this case to be the
23 truth, the whole truth, and nothing but the truth so help
24 you God?

25 THE WITNESS: Yes, ma'am.

1 THE CLERK: Thank you. Have a seat in the
2 witness box please. And state your name for the record.

3 THE WITNESS: George Robert Smith, II.

4 WHEREUPON,

5 George Smith,

6 after first having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MRS. CAMPBELL:

9 Q Officer Smith, where you employed?

10 A City of Columbia Police Department.

11 Q And how long have you worked there, sir?

12 A Five years.

13 Q And what are your current duties at the Columbia
14 Police Department?

15 A I'm a crime scene investigator.

16 Q Can you explain to the jury as a crime scene
17 investigator typically what your role is in a case?

18 A Go to the crime scene, collect evidence, take photos
19 with our investigators, make sure we get everything we
20 need and just stuff like that and get evidence and photos.

21 Q So typically you photograph evidence?

22 A Yes, ma'am.

23 Q As well as you may collect certain items?

24 A Yes, ma'am.

25 Q I want to turn your attention to this case. Did you

1 become involved with Investigator Gilliam after he
2 obtained some search warrants to process some cars?

3 A Yes, ma'am.

4 Q And when did you become involved, sir?

5 A It was on 8-4 of 2014.

6 Q So August the 4th of 2014?

7 A Yes, ma'am.

8 Q And about what time did you actively become involved
9 in the case?

10 A At 3:02 p.m.

11 Q 3:02 p.m.?

12 A Yes, ma'am.

13 Q And you were aware of prior to doing any processing
14 on these automobiles that there had been search warrants
15 obtained to -- in order to look at them?

16 A Yes, ma'am, I saw the search warrants and read them.

17 Q And that was done by Investigator Gilliam?

18 A Yes, ma'am.

19 Q And what two cars were you asked to process that day?

20 A It was a black 2013 Chevy Camaro and a Oldsmobile, a
21 blue in color Oldsmobile.

22 Q And the black Camaro did it have a tag number on the
23 back of it?

24 A It did.

25 Q And what was its tag number?

1 A If you give me a second to look at my notes. It was
2 a Georgia tag of CBA 9141.

3 Q Okay. And the Oldsmobile did it also have a tag on
4 it?

5 A Yes, ma'am.

6 Q And what was that tag number?

7 A It was a South Carolina tag of KDX 385.

8 Q Prior to collecting any evidence, did you actually go
9 through and take some photographs of that automobile?

10 A Yes, ma'am.

11 Q And where does this take place?

12 A At Number One Justice Square headquarters in
13 Columbia.

14 Q So the cars had been towed to headquarters prior to
15 you becoming involved?

16 A Yes, ma'am.

17 Q I want to show you a number of photographs State's
18 Exhibits 14 through 38 and first ask if you recognize
19 those?

20 A Yes, ma'am, I do.

21 Q And do those fairly and accurately depict the car as
22 it appeared when you were processing it and then some of
23 the items that were ultimately taken out of it?

24 A Yes, it did.

25 MRS. CAMPBELL: Your Honor, at this time we

1 offer these into evidence.

2 MS. PINNOCK: Your Honor, we would just renew
3 our objection for numbers 30 through 37, which are
4 photographs of items that were testified to yesterday
5 pertaining to the Wal-Mart.

6 THE COURT: Can I see what she's referring to?

7 MS. PINNOCK: Thirty through 37.

8 THE COURT: Admitted over objection.

9 MRS. CAMPBELL: Thank you, Your Honor.

10 (WHEREUPON, State's Exhibits Nos. 14-38 were
11 admitted into evidence.)

12 BY MRS. CAMPBELL:

13 Q I want to talk to you briefly about certain items in
14 State's Exhibit Number 14 and 15. Whenever you process a
15 car, do you just make sure that you memorialize either the
16 tag or the vin number?

17 A Yes.

18 Q And that's what you did in this case?

19 A Yes.

20 Q And again this is the black Camaro tag and vin
21 number?

22 A Yes.

23 Q Where was the car actually located when you processed
24 it?

25 A At One Justice Square Police headquarters.

1 Q And is this a secure lock outside?

2 A Yes, it is.

3 Q Let me show you State's Exhibit Numbers 16 and 17,
4 you recognize what do those show?

5 A Shows photos of a black Camaro.

6 Q And is that how the Camaro appeared after it had been
7 towed earlier that day?

8 A Yes.

9 Q And when you're processing the cars is it usual for
10 you to go through and just take photographs of the general
11 appearance of the exterior?

12 A Yes, it is.

13 Q Now, I'm going to show you State's Exhibits 18 and 19
14 does this also show what?

15 A It shows the front and the back of the black Camaro.

16 Q You mentioned the license tag on that car. State's
17 Exhibit Number 20 does that show the tag?

18 A It does, yes.

19 Q And that's an actual Georgia tag that was on that car
20 at that time?

21 A Yes.

22 Q And finally State's Exhibit Number 21, what area of
23 the car does that show?

24 A That is the rear of the Chevy Camaro.

25 Q And that's how the damage appeared when you got it?

1 A Yes.

2 Q You also photographed the interior of the car
3 generally?

4 A Yes.

5 Q I'm going to show you State's Exhibit Number 32.
6 What area does that show of the car?

7 A That's the driver side of the inside of the
8 Chevrolet -- black Chevy Camaro.

9 Q Again, you don't know what maybe significant or not
10 you just know what's there?

11 A Right.

12 Q And then 23 and 24 show what area?

13 A Interior of the black Camaro.

14 Q And what area?

15 A That's the passenger side front seat.

16 Q Once you documented -- and these are just some of the
17 pictures you took I believe?

18 A Yes.

19 Q Do you then go through and pull out certain items?
20 Well, prior to getting to that let me go to State's
21 Exhibit 27, what area does that show?

22 A The backseat of the Camaro.

23 Q The backseat of the Camaro. And specifically what is
24 this item right here?

25 A Let me see it up close?

- 1 Q Sure.
- 2 A That's a black purse.
- 3 Q And that was located in the Camaro when it was towed?
- 4 A Yes.
- 5 Q And again this is in the backseat?
- 6 A Yes.
- 7 Q And State's Exhibit 26 shows that purse after, I
- 8 believe, you pulled it out?
- 9 A Yes.
- 10 Q Twenty-nine also shows that purse close up; is that
- 11 correct?
- 12 A That is correct.
- 13 Q And this is before you actually looked in the
- 14 interior of the purse; is that correct?
- 15 A Yes, it is.
- 16 Q State's Exhibit 28 what does that show?
- 17 A That shows a small purse with money inside of it and
- 18 a piece of paper.
- 19 Q Is that that same purse that was in the backseat that
- 20 was noted in these others?
- 21 A Yes.
- 22 Q And how much money was actually in that purse?
- 23 A I do not recall, ma'am.
- 24 Q State's Exhibit Number 25 you recognize that?
- 25 A I do.

1 Q And what is that -- where was this found?

2 A That was found inside the black Camaro in the
3 driver's I'm sorry -- the passenger front seat.

4 Q And what is this?

5 A That's a South Carolina driver's license.

6 Q And whose name is on the South Carolina driver's
7 license?

8 A Her name is Lashonda Edwards.

9 Q And that was found in the Camaro on August the 4th
10 after it had been towed?

11 A It was.

12 Q Let me show you State's Exhibits 30 and 31. What is
13 this item and where was it located?

14 A That is a D-52 camera and the box it was in that was
15 located in the trunk, I believe.

16 Q Okay. But this came out of the Camaro?

17 A Yes, ma'am, it did.

18 Q Not the Oldsmobile?

19 A Correct, right.

20 Q Let me show you State's Exhibit 32 and 33 -- show you
21 32 first. Is that the interior of the car?

22 A It is.

23 Q And what does that show?

24 A That shows a Nikon camera strap.

25 Q In State's Exhibit 33 and 34, this is after the

1 camera's been removed?

2 A That is correct.

3 Q Thirty-five and 36 were also from the interior?

4 A They were from the interior of the black Camaro.

5 Q And then 38 is a general shot of what area?

6 A Was a general shot of the trunk of the black Camaro.

7 Q And finally 37 from that box we just showed them what
8 was in that box?

9 A Lens for a Nikon camera.

10 Q Once you have taken the photographs of the car, did
11 you then go and collect certain evidence from the car?

12 A Yes.

13 Q And specifically did you collect some swabs for
14 possibly testing?

15 A I did.

16 Q What time did you actually collect those swabs?

17 A I collected a swab from a gear shift at 1526.

18 Q From the gear shift at 1526?

19 A Yes, ma'am. From the steering wheel at 1527.

20 Q Okay.

21 A And from the interior driver's front door handle at
22 1529.

23 Q Okay. When you're collecting those swabs what
24 possible -- why are you collecting them?

25 A For possible touch DNA.

1 Q For possible touch DNA?

2 A Uh-huh.

3 Q And again you don't know if there's DNA there or not?

4 A Correct, that is correct.

5 Q I'm going to show you what's been marked as State's
6 Exhibit Number 125. Do you recognize that?

7 A Yes, I do.

8 Q And is that one of the items you collected from the
9 Camaro?

10 A It is.

11 Q And then State's Exhibit Number 126 do you recognize
12 that?

13 A Yes, I do.

14 Q And were those two of the items collected from the
15 car?

16 A Yes, they were.

17 Q Additionally State's Exhibit 127?

18 A Yes, ma'am.

19 Q What item is that?

20 A That is a box with a Nikon camera.

21 MRS. CAMPBELL: Your Honor, at this time we
22 offer these three items into evidence 125, 126 and 127.

23 THE COURT: Any objection?

24 MS. PINNOCK: What's 125 and 126.

25 MRS. CAMPBELL: One is the Nikon lens and the

1 other one is the purse.

2 MS. PINNOCK: We renew our objection for 126,
3 127.

4 THE COURT: They are admitted over objection.

5 (WHEREUPON, State's Exhibits Nos. 125, 126 and
6 127 were admitted into evidence.)

7 BY MRS. CAMPBELL:

8 Q And this is the box and the actually camera itself
9 it's noted on those photographs I just showed you?

10 A That is correct.

11 Q And then 126 is the actual lens that was at the
12 scene?

13 A That is.

14 Q And finally on 125 does it also denote how much money
15 was actually in that purse?

16 A It does.

17 Q And how much was it?

18 A Seventy-seven dollars.

19 Q Did you also collect the ID belong to Lashonda
20 Edwards the driver's license?

21 A No, ma'am.

22 Q Was Investigator Gilliam there with you that day?

23 A Yes, ma'am.

24 Q And he also collected some items?

25 A He did, yes, ma'am.

1 Q Okay. Once you had photographed and processed the
2 Camaro -- and did you attempt to do any processing for
3 fingerprints or did you just choose to do DNA?

4 A Just choose to do DNA.

5 Q Okay. Did you also process the Oldsmobile and
6 photographed it?

7 A I did.

8 Q And I want to show you State's Exhibits 39 through 52
9 and first ask you to look at those and see if you
10 recognize them?

11 A Those are all what I photographed.

12 Q And these fairly and accurately depict how the
13 Oldsmobile appeared when you processed it?

14 A They do.

15 MRS. CAMPBELL: Your Honor, at this time we
16 offer these into evidence. All these pictures have been
17 provided to defense.

18 MS. PINNOCK: No objection.

19 THE COURT: They are admitted.

20 (WHEREUPON, State's Exhibits Nos. 39-52 were
21 admitted into evidence.)

22 BY MRS. CAMPBELL:

23 Q Show you State's Exhibit 39 and 40 what do those
24 show, sir?

25 A The front of the Oldsmobile.

1 Q And again this had been towed prior to you coming in
2 contact with it?

3 A That is correct.

4 Q And 41 and 42 also show?

5 A It does sign of the Oldsmobile.

6 Q Forty-three and 44?

7 A Shows the passenger rear side of the Oldsmobile and
8 the license plate.

9 Q And again you're just documenting; is that correct?

10 A That is correct.

11 Q I want to move to the interior of the front seat and
12 show you State's Exhibit 45 and 47. What area of the car
13 is this?

14 A The front seat and -- that's the whole front seat and
15 this is the passenger side front seat.

16 Q What item do you note in that?

17 A A brown in color wig.

18 Q And 46 and 48 show what, sir?

19 A They show the front seat from the passenger side and
20 the front seat in the other one.

21 Q Forty-nine and 50 skip that. How about 50 and 51?

22 A Show the rear of the Oldsmobile.

23 Q And what item is in the rear of the Oldsmobile?

24 A I have to look at it again, I'm sorry. That is a
25 camouflage hat.

1 Q And at the time did you collect that?

2 A I did not.

3 Q State's Exhibit 52 just shows what?

4 A Shows the trunk of the vehicle of the Oldsmobile.

5 Q The interior trunk?

6 A Correct.

7 Q Once you photographed the Oldsmobile, did you then
8 process it?

9 A I did.

10 Q And did you choose to do for DNA or for fingerprints?

11 A DNA.

12 Q And what areas did you process and what time?

13 A I swabbed the steering wheel at 1604, the gear shift
14 at 1605, and the interior front driver's door at 1606.

15 Q I'm going to show you State's Exhibit 58. You
16 collected a total of three swabs from both cars?

17 A That is correct.

18 Q And I show you State's 58 do you recognize that?

19 A I do.

20 Q And does that show all the items -- the swabs I'm
21 sorry that you collected from for two cars?

22 A Yes.

23 Q And when you collect a swab are they packaged
24 individually?

25 A They are.

1 MRS. CAMPBELL: Your Honor, at this time we
2 offer State's Exhibit 58 into evidence.

3 MS. PINNOCK: No objection.

4 THE COURT: Admitted.

5 (WHEREUPON, State's Exhibit No. 58 was admitted
6 into evidence.)

7 BY MRS. CAMPBELL:

8 Q And as far as any DNA testing or anything else, you
9 don't do that another person does that testing, right?

10 A That is correct.

11 Q I want to show you State's Exhibit Number 128. Do
12 you recognize that?

13 A I do.

14 Q What is that, sir?

15 A It's a brown in color wig that was in the passenger
16 seat of the Oldsmobile.

17 MRS. CAMPBELL: At this time we offer it into
18 evidence 128.

19 MS. PINNOCK: Without objection.

20 THE COURT: It's admitted.

21 (WHEREUPON, State's Exhibit No. 128 was admitted
22 into evidence.)

23 BY MRS. CAMPBELL:

24 Q And this is the actual wig that was in the front seat
25 of the Oldsmobile?

1 A Yes, ma'am.

2 Q And, sir, to be fair there were a number of other
3 items that you collected that just aren't relevant to this
4 case?

5 A That is correct.

6 Q Once you collect items such as swabs and everything
7 the wig, the evidence do you then submit it somewhere?

8 A I turn all the evidence into our evidence room.

9 Q Into the evidence room?

10 A Yes.

11 Q And when that's done, do you ensure that the evidence
12 is not tampered with or altered in any way?

13 A Yes, before I turn it in, I seal everything. I
14 initial it and date it on the date I turn it in.

15 Q And that was done in this case?

16 A It was.

17 Q And during the time that anything such as the swabs
18 were in your custody, no one bothered them or tampered
19 with them?

20 A No, they did not.

21 Q And that evidence been submitted into your evidence
22 room and secured?

23 A That is correct.

24 MRS. CAMPBELL: Thank you. I don't have
25 anything further.

1 THE COURT: By the defense.

2 MS. PINNOCK: Please the Court, Your Honor.

3 CROSS-EXAMINATION

4 BY MS. PINNOCK:

5 Q Investigator Smith or officer?

6 A MPO Smith.

7 Q You said that one of the items you have a photograph
8 of it you didn't collect the camouflage hat that day?

9 A No, ma'am.

10 Q And that was on August 4th?

11 A Yes, ma'am.

12 Q You filled out -- there was already a search warrant
13 and you were executing a search warrant. Did you fill out
14 the return that same day?

15 A The investigator's fill out their return.

16 Q Okay. But you didn't collect the camouflage hat on
17 the 4th?

18 A I did not.

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

20 (WHEREUPON, a pause in the proceedings.)

21 MS. PINNOCK: Thank you, Your Honor. I have no
22 further questions.

23 THE COURT: Anything further?

24 MRS. CAMPBELL: No, sir.

25 THE COURT: Thank you, sir.

1 (WHEREUPON, the witness leaves the witness
2 stand.)

3 THE COURT: Call your next witness.

4 MRS. CAMPBELL: That State would call
5 Investigator Moore.

6 THE CLERK: Do you swear or affirm that the
7 testimony that you're about to give in this case to be the
8 truth, the whole truth, and nothing but the truth so help
9 you God?

10 THE WITNESS: Yes, ma'am.

11 THE CLERK: Thank you. Have a seat in the
12 witness box please. And state your name for the record.

13 THE WITNESS: Investigator Valerie Moore.

14 WHEREUPON,

15 Valerie Moore,
16 after first having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MRS. CAMPBELL:

19 Q Investigator Moore, where are you employed?

20 A City of Columbia Police Department.

21 Q What do you do there?

22 A Investigator.

23 Q I want to turn your attention to this case back on
24 August the 4th of last year. Did you become involved to
25 some degree in this case during that course of that week?

1 A Yes, ma'am.

2 Q And what was your involvement -- who's the lead
3 investigator on the case?

4 A Investigator Gilliam.

5 Q And he's sitting right there?

6 A Yes.

7 Q Did you assist him though in some of this
8 investigation?

9 A Yes.

10 Q And what was your involvement, ma'am?

11 A We got with him. We normally talk about each other
12 cases and he stated that he was working on a case with
13 Mr. Keylan. And he was telling me about the military guy
14 who was involved in this case and there's some items
15 stolen from him. And I believe ---

16 Q I want to turn your attention. Did you specifically
17 come in contact with a young woman name Kiane Warner?

18 A Yes.

19 Q Okay. Can you tell the jury about your involvement
20 about where you went and how you met up with Ms. Warner?

21 A We went to Brook Pines apartments. I went with
22 Investigator Gilliam. He was -- stated that he needed to
23 go to the apartment and speak with her.

24 Q And when you got to Brook Pines apartments, did you
25 actually make contact with Ms. Warner?

1 A Yes.

2 Q And at that point based on what Investigator Gilliam
3 did, did you notice anything about Ms. Kiane Warner?

4 A I notice anything about her?

5 Q Anything she had as far as -- tell them what
6 happened?

7 A She stated that when I made contact with her, she
8 stated that she needs to get her baby's bottle out of the
9 apartment, it was in her bag. I escorted her to the
10 apartment inside. And before she get -- took bag out due
11 to -- we believe that other items were in the apartment.
12 I asked her could I look inside the bag before she take
13 the bottle out just in case there's other evidence. When
14 I looked inside the purse, there were some Euro money in
15 there. And I had knowledge of Euro being stolen from the
16 victim.

17 Q I'm going to show you State's Exhibits Numbers 6 and
18 7 and ask you if you recognize those?

19 A Yes, ma'am.

20 Q And is that the actual Euro that was in her purse
21 after she gave you permission to look in it?

22 A Yes, ma'am.

23 Q And you were aware that Euro maybe taken from the
24 victim in the carjacking?

25 A Yes.

1 Q And did you bring this to Investigator Gilliam's
2 attention?

3 A Yes, I did.

4 Q And at that point did he have someone come and
5 photograph that evidence as in these pictures?

6 A Yes.

7 Q And then it was collected?

8 A Yes, ma'am.

9 Q And is that pretty much the extent of what you did
10 with Ms. Warner that day?

11 A Yes.

12 MRS. CAMPBELL: Thank you. I don't have
13 anything further.

14 THE COURT: Cross-examination.

15 MS. WILLIAMS: No questions, Your Honor.

16 THE COURT: All right. Thank you.

17 (WHEREUPON, the witness leaves the witness
18 stand.)

19 THE COURT: Next witness.

20 MR. SHELLENBERG: The State calls Special Agent
21 Anne Balley.

22 THE CLERK: Do you swear or affirm that the
23 testimony that you're about to give in this case to be the
24 truth, the whole truth, and nothing but the truth so help
25 you God?

1 THE WITNESS: I do.

2 THE CLERK: Thank you. Have a seat in the
3 witness box please. State your name for the record.

4 THE WITNESS: Anna Balley.

5 WHEREUPON,

6 Anna Balley,
7 after first having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. STEADMAN:

10 Q Good morning, Officer Balley.

11 A Good morning.

12 Q Where are you employed?

13 A Columbia Police Department.

14 Q How long you been with the Columbia Police
15 Department?

16 A A little over three years.

17 Q Were you working with them back on August 6th 2014?

18 A Yes, I was.

19 Q And were you involved in an incident that day?

20 A Yes.

21 Q Can you describe how you became involved in that that
22 day?

23 A Currently, I work with the fugitive team for the
24 Columbia Police Department and I was at that time as well.

25 And we were ---

1 Q Let me stop you right there. As part of the fugitive
2 team what is your job?

3 A To track down and locate fugitives.

4 Q Okay, continue.

5 A The defendant we were going after him that day and we
6 were meeting up with Richland County Sheriff's Department,
7 investigators and also SLED agents that were assisting us
8 in locating him.

9 Q Where did y'all meet?

10 A Region four headquarters for Richland County.

11 Q Where did you go from there?

12 A From there, my partner and I were positioned on Broad
13 River Road at a car wash just down from Brook Pines
14 apartments.

15 Q And who is your partner?

16 A Officer Marcus Brown. We were positioned on Broad
17 River Road. The defendant was going to be coming back to
18 Brook Pines apartments. We were receiving information
19 from the owner of the car that he was in -- that he would
20 be returning to the apartment.

21 Q Did they tell you who was in the car?

22 A Yes.

23 Q And who did they say?

24 A Keylan Durham and the owner of the car's brother.

25 Q Okay.

1 MR. STEADMAN: Your Honor, may the witness step
2 down?

3 THE COURT: Yes.

4 BY MR. SHELLENBERG:

5 Q Let me show you what's been marked State's Exhibit
6 129. Do you recognize that?

7 A Yes.

8 Q And what do you recognize that as?

9 A Brook Pines apartments.

10 MS. PINNOCK: No objection, Your Honor.

11 MR. STEADMAN: Your Honor, at this time we move
12 State's 129 into evidence.

13 THE COURT: It's admitted.

14 (WHEREUPON, State's Exhibit No. 129 was admitted
15 into evidence.)

16 BY MR. SHELLENBERG:

17 Q And so once you got the information that Mr. Durham
18 was on his way back, where did you go?

19 A I was still on Broad River Road and another officer
20 that was positioned at the apartment complex called out
21 over the radio that they were returning. So I started to
22 slowly progress to the Brook Pines apartments.

23 Q And is this Broad River Road right here?

24 A Yes, this is Broad River Road. I entered probably a
25 couple hundred yards behind the vehicle. I was going down

1 Brook Pines Drive, which is the main road going through
2 the apartment complex.

3 Q And when did you actually become involved in this?

4 A When they called out over the radio that a vehicle
5 had passed, it was suppose to -- the vehicle was supposed
6 to pull into this parking lot here and they called out
7 that it passed, so I speed up. And by the time I got
8 visual on it, it was probably about to go around this curb
9 here.

10 Q It was suppose to come in here. Why was it supposed
11 to come in there?

12 A The owner of the vehicle lives in one of these
13 buildings, I don't recall which one it was, but it was in
14 that parking lot.

15 Q And then did you fall in behind the car after...

16 A Yes, I was a good ways behind the car. The car
17 pulled in here and parked correctly in a parking spot and
18 I pulled in at an angle back behind the vehicle.

19 Q And then from there what happened?

20 A At that point I parked the car. My partner, Officer
21 Brown, jumped out of the vehicle, drew his gun to engage
22 the driver of the car which was Mr. Durham. And while
23 that was going on, I put the car in park and was getting
24 out of the vehicle drawing my firearm and running to the
25 back of my car.

1 Q Okay. Who else was there do you remember?

2 A The other agents that were there?

3 Q Yes.

4 A Investigator Britt, SLED Agent Thrower there,
5 Investigator Zwolak, Investigator Hall. There were
6 several other people there.

7 Q Okay. Let's go back to when y'all got out of the
8 car. What happened after y'all got out?

9 A When I got out the car and ran to the rear of my
10 vehicle, the vehicle had already started to reverse.

11 Q And whose vehicle is that?

12 A Durham the car that he was in started to reverse at a
13 high rate of speed. It passed my car and I saw Officer
14 Brown, my partner, fumbling around with his gun which I
15 thought was extremely odd. And then once he got hold of
16 the gun, he started shooting at the car as it went back
17 and slammed into a pine tree. Shortly after that,
18 Investigator Britt he parked his car just a little ways
19 from where mine was in the same parking lot.

20 Q Closer to the entrance?

21 A A little bit closer to the entrance but pretty close
22 to where we were and then he started shooting at the car.
23 And so I'm pretty much following my partner, Officer
24 Brown, maybe five yards behind him the whole time. The
25 car hit the pine tree, went up the tree a good ways. And

1 when the tires hit the ground again, it spun back around
2 and hit a parked car and shot back across the parking lot
3 and hit a powerful light pole, I believe, that was right
4 here. So the tree was over here somewhere, hit a parked
5 car and hit a power pole and stopped.

6 Q And was it moving quickly, slowly after it came off
7 the tree?

8 A Very quickly.

9 Q Very quickly?

10 A Yes.

11 Q You can get back on the witness stand. Thank you.
12 After the defendant's car hit the light pole, what did you
13 do from there?

14 A Me and my partner, Officer Brown, and I believe Agent
15 Thrower, he was there and several other officers.
16 Basically, at that point I realized all the officers that
17 were there to assist us were merging on this vehicle. And
18 I and several other officers went to the driver's side of
19 the vehicle. At that point Durham was in the backseat on
20 the passenger side and the other occupant was in the front
21 passenger vehicle. The car doors were locked and they
22 were either unable to get out of the car or just refuse
23 to, so Officer Brown ended up smashing out the driver door
24 window. We open the door, called for him to come out and
25 he didn't, so I reached in and pulled the passenger out,

1 secured him in handcuffs. And while that was going on,
2 other officers secured Durham near the rear of the vehicle
3 and we called for EMS.

4 MR. SHELLENBERG: All right. Beg the Court's
5 indulgence.

6 (WHEREUPON, a pause in the proceedings.)

7 MR. SHELLENBERG: No further questions. Thank
8 you.

9 THE COURT: The defense.

10 CROSS-EXAMINATION

11 BY MS. PINNOCK:

12 Q Good morning.

13 A Good morning.

14 Q So you're in the car with Officer Brown?

15 A Yes, ma'am.

16 Q Okay. You're driving?

17 A Yes.

18 Q And you got the call that the car was coming in,
19 you're the first car that gets behind the target car?

20 A Correct.

21 Q And you were -- showing -- is the one you were just
22 looking at, right?

23 A Correct.

24 Q Okay. Which parking lot did you believe the car's
25 going to pull into, is it this one?

1 A Yes.

2 Q Okay. So this where Ms. Warner's apartment is in one
3 of these buildings?

4 A I believe so, yes.

5 Q And the parking lot that the target vehicle pulled
6 into is this one?

7 A I believe that's correct.

8 Q Okay. What are -- and this is just trees and grass
9 right here?

10 A Yeah.

11 Q Okay. So you followed around the corner and then
12 make the right into that parking lot?

13 A Correct.

14 Q Okay. And the car you said pulls into the parking
15 space head first, so it parks correctly?

16 A Yes.

17 Q And when you pull up you're not sitting directly
18 behind the car, you're kind of at an angle?

19 A At an angle to the driver's side of the vehicle.

20 Q Okay. So closer to the driver?

21 A Correct.

22 Q And there's a car sitting -- if I'm looking at the
23 car in the parking lot in the parking space -- there was a
24 car sitting immediately to the left of it, correct? Do
25 you remember that?

1 A Where my vehicle was?

2 Q No, ma'am. Where the target car pulled in, pulled
3 into the parking space and if I'm standing in front of the
4 car looking?

5 A At the front of ---

6 Q There's a car immediately to the left?

7 A Correct.

8 Q Okay. So there's a resident car, target car and
9 you're at an angle?

10 A Correct.

11 Q All right. And you said that Deputy Britt pulled his
12 car in, but he didn't pull up directly behind you, all the
13 way up behind you, right?

14 A Correct.

15 Q There is still a space?

16 A Yes.

17 Q And that space was large enough for the car to get
18 out of it?

19 A Correct.

20 Q All right. Now, you said that -- so you pull up and
21 Officer Brown is immediately getting out of the car?

22 A Correct.

23 Q He's jumping out, gun drawn, and you're getting out
24 of your car also?

25 A Correct.

1 Q He's coming up to the driver's side because that's
2 where the target was, that's where Keylan was driving?

3 A Yes.

4 Q You get out of the car and you make your way to the
5 back of the vehicle?

6 A Yes.

7 Q Okay. Your car was never struck?

8 A Correct.

9 Q By the time you looked up to see what was happening,
10 the car had already passed you?

11 A Yes.

12 Q And Officer Brown starts shooting?

13 A Yes.

14 Q All right. And so, I guess, you weren't directly
15 beside him, you weren't walking right beside Officer
16 Brown, but you were very close to him?

17 A I was back behind him. He was shooting towards the
18 car and I was back behind him.

19 Q And at some point both of y'all started advancing to
20 the vehicle?

21 A Correct.

22 Q As it was still traveling in reverse?

23 A Yes.

24 Q And at that point Officer Brown is shooting into the
25 windshield?

1 A Yes.

2 Q And that's the windshield on the driver's side?

3 A Yes.

4 Q Do you remember how many times the windshield was
5 shot?

6 A No.

7 Q Okay. And all of this happening very fast, right?

8 A Yes?

9 Q The car starts shooting backwards in reverse, hits
10 the tree. It hit that tree hard?

11 A Oh, yeah.

12 Q It hit it hard enough to raise its back end up?

13 A Correct.

14 Q Did you get a look at the damage?

15 A To...

16 Q To that car after it hit the tree?

17 A Yes.

18 Q It's pretty significant damage, right?

19 A Correct.

20 Q One of the wheels is almost literally completely off
21 the car?

22 A Correct.

23 Q So after it hits the tree, raises up on the tree said
24 it kind of spins, hits the ground, hits the parked car and
25 then shoots back across the parking lot in reverse?

1 A Correct.

2 Q And that's when it made it all the way back across
3 the parking lot and it hits the light pole?

4 A Correct.

5 Q You never fired your weapon?

6 A No.

7 Q Do you have any idea of how wide this parking lot is?

8 A From what side to which side?

9 Q From the parking space to parking space, how wide it
10 is?

11 A Maybe 50 or 60 yards.

12 Q Okay. And there were other vehicles parked in the
13 parking lot on this day?

14 A Correct.

15 Q And there's an apartment building -- so we're
16 standing in the middle of the parking lot. If we turn to
17 the side that the tree is on, there's a building with
18 homes in it right behind that tree?

19 A Just beyond the tree.

20 Q Okay.

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

22 (WHEREUPON, a pause in the proceedings.)

23 BY MRS. CAMPBELL:

24 Q Investigator Balley, would you disagree with me if I
25 said that the parking lot was 66 feet wide not 60 yards?

1 A From which -- you show me on the picture from which
2 side you're talking about?

3 Q The parking lot where the shooting happened, so this
4 -- so this lot?

5 A Right.

6 Q Would you agree ---

7 A I was going the other direction.

8 Q 66 feet?

9 A I would agree to that.

10 MS. PINNOCK: Thank you, Your Honor. No further
11 questions.

12 THE COURT: Redirect?

13 MR. SHELLENBERG: Nothing further, Your Honor.

14 THE COURT: You may step down.

15 (WHEREUPON, the witness leaves the witness
16 stand.)

17 MR. STEADMAN: Brian Zwolak.

18 MS. WILLIAMS: Your Honor, can we approach just
19 briefly before this witness.

20 THE COURT: All right. Ladies and gentlemen,
21 have you step to the jury room for a break, please do not
22 discuss the case.

23 (WHEREUPON, the jury retire to the jury room.)

24 THE COURT: Yes.

25 MS. WILLIAMS: Your Honor, I apologize. I was

1 really just wanting to approach to make sure that this is
2 a gang task force unit officer to make sure that that
3 wouldn't be mentioned in -- because it was agreed pretrial
4 that nothing related with gangs would be submitted. I
5 apologize about having the jury taken away. I was just
6 making sure wanting to confirm that.

7 MR. STEADMAN: Yes, Your Honor, I will instruct
8 the witness.

9 THE COURT: To what, instruct the witness about
10 what?

11 MR. STEADMAN: To mention anything about him
12 being on the gang task force at that time.

13 THE COURT: Where does he work?

14 MR. STEADMAN: He now works for the State
15 Criminal Justice Academy, but at the time he worked for
16 CPD in their gang unit and he had some familiarity with
17 Mr. Durham. I'll instruct him of that.

18 THE COURT: All right. We'll take about two
19 minutes and press on, three minutes.

20 (WHEREUPON, a break was taken.)

21 THE COURT: Bring the jury.

22 (WHEREUPON, the jury came into open court.)

23 THE COURT: You may proceed.

24 MR. STEADMAN: Brian Zwolak.

25 THE CLERK: Do you solemnly swear or affirm that

1 the testimony that you're about to give in this case to be
2 the truth, the whole truth, and nothing but the truth so
3 help you God?

4 THE WITNESS: Yes, ma'am.

5 THE CLERK: Thank you, have a seat in the
6 witness box please. And state your name for the record.

7 WHEREUPON,

8 Brian Zwolak,

9 after first having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. STEADMAN:

12 Q Mr. Zwolak, where were you employed back in August 4,
13 2014?

14 A I was an investigator with the City of Columbia
15 Police Department.

16 Q And did you have occasion to respond to Brook Pines
17 apartments on August 6th 2014 to locate a fugitive?

18 A I did.

19 Q And what was that fugitive's name?

20 A Keylan Durham.

21 Q And that day what was your responsibility for
22 locating Keylan Durham?

23 A I was with other units on the fugitive task force
24 team responding to that area to serve arrest warrants on
25 him. I was with SLED Agent Keith Thrower and responded to

1 Brook Pines and spoke with Mr. Durham's girlfriend.

2 Q And what was her name?

3 A Kiane Warner.

4 Q And after speaking with Kiane Warner were you able to
5 get information about where Keylan was going to be?

6 A Yes, we got information as well as a vehicle
7 description. He was supposedly -- he was driving a, I
8 believe, it was owned by her a black Hyundai Sonata and it
9 had a doughnut tire in the rear.

10 Q And after getting that information, did you relay
11 that to the rest of the team?

12 A Yes.

13 Q And after relaying that information what did you do?

14 A Once we relayed that information, Agent thrower and I
15 waited in the parking lot and waited for him to return
16 back to the apartment where he was suppose to return to.
17 We're in his vehicle.

18 Q I'm showing you State's 13. Do you recognize that
19 map?

20 A Yes.

21 Q And if you don't mind step down, so you can
22 illustrate where you were. Can you show the jury where
23 you were located?

24 A We were -- we went to meet her in this apartment
25 building right here. We were parked right here in front

1 of the apartment building.

2 Q And who were you with again?

3 A Agent Thrower with SLED?

4 Q Okay. And at some point did Keylan Durham come into
5 the apartment complex?

6 A Since, we had units around the area, we were aware
7 that he was about to pull into the apartment complex.
8 When we saw that vehicle matching the description followed
9 by other vehicles, police vehicles, with us actually
10 traveling up Brook Pines Drive, it was pretty obvious that
11 he seen -- realize that it was law enforcement, so he
12 bypass this parking lot where we were waiting.

13 Q How was that obvious that he knew y'all were law
14 enforcement?

15 A His rate of speed.

16 Q Okay. And you said he drove past the apartment
17 complex. Where did he go?

18 A He drove up Brook Pines Drive and entered -- once he
19 left here, we could not see, but since he went we both
20 exit the vehicle and ran in the direction that he was
21 heading. Once we got on the other side of this building,
22 you see that he had drove into this parking lot here in
23 that area.

24 Q Did you see him pull into a parking space?

25 A When I got on the other side, I could see where he

1 was reversing from. It was in this area on this side of
2 the parking lot.

3 Q So at that point what happened next?

4 A Well, we were running through -- I ran up this way
5 over towards this area of the parking lot. Agent Thrower
6 ran a little bit further up into the parking lot. At that
7 point the first thing I saw I heard shots being fired and
8 saw the vehicle moving at a high rate of speed in reverse
9 hitting a tree where officers were and then continuing
10 reverse towards Agent Thrower and the vehicle came to a
11 rest here.

12 Q And where were you standing at that point?

13 A Pretty much right where the vehicle came to rest and
14 hit a pole.

15 Q And did that pole fall over?

16 A It did.

17 Q And were you near the pole or where were you at in
18 that?

19 A Yeah, the pole is right at my feet when I moved
20 jumped to the side and it landed at my feet across this
21 area right here.

22 Q And was the car disabled at that point?

23 A Yes.

24 Q And after that what happened?

25 A When the vehicle was going directly towards Agent

1 Thrower and he engaged it and it kind of veered towards me
2 it hit that pole. As it was going towards there, I
3 observed Mr. Durham, who I known previously, going from
4 the driver seat and kind of lunging into the back of the
5 passenger seat in the vehicle.

6 Q And were you the one who pulled Mr. Durham out?

7 A I assisted in pulling Mr. Durham out.

8 Q And once you pulled him out what happened?

9 A He was handcuffed and immediately called for EMS.

10 Q And at some point was he transported to the hospital?

11 A Yes, he was transported to the hospital.

12 Q Thank you. You may take a seat. And did you fire
13 your weapon that day?

14 A I did not.

15 Q And do you see Keylan Durham the one driving that car
16 that day in the courtroom today?

17 A I do, he's over there.

18 Q Can you please tell me what he's wearing?

19 A The gentleman in the blue shirt, with a dark blue
20 tie.

21 MR. STEADMAN: No further questions.

22 THE COURT: From the defense.

23 CROSS-EXAMINATION

24 BY MS. WILLIAMS:

25 Q Good morning.

1 A Hi, how are you?

2 Q So August 6th, 2014, you were with Keith Thrower,
3 SLED Agent Keith Thrower?

4 A That's correct.

5 Q At Brook Pines apartment?

6 A That's correct.

7 Q And after speaking with Ms. Warner you were waiting
8 in the parking lot?

9 A Yes, in his vehicle.

10 Q In the passenger seat?

11 A I was, yes.

12 Q Actually going to have you step down and walk through
13 that with me. And you stated that you were in this
14 parking lot?

15 A Correct.

16 Q Okay. About where in the parking lot were you?

17 A That general area.

18 Q Okay. And you stated you saw the car driving past?

19 A Drive past correct.

20 Q Okay. And you also heard radio saying that it was
21 driving past?

22 A Yeah, due to the specific description she gave, we
23 could tell that that was the vehicle.

24 Q Okay. Did you also hear on the radio saying that he
25 was turning into another parking lot?

1 A When he drove past, we got out and ran. I don't
2 remember any specific.

3 Q Do you remember the route that you took to run over?

4 A It's hard to tell. There breezeways in the
5 apartments, I ran through one of the breezeways and kind
6 of cut across up into here.

7 Q Okay. And on this area is kind of a grassy area with

8 ---

9 A Yes.

10 Q When -- so where was the vehicle when you made it to
11 the breezeway?

12 A In this parking lot.

13 Q Okay.

14 A Since, they were already driving by the time we drove
15 pass and got out of the vehicle and ran over there,
16 started in that parking lot.

17 Q Okay. So the car is already moving out of the
18 parking spot where it was?

19 A Correct.

20 Q Okay. When you saw ---

21 A I saw the vehicle hit the tree.

22 Q Okay. So when you were right -- like right here
23 first view, that's where you could first see it?

24 A Yeah, went up a little bit further than that because
25 there's trees and everything else threw here.

1 Q Okay, got you. So that was kind of your first view
2 of the vehicle?

3 A Yes, ma'am.

4 Q In this parking lot?

5 A Yes, ma'am.

6 Q And you stated that the car had already moved out of
7 the parking spot when you first viewed it?

8 A Right.

9 Q And you saw it hit the tree?

10 A Uh-huh.

11 Q Okay. When did you first hear shots fired?

12 A Before that.

13 Q Okay. So before it hit the tree is when you heard
14 shots fired?

15 A Yes.

16 Q Did you hear shots fired before you saw the vehicle?

17 A When I started running, you could hear -- I was in
18 that area. It wasn't that -- I just couldn't see
19 specifically what was going on due to distance as far to
20 where it was, but, yes, when I came in here and saw the
21 parking lot, I started to hear the shots. I didn't
22 actually see specific things until it hit the tree.

23 Q And actually -- it's a little longer here, but I
24 think there's a tree right about there; is that right?

25 A Yeah.

1 Q Okay. And so you saw it hit the tree and then
2 reverse?

3 A It was in reverse. It bounce back into the parking
4 lot.

5 Q Heading this direction?

6 A Towards this way.

7 Q Okay. And you guys were -- you and Agent Thrower
8 were running through here?

9 A We actually had kind of separated. He took a little
10 bit different path up into the parking lot.

11 Q Okay. So he went up this way?

12 A Yeah.

13 Q And you went this way?

14 A Correct.

15 Q Okay. And when the car was coming back, it was where
16 you two entered the parking lot?

17 A Where he had entered. It was going towards him and
18 kind of turned in my direction.

19 Q Okay. And did you see it clip a parked car?

20 A Yeah, I saw it hit the tree. You could tell it was
21 -- there was a lot going on, that car was moving.

22 Q And it was going pretty quick?

23 A Yeah.

24 Q And then it ended up slamming into electrical right
25 there?

1 A Yeah.

2 Q Really hard too?

3 A Yeah.

4 Q And from then you saw him jump into the backseat?

5 A Yeah, it was kind of at the same time as it was
6 hitting, he was jumping.

7 Q Okay. So it was kind of happening at the same time?

8 A Yeah, I was right over there.

9 Q Okay. All right. Thank you. You can sit down. You
10 had stated that you did not fire your weapon?

11 A I did not.

12 MS. WILLIAMS: Beg the Court's indulgence.

13 (WHEREUPON, a pause in the proceedings.)

14 MS. WILLIAMS: No further questions. Thank you.

15 THE COURT: Any redirect?

16 MR. STEADMAN: No, Your Honor.

17 THE COURT: Thank you, sir. You may step down.

18 Next witness.

19 (WHEREUPON, the witness leaves the witness
20 stand.)

21 MR. STEADMAN: Jennifer Murphy with the Georgia
22 Bureau of Investigations.

23 THE CLERK: Do you swear or affirm that the
24 testimony that you're about to give in this case to be the
25 truth, the whole truth, and nothing but the truth so help

1 you God?

2 THE WITNESS: I do.

3 THE CLERK: Have a seat in the witness box
4 please. State your name for the record.

5 THE WITNESS: Jennifer Murphy J-E-N-N-I-F-E-R
6 M-U-R-P-H-Y.

7 WHEREUPON,

8 Jennifer Murphy,

9 after first having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. STEADMAN:

12 Q Ms. Murphy, where are you employed?

13 A The Georgia Bureau of Investigations state crime lab.

14 Q And where is that located?

15 A It's in Atlanta, Georgia, but it's a Decater address.

16 Q And is that a statewide law enforcement agency?

17 A It is. It's a state crime lab for the State of
18 Georgia.

19 Q And what do you do for that state crime lab?

20 A I'm the technical leader of the firearms section.

21 Q And what do you do as technical leader of the
22 firearms section?

23 A In addition to working firearms related cases, I'm
24 also in charge of the training program as well as
25 proficiency testing and our analytical manuals.

1 Q And what kind of training and background do you have
2 in firearms examination?

3 A I have a bachelor's of science in forensic chemistry
4 from Buffalo State College in New York. I underwent a 24
5 month in-house training program at the GBI, it focus on
6 bullet and cartridge case comparison, weapon function,
7 muzzle to target distance determinations, serial number
8 restorations and determining weapon types.

9 Q And is your lab ASCLAD certified?

10 A Yes, they are.

11 Q What is that?

12 A It is an accreditation that we hold that basically
13 indicates that we follow a set of policies and procedures
14 that are set forth by the accrediting body.

15 Q And what other accreditations do you and your lab
16 half?

17 A I believe that our biology section is QAS, but I'm
18 not sure what those accreditations standards are.

19 Q And have you testified in court before on firearms
20 examination?

21 A I have testified in the Superior Courts of Georgia 89
22 times.

23 Q How many times?

24 A Eighty-nine.

25 MR. STEADMAN: Your Honor, at this point we

1 offer Jennifer Murphy as an expert in the field of
2 firearms identification and examination.

3 MS. PINNOCK: No objection, Your Honor.

4 THE COURT: She is so qualified. Ladies and
5 gentlemen, experts can offer opinions where lay witnesses
6 cannot.

7 BY MR. STEADMAN:

8 Q Ms. Murphy, how did you get involved in this case?

9 A There were two firearms requests. I was the
10 microscopic verifier verify for the second request. The
11 manager of the firearms section is also currently on
12 maternity leave, so I am acting in her stead.

13 Q And were you the one who did the examination of the
14 firearms in this case?

15 A No.

16 Q But you are familiar with this examiner and his work?

17 A Yes, I am.

18 Q And what items were -- what did you know about the
19 case and what kind of information are you given when your
20 labs starts an examination process?

21 A When evidence is submitted to us, the submitting
22 agency will fill out a submission form with pertinent
23 information including the agency case number as well as
24 any individuals related to the case. They will time stamp
25 that and place it along with the sealed evidence into a

1 lock box in our evidence receiving section. Once they do
2 that, they can't reopen the box. Someone from within our
3 section or within evidence receiving will remove that
4 evidence. They will enter into our laboratory information
5 management system or lens, which assigns each case it's
6 own unique GBI case number. And then each piece of
7 evidence will be bar coded and given its own item number,
8 which allows us to track it throughout the system.

9 Q And if I get you to briefly describe how you match
10 weapons to shell casings, how you match weapons to
11 projectiles, what are the procedures required for that?

12 A So when evidence is submitted to us for firearms
13 analysis, we will open up the evidence and we will look
14 at any class characteristics present in the evidence. So
15 for example a class characteristic would be the caliber,
16 the number of lands and groves on the bullet. And the
17 lands and groves on the bullet would be the -- raises and
18 recesses that the barrel in parts on the bullet. It would
19 be the shape of the firing can on a cartridge case, that
20 sort of thing. So we would look at the class
21 characteristics that were present and separate the
22 evidence in that manner. After that, once we -- if we
23 have firearms, we would test fire the firearms to generate
24 known samples. We would then compare the known samples
25 using a comparison microscope, which is two microscopes

1 connected with an optical bridge so it allows us to view
2 two specimens at the same time under the same lighting
3 conditions. We look for the individual characteristics
4 that that specific firearm leaves on the cartridge cases
5 or bullets and then we would compare our known samples to
6 the evidence submitted.

7 Q And what items was your lab submitted in this case?

8 A We were submitted numerous cartridge cases, bullets
9 and three firearms.

10 Q And can you -- if you don't mind briefly, can you go
11 over the list of which items you were given in this case?

12 A May I review my report or the report?

13 Q Yes. You give me your item number and then what item
14 number is given to that?

15 A So for our item one, it is one .9 millimeter
16 cartridge case. It was item number five as it pertains to
17 Lexington County Sheriff's Office.

18 Q And what else?

19 A Item number two is a .9 millimeter cartridge case and
20 it was item number six. Our item number three is a .40
21 caliber cartridge case, which is item number eight. Our
22 item number four is .40 caliber cartridge case, which is
23 item number nine. Item number five is another .40
24 cartridge case, which is item number ten. Item number six
25 is a .40 cartridge case which corresponds to item number

1 11. Item number seven is a .9 millimeter cartridge case,
2 which corresponds to item number one. Item number eight
3 is another .9 cartridge case that corresponds to item
4 number two. Item number nine is another .9 cartridge case
5 that corresponds to item number three. Item ten is an
6 addition .9 millimeter cartridge case that corresponds to
7 respond item number four. Item 11 is .9 millimeter
8 cartridge case that corresponds to item number seven.
9 Item number 12 is a .40 caliber cartridge case which
10 corresponds to item number 12. Item number 13 is another
11 40 caliber cartridge case which corresponds item number
12 13. Item number 14 is a .40 caliber cartridge case which
13 corresponds to item number 15. And from here on out,
14 items 16 through 20 case number corresponds to the
15 Lexington item number. So item 15 is a .9 millimeter
16 cartridge case. Item 16 is a .9 millimeter cartridge case
17 as well as 17, 18, 19 and 20, which are all .9 millimeter
18 cartridge cases.

19 Q And did you also receive actual firearms in this
20 case?

21 A We did. We received three firearms. We received a
22 Glock .40 pistol serial number RCO345SD as well as a
23 second Glock .40 pistol serial number HBB898 and an FN .9
24 millimeter pistol.

25 Q And once you have those shell casings and you had

1 those weapons, what did you do in this case to reach your
2 conclusions or your lab conclusions?

3 A The three firearms would have been test fired three
4 times each. The cartridge cases from each firearm would
5 have been compared to one another. Then the known samples
6 would have been compared to the evidence.

7 Q And were you able to determine which firearms fired
8 these shell casings?

9 A So item 43 which is the Glock pistol RCO345SD was
10 responsible -- was identified as having fired the
11 cartridge cases items 12 and 14.

12 Q What about with respect to the firearm item number
13 44?

14 A Item 44 which is Glock pistol HBB898 was responsible
15 for firing cartridge cases items three, four, six I'm
16 sorry -- three, four, five, six and 13.

17 Q And what about the pistol labeled item number 45?

18 A Item number 45 is the .9 millimeter pistol serial
19 number GKU0020019 and the cartridge cases items one, two,
20 seven, eight, nine, ten, 11, 15, 16, 17, 18, 19, 20 and 23
21 were fired in that firearm.

22 Q And what other conclusions was your lab able to reach
23 with respect to these firearms and the projectiles?

24 A There were -- each firearm was function tested to
25 determine that it was functioning as designed for each

1 firearm. I'm item 43 had a double action trigger pull of
2 approximately five and half pounds. Item number 44 had a
3 double action trigger pull of approximately four and a
4 quarter pounds. And item number 45 had a double action
5 trigger pull of approximately six and a quarter pounds.

6 Q And what about projectiles in this case? Did you
7 receive projectiles?

8 A We did.

9 Q And tell me which projectiles, what were your
10 conclusions with respect to projectiles?

11 A So there were multiple projectiles submitted. Of the
12 projectiles submitted, bullets item GBI items 22, 29, 30,
13 31, 34, and 38 were identified as being fired from the
14 firearm which item 45 on this report and item 45 was the
15 .9 millimeter pistol.

16 Q Okay. And what about items 24, 25, 26, 39?

17 A Items 24, 25, 26 and 39 could not be identified or
18 eliminated as been from the firearm item 45 due to damage
19 and lack of sufficient individual characteristics.

20 Q And what does that mean?

21 A It means that those projectiles were damaged, which
22 damage to the projectile is going to inhibit our ability
23 to examine the evidence and potentially destroy or remove
24 any of the individual characteristics that we're looking
25 at.

1 Q So would that prevent you from matching it back to
2 the firearm?

3 A Yes, it would.

4 Q And what other conclusions were you able to reach
5 with respect to the projectiles and the firearms in this
6 case?

7 A The bullets items 24, 25, 26 and 39 we are able to
8 determine that they were not fired from the firearms items
9 43 or 44. And they were also not fired from the same
10 firearm as the bullet fragments and bullets items 21, 32,
11 33, 35A, 40 and 41.

12 Q And how were you able to exclude those items from
13 those firearms?

14 A The bullets items are a different caliber. So their
15 the items 24, 25, 26 and 39 are .9 and the other are 40's.

16 Q Is that the extent of the conclusions that you
17 reached in this case?

18 A There were several fragments that were also
19 unsuitable.

20 Q And what does the fragments being unsuitable mean?

21 A It means that there was no comparative value on those
22 pieces of evidence that we could use to determine if they
23 had been fired from a specific firearm.

24 MR. STEADMAN: Thank you. No further questions.

25 MS. PINNOCK: Very briefly, Your Honor.

CROSS-EXAMINATION

BY MS. PINNOCK:

Q So the .9 millimeter rounds that you recovered you examine, there were 14 of those?

A The cartridge cases?

Q Yes, ma'am.

A Yes, I believe so. Yes, there were a total of 14 .9 millimeter cartridge cases.

Q The cases that you associated with item 44 there was five shot from that weapon?

A Yes.

Q And item 43 which is the other .40 caliber Glock there was two casings associated with that weapon?

A Yes.

Q So 21 total shell casings were sent to you from Lexington County?

A Yes.

MS. PINNOCK: Beg the Court's indulgence.

(WHEREUPON, a pause in the proceedings.)

MS. PINNOCK: Thank you, Your Honor. I have no further questions.

REDIRECT EXAMINATION

BY MR. STEADMAN:

Q And what kind of firearms did you receive in this case?

1 A Both of the .40 caliber cartridge firearms were Glock
2 and the .9 millimeter was an FN.

3 Q And how does those weapons expel a projectile or how
4 do those expel a shell casing rather?

5 A So they are semiautomatic firearms which means that
6 the action of the slid is what causes the cartridge to be
7 extracted or ejected from the firearm. Typically, they
8 are ejected to the rear of the shooter providing that it's
9 held in the proper shooting position perpendicular to the
10 ground.

11 MR. STEADMAN: No further question.

12 THE COURT: Anything further?

13 MS. PINNOCK: No, Your Honor.

14 THE COURT: Thank you.

15 (WHEREUPON, the witness leaves the witness
16 stand.)

17 THE COURT: Call your next witness.

18 MRS. CAMPBELL: Thank you, Your Honor. The
19 State calls Warren Cavanaugh.

20 THE CLERK: Do you swear or affirm that the
21 testimony that you're about to give in this case to be the
22 truth, the whole truth, and nothing but the truth so help
23 you God?

24 THE WITNESS: I do.

25 THE CLERK: Thank you. Have a seat in the

1 witness stand. State your name for the record.

2 THE WITNESS: Warren Cavanaugh.

3 COURT REPORTER: Spell your last name?

4 THE WITNESS: C-A-V as in Victor A-N-A-G-H.

5 WHEREUPON,

6 Warren Cavanaugh,

7 after first having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MRS. CAMPBELL:

10 Q Where are you employed?

11 A Richland County Sheriff's Department.

12 Q And what do you do there?

13 A Currently corporal over the K-9 unit.

14 Q And as corporal over the K-9 unit what will your
15 duties include?

16 A Well, I directly supervise when we're full a total of
17 14 K-9 handlers as well as conduct the same road duties as
18 they do, which include anything from community demos all
19 the way to track and apprehension.

20 Q And you mention that there are -- when you're full 14
21 actual K-9's that actually work with y'all?

22 A That's correct.

23 Q And what's the purpose of having a K-9 involved in
24 law enforcement?

25 A Multifaceted honestly. Like I stated, community

1 events which are very important to us. We do
2 demonstrations at churches schools, neighborhood meetings,
3 et cetera. We also -- our K-9's are capable of tracking
4 human odor, which allows us to locate lost children also
5 the elderly maybe off of medication et cetra that have
6 wondered off. And then our dogs are also trained to
7 criminally apprehend meaning stopping a fleeing suspect to
8 prevent that suspect from committing another crime of
9 actually or hurting somebody else within the confines of
10 our county there.

11 Q And your dogs have special training in order to do
12 this?

13 A Every week, yes.

14 Q And typically if a suspect -- how does your dog work
15 if they're trying to apprehend someone or find someone?

16 A Well, like I stated, they're able to track human odor
17 and that is what they follow. Once they locate the
18 individual depending on the individuals, I guess, state at
19 the time if it's a child, if it's an elderly, obviously
20 there's no apprehension at the end. However, if it is a
21 severe crime, a crime that we feel like this person may be
22 a danger to the public stopping that fleeing suspect from
23 hurting somebody else is the top of the priority. With
24 that being said, the dogs are on command able to
25 criminally apprehend and they do this through a bite and

1 pull process. We tell the dogs to make the apprehension.
2 They do it and then once mechanical restraints handcuffs,
3 leg shackles whatever it maybe are put on and the dog is
4 removed.

5 Q And they are able to apprehend suspects, I guess, by
6 again tracking the smell?

7 A Absolutely, yes, ma'am.

8 Q I want to turn your attention back to August the 6th
9 of 2014, were you part of the unit that was trying to
10 apprehend a person name Keylan Durham?

11 A Yes, ma'am, at the time, I was actually on the
12 fugitive task force as an investigator still working a
13 police K-9 as well.

14 Q And that day where did y'all initial meet up do you
15 remember?

16 A I believe it was our region four headquarters, if I'm
17 not mistaken over off of Beaty Road, which is off of Broad
18 River Road in Richland County.

19 Q And that's right near the St. Andrews exit, I
20 believe?

21 A Yes, it's St. Andrews and 26 area.

22 Q And were there multiple people involved from multiple
23 agencies that day?

24 A Yes, ma'am.

25 Q Is that unusual?

1 A No, ma'am, not at all.

2 Q And in this case did y'all have a plan to try to
3 apprehend Mr. Durham?

4 A Yes, ma'am, we did.

5 Q And what was that plan generally?

6 A We had gotten information on a location that he was
7 headed to, what he was driving at the time and we, I
8 guess, for a lack of a better term had areas staked out
9 and we were awaiting his arrival.

10 Q Did you have a dog actually assign to you?

11 A That's correct.

12 Q Did you have your dog that day?

13 A Yes, ma'am.

14 Q Which dog did you have?

15 A His name is K-9 Chico.

16 Q Chico?

17 A Uh-huh.

18 Q And he was with you that day in case he was needed?

19 A Yes, specifically for the fleeing portion at this
20 time.

21 Q Okay. Once y'all got the information about the
22 defendant and where he maybe headed and what he was
23 driving, what did y'all do?

24 A We set up within the apartment complex that we had
25 gotten information that he was headed to. Specifically,

1 myself was positioned at the front of the apartment
2 complex watching the only entrance and exit to that
3 apartment complex.

4 Q And that apartment complex is which apartment
5 complex?

6 A Brook Pines over off of Broad River Road.

7 Q And that's on Broad River Road?

8 A Yes, ma'am.

9 Q And there's one entrance, I believe, into it from
10 Broad River; is that correct?

11 A That is correct.

12 Q Tell the jury what happened after you'd set up right
13 there at the entrance?

14 A The rest of the team that was made up of multiple
15 jurisdictions set up within the apartment complex. I was
16 upfront awaiting the arrival. And once the individual
17 pulled in, I was able to identify based off of pictures
18 that we had within our packet. The description that we
19 were given not only of him, but also the vehicle that he
20 was going to be driving. And once it entered, then I
21 radioed to the rest of the investigators that were within
22 the complex that he had made entry into the complex and
23 was on his way in.

24 Q Were there other officers including Agent Thrower and
25 other officers that were set up near the apartment where

1 he was suppose to be going?

2 A That is correct, yes.

3 Q But is that in fact where he went?

4 A No, no.

5 Q After you radioed out that he was coming in the
6 apartment complex down that one entrance, tell the jury
7 what you did and what happened?

8 A Well, I laid back a little bit, so I didn't spook
9 him, had I come out right behind him, even though I was in
10 an unmarked vehicle at the time, it's still police
11 looking. So I laid back a little bit let me get around
12 the corner before I came out, came out behind him and let
13 him know he was headed on down that way. And he actually
14 passed up where we thought he was going to be going and
15 which was on the left-hand side of that long road and
16 actually pass it up and then turned into another set of
17 apartment buildings that parking lot assign to that which
18 is on the right-hand side of the road.

19 Q What did you observe next?

20 A When I got there, I could see that the vehicle had
21 been parked and that I could see that there were
22 investigators attempting to get out with the vehicle.
23 Again, I had my police K-9 with me, so I actually stopped
24 short specifically for the purpose if this individual
25 fled. Because of where the investigators were positioned

1 behind the car which was kind of to my right, I stopped
2 short towards the front of the car obvious reasons if he
3 fled he wouldn't have fled into the arms of the officers.
4 He would have attempted to flee away from the officers
5 which would have given me a clear line of site not only
6 for myself but for the K-9 as well.

7 Q And when you stopped short, did you actually get your
8 K-9 out of the car?

9 A Yeah, our K-9 vehicles even the one that I was in is
10 equipped with a kennel and that kennel has a sliding door
11 which will allow the dog to come through into the front
12 seat. I had brought him through into the front seat and
13 was headed outside the driver side door, just to be ready
14 and that's when everything went crazy at that point.

15 Q And tell jury what you saw?

16 A Originally, the car revved very high in reverse. I
17 saw it strike one of the investigators in an attempt to
18 get away and then at the time I heard gunshots, couldn't
19 tell where they were coming from at the time. So I'm not
20 going to send my dog on a suicide mission. If there's a
21 gun fight, the dog was going back in the car. So I
22 actually put him back into the car, made sure he got in
23 there, shut the door. And by the time I came back around
24 to the front side of my car, the vehicle that we were
25 watching had -- was going backwards and turning striking

1 one of the officers. Then it hit a -- I think, it was
2 either a tree or a pole, actually went up the pole this
3 way, came back down, still revved as high as the car would
4 go, but hit another parked car, almost hit two more
5 deputies and at that time was straight in line to hit me.
6 That was about the point that I was able to see where the
7 shots were coming from. And I could tell they were coming
8 from the officers, that it was also the time that I was
9 about to draw my own weapon and step offline because that
10 vehicle was coming right at me as well. If it wasn't for
11 a light pole that the car made contact with and, I guess,
12 later finding out it actually broke the car axle off the
13 car, that was the only thing that stopped it from hitting
14 me, my vehicle, my K-9 et cetra.

15 Q I'm going to show you a photograph State's Exhibit
16 Number 85. Does that show the general area of the parking
17 lot we're talking about?

18 A Yes, ma'am.

19 Q And where was your car parked with your dog when you
20 are talking about?

21 A If you could see ---

22 Q Does this fairly and accurately depict other than
23 there are additional cars that weren't there at the time?

24 A Right, oh, yeah, absolutely.

25 MRS. CAMPBELL: Okay. Your Honor, at this time

1 we offer State's Exhibit 85.

2 MR. BAILEY: Without objection.

3 THE COURT: Admitted.

4 MRS. CAMPBELL: Thank you.

5 (WHEREUPON, State's Exhibit No. 85 was admitted
6 into evidence.)

7 BY MRS. CAMPBELL:

8 Q I'm sorry I stopped you.

9 A That's okay. If you could actually see ---

10 Q You want to step down?

11 A If you don't mind, probably be easier it's kind of
12 small.

13 Q Can you actually see the vehicle after it came to a
14 stop the suspect's vehicle?

15 A Absolutely.

16 Q And where is that?

17 A That's right here.

18 Q That's right here?

19 A Yes, ma'am.

20 Q And that's where it came to stop that day after
21 hitting the second pole?

22 A Correct.

23 Q Where was your car that day -- is it in this picture?

24 A No.

25 Q Why not?

1 A Well, it was moved. I'm not sure why, I guess, for
2 the safety other EMS and fire to get in there. But if you
3 can actually see the ambulance lights there and this bunch
4 of police officers standing here and you can see the
5 caution tape, across that caution tape actually went
6 across the front of my truck. So where they are standing
7 up against this curb is where I was actually parked. From
8 here, this way speaking to the -- this is where the entire
9 incident took place is right here.

10 Q And your car would have been parked right here?

11 A That's correct.

12 Q And then the first tree or pole it struck would have
13 been on which side of this pole?

14 A It was actually on the back side of this parking lot
15 here.

16 Q So it's not shown. It's going to be over on this
17 side?

18 A Right.

19 Q Okay. Once the vehicle was actually stopped by the
20 light pole, what did you do?

21 A Well, as it was coming backwards, the driver who was
22 our suspect that day, I actually saw him get into the back
23 seat of the vehicle just before it struck that light pole.
24 So I knew he was in the back and I immediately -- once it
25 came to rest, went to the back passenger door, open the

1 door and secured the individual that was back there.

2 Q And was that individual actually Keylan Durham who
3 y'all looking for?

4 A Yes, ma'am.

5 Q Was there also a person in the passenger seat?

6 A That is correct, yes, ma'am.

7 Q And were you aware whether or not both of them had
8 been hit?

9 A Yes, ma'am, I was.

10 Q Were any steps taken as far as any kind of medical
11 treatment for them?

12 A If I'm not mistaken prior to the ambulance getting
13 there, there was a field medic, I believe, with one of the
14 other agencies that showed up very quickly that was taking
15 care of both of the individuals just prior to the
16 ambulance getting there.

17 Q And then they were both transported to the hospital?

18 A That's correct.

19 Q And you mentioned that you saw officers that either
20 got hit or were in the way?

21 A Yes, ma'am.

22 Q And who were those officers do you remember?

23 A I do. One was Investigator Marcus Brown. The other
24 was Investigator Justin Britt and the other one was Agent
25 Keith Thrower.

1 Q And who was the one that you actually saw get hit by
2 the car?

3 A That was Marcus Brown.

4 Q And the person that you pulled out of the backseat,
5 the driver, do you see him here in the courtroom?

6 A I believe that's him there.

7 Q Can you just describe what he's wearing, where he's
8 sitting?

9 A Blue shirt, with the blue tie on.

10 Q Sitting in between ---

11 A Sitting in between, yes, ma'am, and on this table
12 here.

13 Q Does he have a jacket on or not or just a shirt?

14 A Just a shirt.

15 MRS. CAMPBELL: Thank you.

16 THE COURT: Yes, sir.

17 MR. BAILEY: Please the Court. Thank you, Your
18 Honor.

19 CROSS-EXAMINATION

20 BY MR. BAILEY:

21 Q Officer Cavanagh, how are you doing today?

22 A I'm hanging, sir.

23 Q Is it good just to say officer?

24 A Warren is fine.

25 Q I might not go that informal, but I certainly

1 appreciate it. I want to bring your attention to State's
2 Exhibit 85 just real quick. When you entered the scene or
3 when you were coming into your vehicle after -- I'm sorry.
4 You remember when we talked about you were out at the
5 entrance?

6 A Correct still in my vehicle.

7 Q Right. And you drove your vehicle, I guess, toward
8 this scene; is that right?

9 A Right.

10 Q Okay. About where did you stop your vehicle?

11 A Right where these individuals are standing here,
12 actually right at that curb.

13 Q Okay. And so all the activity happens in here?

14 A That's correct. I mean, no further obviously than
15 where the car stopped, but in this general area, yes sir.

16 Q So he started kind of further down?

17 A Well, he started in the parking places over here
18 because he actually made it to a parking place.

19 Q So he parked kind of regular?

20 A Yes.

21 Q Okay. So he came back this way in reverse?

22 A Right.

23 Q And then he hit a tree somewhere?

24 A Well, he struck the officer first, that officer was
25 actually in between his vehicle and the patrol car. My

1 eyes are not that great. The patrol car that he actually
2 got out of the passenger seat kind of hitting him and
3 pinning him in between before going in between that patrol
4 car and another police car and all of that was was before
5 actually striking the pole.

6 Q So that stuff happened over here?

7 A It happened right in here.

8 Q So inside the parking lot?

9 A Absolutely.

10 Q And you parked your vehicle about over here?

11 A Right here up against this curb.

12 Q Right here up against this curb and I'll just point
13 this out. You park right there up against that curb?

14 A Correct.

15 Q So nowhere in front of the tape, right?

16 A The tape actually went across the grill of my truck,
17 that was the line.

18 Q So were you coming from -- not pictured here were you
19 coming from like this direction?

20 A The road comes in again we're speaking into the road
21 comes in. The ambulance that you see right there is
22 facing forward, that is where the road comes from.

23 Q Okay, great that's perfect. Now, you gave a
24 statement to Detective Dike's from Lexington Sheriff's
25 Department; is that right?

1 A Yes, sir.

2 Q Right after this happened?

3 A Yes, sir.

4 Q Now, when you first started, when you first saw
5 Keylan's vehicle, were you still driving in your car?

6 A No, I was parked.

7 Q You were parked?

8 A Parked right at the entrance.

9 Q Okay. Well, your statement says -- I mean, would you
10 disagree with me if I told you your statement says as I
11 approached the 138 building in my vehicle -- as I
12 approached the 138 building in my vehicle, I saw the
13 suspect's vehicle at a high rate of speed in reverse?

14 A The 138, if I am not mistaken, is that parking lot
15 area where everything took place. So as I'm pulling up to
16 that curb where I showed you I was parked, that's when the
17 vehicle was coming out of that parking place in reverse.

18 Q Okay. Would you agree with me when you say as I
19 approached in my vehicle it sounds like you're moving or
20 you're driving while you're witnessing this?

21 A As I was parking, it was happening.

22 Q So the vehicle may have been moving, you were parking
23 the vehicle as you're watching this incident begin?

24 A Yeah, it was beginning as I'm parking.

25 Q That makes sense. And you saw the vehicle from your

1 vehicle?

2 A Uh-huh.

3 Q You saw Keylan's vehicle from your vehicle?

4 A Absolutely.

5 Q And it was moving at a high rate of speed; is that
6 right?

7 A Once it got going, you got it.

8 Q Okay. And it was in reverse, right?

9 A The vehicle, I mean, it was moving backward I can
10 tell you that.

11 Q That fits my definition in reverse, that's fine. It
12 was moving backward. And this all happened pretty fast?

13 A Very fast.

14 Q Okay. Very fast. So you start observing from your
15 car, which is still moving or parking?

16 A I was parking. If you say moving, I was inching
17 before putting it in park. I was not driving.

18 Q Okay. So you were -- you saw the action from your
19 car which was inching?

20 A Okay. As the car started to move in reverse out of
21 that parking place, I was parking. I immediately got out
22 of my car.

23 Q That's fine.

24 A Okay, I just want to make sure we're clear.

25 Q No, that's very clear. And then you stopped your

1 car, right? You stopped it to get out?

2 A Yeah.

3 Q So you stopped your car.

4 A Okay.

5 Q You got out of the car and then you got your dog out?

6 A The dog came out with me not then, it was together.

7 Again, I have a gate and as I'm coming out, he came out
8 with me.

9 Q Okay. Chico?

10 A That's correct.

11 Q So how do you let him out? You walk me through how
12 you let the dog out?

13 A Comes out my door.

14 Q Okay, that's what I'm asking.

15 A I mean, the kennel gate the front door is in between
16 the passenger seat and my seat. As I was approaching, I
17 open the door coming down, he pokes his head out. I grab
18 him by the collar, hook his leash up and as soon as I open
19 my door, he comes with me.

20 Q Okay. So you move the gate down?

21 A Side ways.

22 Q Side ways. You move the gate sideways and you grab
23 his collar and then you hook the leash to him.

24 A Uh-huh.

25 Q And then you take him out of the ---

1 A That was happening as I was driving down.

2 Q Okay.

3 A He's hooked up and ready to go. As soon as I put it
4 in park and my door opens, he comes with me.

5 Q Okay. So you got your dog. You got his gear on.
6 And you're taking him out of the automobile, out of your
7 car. And I believe you testified earlier that you heard
8 shots?

9 A Correct.

10 Q You saw obviously -- you've established you seen the
11 car moving backwards because that started when you were
12 sort of pulling into the -- at the scene?

13 A Correct.

14 Q So you and Chico were outside of the car and you hear
15 shots?

16 A Uh-huh.

17 Q And then you decide to put Chico back in the car?

18 A Absolutely.

19 Q Okay. So he doesn't get shot?

20 A Correct. I've had that happen once already.

21 Q Chico ---

22 A No, Fargo my last dog he was killed.

23 Q I'm sorry to hear that. Do they wear -- a lot of
24 them wear bullet proof vests?

25 A We do have bullet proof vests, that's correct.

1 Q Was Chico wearing one?

2 A He was.

3 Q That's good, he was wearing one that day. So you put
4 Chico back in the vehicle, so that he doesn't get shot?

5 A That's correct.

6 Q Okay. And this is all while this vehicle ---
7 Mr. Durham's vehicle is traveling in reverse at a high
8 rate of speed; is that right?

9 A I would consider it within that small confine of an
10 area, yes. I mean, it's not an 100 mile an hour highway
11 chase, very small area. It was extremely fast for that
12 area there.

13 Q So you managed to arrive at the scene in a car that
14 was moving, witness all this, take care of your dog, take
15 him out, think about it, put him back for Chico's safety.
16 And then you saw all this happen. You saw the whole
17 thing?

18 A Yep.

19 Q In this very very small of amount time?

20 A Absolutely.

21 Q Okay. And you did not fire your weapon; is that
22 right?

23 A That's correct.

24 MR. BAILEY: Court's indulgence just for a
25 second.

1 (WHEREUPON, a pause in the proceedings.)

2 BY MR. BAILEY:

3 Q Just one more thing, Mr. Cavanaugh. So earlier when
4 Mrs. Campbell was questioning you, you talked about when
5 the vehicle hit the light post, right?

6 A Well, it hit two different post which one are we
7 talking about?

8 Q I'm talking about the last light post where the
9 vehicle ---

10 A Right in front of my truck.

11 Q Okay. So earlier when Mrs. Campbell was asking you
12 questions, you said that the vehicle was coming right for
13 you and that it almost hit you and then hit the light
14 post?

15 A I said had it not hit the light post, it would have
16 hit me.

17 Q Okay.

18 A The light post is what stopped it and, I guess, we
19 later found out that it broke the axle and changed the
20 trajectory of the car is what it did. I'm glad it was
21 there.

22 Q Okay. Now, you didn't say in your statement that you
23 gave to Detective Dike?

24 A What is it that I didn't say?

25 Q Okay. You didn't say that the vehicle almost hit you

1 and that were not for a light post the vehicle would have
2 hit you?

3 A Okay.

4 Q You said ---

5 A Is it possible I can see my statement?

6 Q Absolutely. Absolutely. Would it help your memory
7 if you looked at your statement?

8 A Of course, I just want to make sure that you're
9 telling what my statement is I don't have any way to...

10 Q No, no, Mr. Cavanaugh, I have to say that as a lawyer
11 in the court. I have to go through procedures before you
12 look at it. It's not that I'm trying to hide it from you.
13 Will it help your memory?

14 A Sure, I love to look at it.

15 Q Before you answer any questions, just take a look at
16 it just to review it.

17 A Okay.

18 Q You need to look at it again just let me know.

19 A No, that's fine.

20 Q Okay. So here you don't mention anything about this
21 vehicle almost hitting you or being in your path, do you?

22 A Well, it didn't almost hit me had not been for that
23 light pole it would have. So it didn't almost hit me,
24 that's a true statement.

25 Q Well, that seems really important. You're telling

1 the jury this thing had it not been for the light post, it
2 would have hit absolutely, it's true statement?

3 A That is true, yeah.

4 Q But yet minutes after this happened, you did not say
5 this to Lexington County when they investigated?

6 A What it says is that 30 to 40 feet directly in front
7 of my vehicle it hit a pole stopping the car.

8 Q I got you. Well, 30 and 40 feet that's kind of a --
9 that's 30 or 40 feet, right?

10 A You know how fast 30 and 40 feet get closed with the
11 speed of a car, that's the blink of an eye.

12 Q Right. Well, it seems to have made an impression on
13 you and it seem to have made such an impression on you at
14 the time of this statement, but you didn't say anything at
15 the moment when it mattered, did you?

16 A Well, I can tell you that I would assume that 30 to
17 40 feet with a vehicle moving at high speed in front of my
18 vehicle. And if it wasn't for the light pole stopping it,
19 it would be inferred, that it would have hit me or my car.

20 Q Right. And you think that's important to say today
21 but not to an officer who's doing an investigation?

22 A Well, the only reason I'm saying it today is because
23 you're asking me about the question. What I said was is
24 what I stated in my statement at the time and even now, I
25 would assume that a normal person would infer that 30 to

1 40 feet just out in front of my vehicle, a vehicle
2 traveling at me and a pole stopping it in front of my
3 vehicle stopped it from hitting my vehicle also stopped

4 ---

5 Q So it wasn't important for you to say this to the
6 investigator at the time?

7 A No, it's extremely important.

8 MR. BAILEY: No further questions.

9 THE WITNESS: Thank you, sir.

10 THE COURT: Were you finished responding?

11 THE WITNESS: I'm fine. Yes, sir. Thank you,
12 Judge.

13 THE COURT: Any redirect?

14 MRS. CAMPBELL: Just briefly.

15 REDIRECT EXAMINATION

16 BY MRS. CAMPBELL:

17 Q In your statement, you actually said that it's
18 traveling at a high rate speed approximately 30 to 40 feet
19 before striking my vehicle?

20 A Yes, ma'am.

21 MRS. CAMPBELL: Thank you. I don't have nothing
22 further.

23 THE COURT: Anything further?

24 RECROSS-EXAMINATION

25 BY MR. BAILEY:

1 Q So it's the vehicle now. It's not you?

2 A I was standing beside my car. It would have been
3 both. I mean, that's where my truck is.

4 MR. BAILEY: No further questions.

5 THE COURT: All right. Thank you, sir.

6 THE WITNESS: Thank you, Judge.

7 (WHEREUPON, the witness leaves the witness
8 stand.)

9 THE COURT: Next witness.

10 MR. STEADMAN: Justin Britt.

11 THE COURT: Let's stand for a moment or two
12 everybody.

13 (WHEREUPON, a pause in the proceedings.)

14 THE CLERK: Do you swear or affirm that the
15 testimony that you're about to give in this case to be the
16 truth, the whole truth, and nothing but the truth so help
17 you God?

18 THE WITNESS: Yes, ma'am.

19 THE CLERK: Thank you. And have a seat in the
20 witness box please. And state your name for the record.

21 THE WITNESS: My name is Justin Britt.

22 WHEREUPON,

23 Justin Britt,

24 after first having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. STEADMAN:

2 Q Is it Investigator Britt?

3 A Corporal.

4 Q Where you employed?

5 A Richland County Sheriff's Department.

6 Q And what do you do for the Richland County Sheriff's
7 Department?

8 A I'm on a fugitive task force.

9 Q And what's your job on the fugitive task force?

10 A We track down and apprehend violent fugitives.

11 Q How long you been doing that?

12 A Six, seven years.

13 Q And how long you been with Richland County?

14 A I been nine years and I did one year at SLED on their
15 fugitive task force.

16 Q And were you working the fugitive task force back on
17 August 6th 2014?

18 A I was.

19 Q And how did you become involved in this case?

20 A We were assisting the City of Columbia and trying to
21 apprehend Mr. Durham.

22 Q And just tell me generally what your role was that
23 day in apprehending Mr. Durham?

24 A I was more in a support role as far as interviewing
25 people. I mean, we all have to have a place. And so I

1 was in the -- after Agent Thrower and, I believe, Officer
2 Zwolak had talked to the girlfriend and relayed the
3 information back to us. We had set up in the parking lot
4 and I would set up on the backside of the building that he
5 was suppose to be coming in.

6 Q And so you said you were set up on the backside and
7 then when did you observe him come in?

8 A Well, I heard first -- well, first I heard
9 Investigator Cavanaugh come over the radio and identify
10 the vehicle and identify the driver and he said that's him
11 he's coming in. Where I was sitting at, I couldn't see
12 them coming in, but where I was -- because of the
13 building, the way the building was positioned, I couldn't
14 see them coming. And so when they came down the road
15 towards where I was sitting at -- is there anyway I can
16 show?

17 Q Yeah. If you don't mind stepping down here looking
18 at 129. Let's take a look at State's 13 where were you
19 position initially?

20 A Okay. I was in this parking lot right here. So the
21 building that they were talking about was up here, so I
22 was sitting right here.

23 Q I believe what's been testified is this the
24 girlfriend's apartment this the parking lot it happened
25 in?

1 A Well, do you have ---

2 Q A larger view?

3 A Yeah, there you go.

4 Q You recognize that?

5 A There you go. All right. So where they come in
6 where we come into Brook Pines, this is the girlfriend's
7 apartment up here, okay. Where they come in, I'm sitting
8 in this parking lot, okay. So when they come in, they're
9 coming down this road, I can't see what's coming, so I
10 just hear them coming. So I see the suspect vehicle
11 moving pretty good. I mean, he was moving pretty good,
12 right behind him was Officer Balley and Officer Brown,
13 they were behind me. So before I just pulled out, I knew
14 that we had other officers up top. I didn't want to pull
15 out and, you know, us having an accident in the process.
16 So I gave just a second and then I pulled out and got
17 behind them. And then that's when I came down and they
18 pulled into that parking lot, but I was just a distance
19 behind them.

20 Q Behind Officer Brown?

21 A Yes.

22 Q And what vehicle were you traveling in?

23 A I was in a Dodge Charger.

24 Q And is that a parked vehicle?

25 A It is not.

1 Q And what kind of tactical gear were you wearing?

2 A I had a black vest with deputy sheriff on the front
3 of it and the back of it.

4 Q And if you don't mind, I'm going to get you to step
5 down again. And now we've zeroed in on State's Exhibit
6 13. Now, show me where -- what happens next?

7 A All right. So as they're coming in the parking lot,
8 I'm a distance behind them. Like I said, I'm not right up
9 on their bumper. So when they come in the parking, I'm
10 trying to get there. Because like I said, the suspect
11 vehicle was moving pretty good. I don't want to down play
12 that. I mean, he was going good. And they got behind him
13 and I saw Officer Brown getting out of the car right as I
14 was putting the Charger into drive. So as I hop out of
15 the car to come up and backup Officer Brown because he was
16 coming from the driver's side, I was going to approach the
17 passenger side of the vehicle. As soon as I'm getting out
18 of the car, I hear the car revving up and I see Officer
19 Brown, you know, moving up against the car. And I see the
20 car hitting him. As it's coming out at the same time, I'm
21 like I'm thinking my car's back behind me. It's coming
22 toward me at that point and so I ran back to the car
23 because I wanted to get to the car to brace for what
24 was -- for what might be coming because it was kind of a
25 narrow area where he was coming through. He could have --

1 I was between him and my car at that point, so I wanted to
2 get back to the security of my car at that point because
3 he was moving and that's when I heard the shots being
4 fired, that all happened at the same time.

5 Q Stand right there.

6 A Okay.

7 Q Showing you what's 61 and 60 State's exhibit, you
8 recognize those?

9 A Yes.

10 Q And is that a fair depiction of what it look like
11 that day?

12 A It is.

13 MR. STEADMAN: Your Honor, at this point the
14 State would introduce 61 and 60 into evidence.

15 MS. WILLIAMS: No objection.

16 THE COURT: They're admitted.

17 (WHEREUPON, State's Exhibits Nos. 60 and 61 were
18 admitted into evidence.)

19 BY MR. STEADMAN:

20 Q Show me first on State's 61 what are we seeing in
21 this picture?

22 A Well, that's my car and this is going to be Officer
23 Brown and Officer Balley's car.

24 Q All right. And what about this picture, what do we
25 see here?

1 A This is where his vehicle was parked at in here.

2 Q In this area right here in the middle?

3 A Yes.

4 Q All right. And what cars do we see here?

5 A I see a -- I guess, that's a Grand Marquis or a Crown
6 Vic. There's Officer Brown's car right here and that's me
7 right here.

8 Q And who's vehicle is that right there on -- right
9 here?

10 A This one right here?

11 Q Yes. Is that just the neighbor's car?

12 A Yeah, I'm not familiar with whose car that is.

13 Q All right. And now based on this picture can you go
14 back just a little bit and tell me where he was standing
15 and where you were standing when the car started revving
16 its engine?

17 A Okay. I was getting out of my car coming around here
18 like this to come to the passenger side. Officer Brown
19 coming right here where the -- where he was parked at, so
20 he was coming up to the driver's side. So when the car
21 took off out of that hole to an angle that way and that's
22 when Officer Brown got caught up and that's when I started
23 hearing the shots being fired. And then I got out of the
24 way because it was coming and he was moving.

25 Q And was it moving directly back toward your

1 direction?

2 A Yes.

3 Q And what did you do at that point after you got out
4 of the way?

5 A I went back to the threshold of my car because I
6 actually jumped into the car because -- I don't know where
7 that car's going, you know, that's just what I wanted to
8 get behind the car. I didn't want to get hit, I was
9 trying to get out of the way. So as soon as I realize, he
10 passed me, passed my car, the front of my car, I got back
11 out of the car and that's when it hit the tree.

12 Q And now going based off this picture, this is State's
13 61. After you got in the threshold of your car, describe
14 what happened next on this picture?

15 A So all this is happening, you know, kind of
16 simultaneous when I'm telling you this, but when he went
17 by here, he went past the front of my car. By that time,
18 the whole car had passed me and I had gotten out of the
19 way. I was at my car, they had passed me and I heard the
20 shots. That car was like a -- it was like a dart. And it
21 slams into that tree right there. I mean, it hits it hard
22 and backs up the tree like that. So at that point because
23 of the angle Officer Brown's taking to the car, I'm taking
24 an angle towards the car. Because the car is here,
25 Officer Brown is coming to the front and I was coming to

1 the side so not to be, you know, pointing anything at him.
2 We were kind of both going toward's the car at the same
3 angle, but as I'm moving to the car, the wheels are still
4 spinning. It was just -- I mean, you can hear the motor
5 and it just kind of slids down, bounces off the tree. And
6 it was like one of those little toy cars and as soon as
7 those tires hits the ground, it came right at me. I mean,
8 it was from the angle I was at, it came right at me. And
9 so -- keep going?

10 Q Keep going. Yes, keep going.

11 A And the time it comes towards me, the only thing I
12 can do -- I like to think I keep myself in pretty good
13 shape, but the only thing I could do was to turn like
14 that. And when I turn like that, I shot him twice.

15 Q And so you were jumping out of the way and also
16 pulling your weapon and firing at the same time?

17 A Yeah, I mean, I knew what I was doing, make no
18 mistake about that. There was nowhere for me to go. As
19 fast as that car came off that tree, there was nowhere for
20 me to go.

21 Q I'm going to get you to look again at 13. Now, when
22 you fired shots from your weapon, the car's coming
23 directly at you. What happens next?

24 A Well, as the car's coming past me and I fire into the
25 doors of the driver towards the end of the car and when it

1 did that, I stopped firing because one I could see -- I
2 saw the car that stood out to me the most was Cavanaugh
3 car, it was silver. I saw that and I'm like I'm not going
4 to keep going and it was just a couple seconds after that
5 right into the -- scrape the car right into a pole and
6 broke the pole in half. And when the car hit the pole, I
7 saw people -- by this point, people are like coming out.
8 And so by this point, I got my weapon in a silver position
9 and I'm kind of looking at all the people who are coming
10 out. I don't know whose coming towards us. I don't know
11 any of that, so I start looking towards and my attention
12 focuses on all the people around.

13 Q Okay. You can have a seat. And after it hit the
14 pole, it broke in to half. What did you do next?

15 A Like I said, at that point my focus was more on --
16 because we had people that were converging on the car.
17 And, you know, we had several officers who were talking to
18 each other communicating cross fire, cross fire. So there
19 was no reason for me to keep a weapon and everybody was
20 coming to a car and I really wanted to focus on the people,
21 who were out there because there was people hollering and
22 it was wild.

23 Q And were you able to get a good look at the driver
24 that day and identify him as Keylan Durham?

25 A Yes, I saw the driver.

1 Q And do you see that person today in the courtroom?

2 A Yes, I do.

3 Q You pick him out and tell me what he's wearing?

4 A He's got a blue shirt on with a dark blue tie.

5 Q And at some point you met with investigators and did
6 you turn over your service weapon?

7 A I did.

8 Q Who was that to?

9 A I turned it over to our people and they...

10 Q Okay. And why did you fire your weapon that day?

11 A Because I thought -- I was genuinely in fear for my
12 life and I was in fear for everybody who was in that area.
13 It was a scary little moment there.

14 MR. STEADMAN: No further questions.

15 THE COURT: Cross-examination.

16 MS. WILLIAMS: May it please the Court.

17 CROSS-EXAMINATION

18 BY MS. WILLIAMS:

19 Q Good morning.

20 A How are you?

21 Q Investigator or corporal?

22 A Corporal.

23 Q Corporal Britt, you were out at Brook Pines on
24 August 6th 2014?

25 A Yes, ma'am.

1 Q Okay. And you had stated that you were up closer to
2 the entrance at the beginning waiting for Keylan Durham's
3 car to arrive?

4 A No, ma'am. I was in between the entrance and where
5 the incident took place, so I was not close to the front.
6 I was on the backside of the building in which we thought
7 he was going to pull up to. So we sat up on the building
8 with the thought that he made, pull into that building and
9 take off running.

10 Q Okay. I'm going to have you step down if you don't
11 mind.

12 A Sure. That's not going to show it that picture.

13 Q Okay. So we see now if ---

14 A This is where the incident took place, okay. Right
15 here.

16 Q Right here?

17 A Yes, that's what you got zoomed in on here.

18 Q And so her building was right here. This is building
19 three and this is where it happens?

20 A My assumption at the time is that the building is up
21 here, okay. I'm here. All right. So I may have been in
22 front of the building and not in the back of the building.
23 So I'm right here.

24 Q All right. I was just trying to make it clear for
25 myself.

1 A But I'm not in the front of the complex. I'm on one
2 side of the building that she's in, if it goes from one
3 way or the other.

4 Q Got you, okay. So just so they can all see it. You
5 were in this parking lot?

6 A I'm in this parking lot right here.

7 Q Okay, right. And he was driving when he came in
8 along this road?

9 A Yes.

10 Q Okay. And you saw him pass by?

11 A I saw him pass by at a fairly decent rate of speed.

12 Q All right, that you saw him pass by?

13 A Yes.

14 Q Okay. And then you followed out behind CPD Officer
15 Balley?

16 A That's correct.

17 Q Okay. But you gave little bit of a wait?

18 A Because I knew there was other people up here, so I'm
19 not just going to pull out blindly into the road and get
20 T-bone and we wreck ourselves in the process. I gave it a
21 second.

22 Q All right. And so when you were pulling in here, was
23 the car already parked? Can I switch to the specific one?

24 A Yes, you can.

25 Q All right. So he was -- they pulled in here?

1 A That's right.

2 Q Okay. So first the Sonata with Mr. Durham in it?

3 A That's right.

4 Q And then Officer Balley and Officer Brown came right
5 after him?

6 A That's right.

7 Q Okay. And they were -- and they parked kind of at an
8 angle behind the vehicle?

9 A Well, when you say that -- their car's parked
10 straight here and they were right here. So they were not
11 blocking it in, but they were behind it.

12 Q Okay. And then you parked a little bit away but
13 nearby?

14 A I mean, a little bit away, but close enough to where
15 I could have gotten to the passenger car had it not been
16 shoved in reverse and slammed in drive.

17 Q Okay. So the car was actually parked right here next
18 to this car?

19 A That's right.

20 Q Okay. And so you were right here like you said?

21 A I was right here coming up to the car.

22 Q Okay. And Officer Brown got out of this door, the
23 passenger ---

24 A That's right.

25 Q --- and was heading towards the driver?

1 A That's right.

2 Q When the car started revving backing up?

3 A Uh-huh.

4 Q And it had to go at a turn to get between the cars.

5 A Yeah, it did. Obviously, I don't know what he did
6 with the steering wheel, but, I mean, he came out of that
7 spot and I saw Officer Brown pinned up against that car.

8 Q Okay.. Because it happen really fast?

9 A It happened fast, but I still know what I saw. He
10 got pinned right there.

11 Q Okay. Like on his passenger door?

12 A That car pinned him up against that black car. I
13 mean, he got hit by that car.

14 Q Yeah, okay. And it came back and it hit this tree
15 right here?

16 A Yes, you can see the mark on the tree where it is
17 pretty decent ways up the tree.

18 Q To the point that it lifted up those rear wheels and
19 was kind of there and you said it was continuously
20 revving?

21 A Yes, the wheels never stopped turning.

22 Q And then because of that it kind of slid off and took
23 out part of the gold car?

24 A I mean, I don't know physics, I can't explain to you,
25 but I can tell you that that car hit that tree and stood

1 there for a very short amount of time. Those wheels never
2 stopped turning and I know he came to me like a rocket.

3 Q Okay. So like a slingshot sort of?

4 A Yes.

5 Q Okay. And that's the gold car there that it kind of
6 clips?

7 A Yes.

8 Q Okay. And then it ended up hitting that light pole?

9 A Yes.

10 Q Okay, great. You can have a seat. Thank you.

11 Investigator Britt, you stated that you turned in your
12 weapon afterwards in the chain of custody?

13 A Uh-huh.

14 Q And Lexington County was brought in to do an
15 investigation as well?

16 A That's right.

17 Q And you submitted a statement to them?

18 A Yes.

19 Q And that statement you gave maybe the week later
20 something along those lines?

21 A A couple days.

22 Q August 13th something like that?

23 A Yeah.

24 Q Okay. So you had time to make sure that everything
25 was accurate in there?

1 A Right.

2 Q And that everything was exactly as you remembered it
3 happening?

4 A That's right.

5 Q When it was fresh in your mind?

6 A Uh-huh.

7 Q Okay. Would you -- and earlier you testified that
8 you had gotten out of your vehicle and you were actually
9 in front of your vehicle to help him on the passenger side
10 of the vehicle?

11 A Yeah. Yeah, I'm getting out of my car headed towards
12 the front of my car.

13 Q Now, in your statement, would you agree with me that
14 you stated that you actually stayed in the threshold with
15 your gun in ready and support?

16 A No, I wouldn't have stayed in the threshold of my
17 car. And if that's in the statement, I mean, I don't know
18 what to say, but that's not what happened.

19 Q Okay. So the statement that you testified that you
20 wanted to be accurate?

21 A That's right.

22 Q Okay. That you wanted to have everything clearly so
23 that they be able to do their investigations properly?

24 A Right..

25 Q But that if your statement says that you remained in

1 the threshold of your car, it did not go in front of it,
2 that's not correct?

3 A Well, I can tell you that when I got out of the car,
4 so again like I said there's a vehicle that is out of
5 control coming out of a parking space, how it's worded in
6 the statement, I can tell you that I went back to the
7 threshold of my car because I was going to brace for the
8 hit, that was just what I did. So I did go back to the
9 threshold of my car. I was in the threshold of my car.
10 As that car passed me, I was in the threshold of my car.
11 I didn't walk back to the car.

12 Q I wouldn't imagine you would.

13 MS. WILLIAMS: Beg the Court's indulgence.

14 (WHEREUPON, a pause in the proceedings.)

15 BY MS. WILLIAMS:

16 Q Corporal Britt, I may approach?

17 A Sure.

18 Q Can you tell me what this is?

19 A That's a statement.

20 Q Okay. It's your statement that you gave?

21 A Uh-huh.

22 Q Is this your signature on the back?

23 A It is.

24 Q And it's stated that it was a sworn statement

25 August 13th of 2014?

1 A Yeah.

2 Q Okay. I'm going to direct your attention to the
3 second page and the first sentence of the second page
4 where you state as I pull up to where the suspect vehicle
5 had initially stopped, I exit my vehicle without my blue
6 lights activated and stood in the threshold of my
7 vehicle's door wearing my black Richland County Sheriff's
8 Department issued tactical vest with gold insignia deputy
9 sheriff, that's in your statement?

10 A Uh-huh.

11 Q Okay. So you turned this over to the investigation
12 as your statement, correct?

13 A Yes.

14 Q Okay. And were you aware that a Lexington County
15 investigator followed up to try to schedule a second
16 interview with you?

17 A I did not.

18 Q Okay. So you weren't aware that your supervisors
19 said that you would not be speaking to them?

20 A Well, I know that our department, I know Richland
21 County Sheriff's Department does its own investigations in
22 officer involved shootings.

23 Q Certainly. But that they didn't want you speaking to
24 Lexington County for theirs?

25 A For whatever reason, I guess not. I mean, I don't

1 know.

2 MS. WILLIAMS: Thank you. No further questions.

3 THE COURT: Redirect?

4 MR. STEADMAN: No, Your Honor.

5 THE COURT: All right. Thank you, sir.

6 (WHEREUPON, the witness leaves the witness
7 stand.)

8 THE COURT: Call your next witness.

9 MRS. CAMPBELL: The State would call Shelby
10 Derrick.

11 THE CLERK: Do you swear to tell the truth, the
12 whole truth, and nothing but the truth so help you God?

13 THE WITNESS: I do.

14 THE CLERK: Please be seat in the witness box.

15 WHEREUPON,

16 Shelby Derrick,

17 after first having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MRS. CAMPBELL:

20 Q And where you employed?

21 A I'm currently employed at Lexington County Sheriff
22 Department as a crime scene investigator.

23 Q As a crime scene investigator?

24 A Yes, ma'am.

25 Q And how long you been in law enforcement?

1 A I was hired on with the department in 2006 became
2 crime scene investigator in 2008.

3 Q And as a crime scene investigator can you tell the
4 jury what your duties include?

5 A Yes, ma'am, well I have general law enforcement
6 duties, but as a crime scene investigator when a crime
7 happens or if they need us to respond to process a scene
8 of a crime, they call us out and we respond. That entails
9 photographing, collecting evidence, diagramming,
10 processing evidence as far as latent fingerprints,
11 collecting DNA and collecting it, storage it, packaging it
12 and turn it in.

13 Q And I want to turn your attention back to August
14 the 6th of 2014. Did you get called out on a case that
15 actually happened in Richland County?

16 A Yes, ma'am, I did.

17 Q And what kind of case was that?

18 A We were called -- I'm not sure who actually made the
19 call, but I was notified by Sergeant William Efford (sic)
20 that, I believe, it was SLED that was requesting us to
21 come out. That there had been an officer involved
22 shooting that involved three agencies, so they wanted
23 outside agency to come in.

24 Q Okay. And at that point did you actually respond to
25 a scene in Richland County?

1 A Yes, ma'am.

2 Q Where did you go?

3 A I believe it was 146 Brook Pines. I think that was
4 the actual address, but it was in the parking lot of Brook
5 Pines apartment complex on Broad River Road.

6 Q And when you got there, did you also have some other
7 crime scene people with you?

8 A I did. Investigator Keith Sprinkle and CSI -- Crime
9 Scene Investigator Mike Phipps was also with me.

10 Q Once you got to the scene, did any of you collect any
11 of the weapons that had been involve?

12 A Yes, ma'am, there three individuals that were
13 involved in the shooting. Law enforcement side were
14 taken, I believe, over to SLED and they were waiting
15 there. So they were removed from the scene awaiting at
16 SLED. Mike Phipps, Crime Scene Investigator Mike Phipps,
17 responded over there, took photographs of the weapons and
18 collected the weapons while I stayed on scene.

19 Q When you got to the scene, it didn't secure in any
20 way prior to you getting there?

21 A Yes, ma'am, they had roped off the whole entire
22 parking lot area with barrier tape, crime scene yellow
23 tape and they had already started a crime scene log.

24 Q And were their certain vehicles -- did you get some
25 background information?

1 A Yes, ma'am.

2 Q And were there certain vehicles that were pointed out
3 to you that made -- had been significant in what you were
4 there to do?

5 A Oh, yes, ma'am.

6 Q And was one of those vehicles the actual defendant
7 Keylan Durham's vehicle?

8 A I believe so. It was the one that was in the wreck
9 actually.

10 Q Okay. And prior to going in that vehicle or
11 searching it in any way, did you all -- were there steps
12 taken to make sure there was a search warrant?

13 A Yes, ma'am. We actually, I believe, it was Sergeant
14 Lindler with Richland County had a search warrant through
15 Richland County drafted and brought to the scene for the
16 day of to cover the parking lot area and the car. And
17 then we had another search warrant the next day to go back
18 into the car for a second time.

19 Q So just to make sure all the legal procedures were
20 followed in this case that needed to be?

21 A Yes, ma'am.

22 Q Once you got there, tell the jury generally what you
23 did first?

24 A Well, I made sure it was marked off, I know we had a
25 crime scene log going, made sure we had the search

1 warrant. I took overall photographs or exterior
2 photographs of the apartment complex in the parking lot
3 area where the majority the incident took place and then
4 photographed all the vehicles. And we labeled what we
5 thought was possible evidence marked them, measured them,
6 photographed more detail and started collecting those
7 pieces of evidence.

8 Q And to be fair you do the photographs of the general
9 area first?

10 A Yes, ma'am.

11 Q And then I believe you mentioned that you might have
12 put out some markers on evidence?

13 A We had the little yellow placard markers that we
14 marked the pieces of evidence and then we rephotographed
15 them.

16 Q And then at that point you may go and collect some of
17 that evidence -- then either later say like after the
18 damaged car was removed, there was some more photographs
19 taken?

20 A Yes, ma'am. Once we -- we couldn't move the vehicle
21 because it was actually -- it had backed into a, I
22 believe, it was a power pole or a light pole and so it was
23 kind of hard to get underneath it. So once we moved it,
24 we looked underneath it and then we went through the
25 vehicle again once we transported it back to Lexington

1 County.

2 Q And that was a separate search?

3 A And that was a separate search warrant, yes, ma'am.

4 Q Was that done that day or the next day?

5 A I believe, it was done the next day.

6 Q So it's a process involved processing a crime scene?

7 A Yes, ma'am.

8 Q And in this case you mentioned the first thing you do
9 to kind of reserve it as it is when you get there?

10 A Uh-huh.

11 Q As you photograph?

12 A Yes, ma'am.

13 Q I want to show you some photographs.

14 A I'm sick, sorry.

15 Q First one I show you what's been marked State's
16 Exhibits 59 and then 62 through 64 which are not in
17 evidence. Do you recognize those?

18 A Yes, ma'am, that's of the general parking lot area
19 where the incident occurred.

20 Q Okay. And do those fairly and accurately represent
21 it as it appeared when you got there that day -- are these
22 actual photographs that were taken that day?

23 A Yes, ma'am.

24 Q Okay.

25 MRS. CAMPBELL: Your Honor, at this time we

1 offer 59 and then 62 through 64 into evidence.

2 MS. PINNOCK: No objection.

3 THE COURT: It's admitted.

4 (WHEREUPON, State's Exhibits Nos. 59, 62, 63 and
5 64 were admitted into evidence.)

6 BY MRS. CAMPBELL:

7 Q And this shows -- and I'll get you down all at once
8 when we get all the pictures in. This shows one area of
9 the parking lot; is that correct?

10 A Yes, ma'am.

11 Q Then I'm going to show you what's been marked as 65
12 through 80 and ask you to look at those and do the same?

13 A Yes, ma'am, the same of the parking lot area just
14 from a different angles.

15 MRS. CAMPBELL: Your Honor, at this time we
16 offer 65 through 80.

17 MS. PINNOCK: No objection.

18 THE COURT: Admitted.

19 (WHEREUPON, State's Exhibits Nos. 65, 66, 67,
20 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79 and 80
21 were admitted into evidence.)

22 BY MRS. CAMPBELL:

23 Q I'm going to show you State's Exhibits 81 through 84
24 and then 86 through 100. And those accurately depict ---

25 A Those are more -- that's more of the parking lot area

1 where the vehicle was. The damage vehicle was or the
2 defendant's vehicle, I guess.

3 MRS. CAMPBELL: Your Honor, at this time we
4 offer 81 through 84 and 86 through 101.

5 MS. PINNOCK: No objection, Your Honor.

6 THE COURT: So admitted.

7 (WHEREUPON, State's Exhibits Nos. 81, 82, 83,
8 84, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97,
9 98, 99, 100 and 101 were admitted into evidence.)

10 BY MRS. CAMPBELL:

11 Q And finally I'll hand you State's Exhibits 102
12 through 124 and ask you to look at those?

13 A Those are the same photographs of the parking lot
14 after I had marked my evidence.

15 MRS. CAMPBELL: Your Honor, at this time I
16 marked 102 through 124.

17 MS. PINNOCK: No objection.

18 THE COURT: Admitted.

19 (WHEREUPON, State's Exhibits Nos. 102, 103, 104,
20 105, 106, 107, 108, 109, 110, 111, 112, 113, 114,
21 115, 116, 117, 118, 119, 120, 121, 122, 123 and 124
22 were admitted into evidence.)

23 MRS. CAMPBELL: Your Honor, may the witness step
24 down?

25 THE COURT: Yes.

1 BY MRS. CAMPBELL:

2 Q The information -- if you come on this side so the
3 court reporter hear you a little better. The information
4 that have been given to you was basically that there had
5 been a shooting out there that day and the car had been
6 involved in ultimately was a wreck?

7 A Yes, ma'am.

8 Q And I'm going show you State's Exhibit Number 59.
9 Can you tell this jury what area of the parking lot this
10 shows?

11 A It shows the area where the officers came in to the
12 -- I don't know how to explain it, the suspect's vehicle
13 was parked and the officers came in to approach the
14 vehicle. The subject's vehicle backed in between those
15 two officers and kind of backed out. So this is after it
16 went back out and it was over here, but it shows where the
17 officers vehicle were at and the suspect vehicle was
18 previous to that accident.

19 Q And then 61 and 62 show what area?

20 A It's the same location. This is where the subject
21 vehicle was. This is law enforcement and law enforcement
22 coming in and it went through here. So this is taking an
23 angle of -- if I would have gotten out of this car right
24 here, this will be an angle I would look at the car if the
25 car was going in reverse.

1 Q Okay. And specifically right here what is that going
2 into this?

3 A The tree. This is on the outside of the law
4 enforcement vehicle, so we were just here. This is the
5 law enforcement vehicle and this is the tree that that
6 subject vehicle went and hit directly as it reversed out
7 of the parking lot spot.

8 Q And then another angle State's Exhibit 63 again
9 shows?

10 A It's a closer angle of the tree and the two law
11 enforcement officer vehicles there, so it's the parking
12 lot area.

13 Q State's Exhibit 64?

14 A I just moved across the parking lot. It's the same
15 angle or a different angle.

16 Q We're trying -- moving around the whole parking lot?

17 A Yeah.

18 Q I'm going to show you State's Exhibit Number 65 and
19 66. What does this show?

20 A The same thing I'm just moving around the parking
21 lot. There's a vehicle right here and now I'm on the
22 front of that vehicle. So this is where the tree is, the
23 two law enforcement officer's vehicle, the subject vehicle
24 went this way and then ultimately ended up there.

25 Q And I notice there is some damage to this one

1 vehicle?

2 A The one vehicle got clipped on the front end.

3 Q And that wasn't any officer's vehicle, was it?

4 A No, ma'am.

5 Q Okay. You mention the tree in State's Exhibit 67 and
6 68. Do we again see the tree that we're talking about?

7 A Yes, ma'am. This is the tree on the back end of the
8 property, so the subject vehicle would have come directly
9 here, hit that and the angle back this way that end up
10 down here clipping that vehicle.

11 Q But there was any damage to the tree?

12 A There was damage.

13 Q In State's Exhibit 69, can you see where the vehicle
14 actually ended up in relation to the tree?

15 A Yes, it's right back here in the back. You can see
16 there's a gouge in the asphalt. The tire -- the back
17 driver's side tire had come off and that was the actual
18 differential, I guess, you would call it grounding into
19 the asphalt.

20 Q Okay. And then State's Exhibit 70 is looking at
21 another angle back at what?

22 A This is the tree again just on the backside, so the
23 subject vehicle would have come from here directly towards
24 the tree and back and then back that way. So this is
25 behind the tree, so if I was coming from the tree area

1 this is what I would be seeing.

2 Q And is this one of the officer's vehicle?

3 A Yes, that one and that one right there.

4 Q So that's looking at it from the tree's viewpoint?

5 A Yes.

6 Q State's Exhibits 71 and 72 show some areas here on
7 the ground in the middle of that picture?

8 A That's when the vehicle jumped the curb and hit the
9 tree, what's when the tire damage happened and so that's
10 what that is the disturbance in the ground and then
11 cutting of the asphalt from the damage of the wheel area.
12 And you'll see that there's another picture in there the
13 damage to the wheel part I'm talking about.

14 Q This is a different angle 75. This is all like that?

15 A Yes, it's the same area just a different perspective.

16 Q And the damage to the tree goes up to here?

17 A It was probably high the car would be three feet,
18 four feet I don't remember.

19 Q State's Exhibit 77 this is just tread marks?

20 A Yeah, that's the dirt and marks and bark and glass.

21 Q State's Exhibit 78 and 69 again the car that was --
22 it was hit or shown at a different angle there?

23 A Yeah, this on the back side. This is the car that
24 was hit in the front. So the tree's in here and that
25 damage is on the front just behind the car.

1 Q State's Exhibit 80?

2 A In the front of the car.

3 Q The tree would have been over here?

4 A Yes, right here on the edge of the picture.

5 Q Okay. Move on to where the car actually ended up
6 State's Exhibit Number 81, what does that show?

7 A That's the suspect's vehicle or the subject's and
8 that's where the light pole was standing, but since it was
9 hit it was on the ground.

10 Q This is the light pole you're talking about?

11 A Yes, it was standing right there where that piece of
12 wood was sticking out.

13 Q This is what use to be the light pole?

14 A Yes.

15 Q Right where my finger is pointing that's what left of
16 where it was?

17 A Yes.

18 Q And the light pole itself is this right here?

19 A Yeah, down on behind the vehicle.

20 Q This part of it too?

21 A Actually on the top because it was holder style light
22 with actual glass.

23 Q Glass is in State's Exhibit 82. State's Exhibit 83
24 and 84 are showing the same but from a different angle?

25 A Yeah, this parking lot right here is where it all

1 took place and standing outside showing the vehicle where
2 the light pole would have been the opposite side.

3 Q Okay. There's another showing of the parking lot.
4 These cars in State's Exhibits 85 some of these cars came
5 later?

6 A Yes, I believe these two were associated with the
7 fugitive task force that was there, but they were down at
8 the other end and they came up later.

9 Q Came up later, okay.

10 A They weren't involved in it.

11 Q But this shows the general area including the car and
12 across the parking lot?

13 A Yes, ma'am.

14 Q Okay. And then going to State's Exhibit Number 87
15 what does that show?

16 A That is the front end or the driver's side end of the
17 subject vehicle.

18 Q Were you able to tell what this liquid is?

19 A It's antifreeze. The radiator had been busted.

20 Q And then this one I noticed you can see the actual --
21 what is that?

22 A It's a mirror.

23 Q A mirror?

24 A Yeah.

25 Q And it's twisted around?

1 A Yeah, it's completely almost backwards and there's
2 scraps on the door -- driver's side door.

3 Q And that's on the other side. State's Exhibit 88 and
4 closer up of 89?

5 A This is the back end of the vehicle driver's side,
6 passenger side and that's the light pole and that's where
7 it came to rest.

8 Q State's Exhibits 90 and 91 we're talking about the
9 tire?

10 A Yes, that shows the back end of the driver's side
11 portion, so this is the trunk -- the back end driver's
12 quarter panel and it was a spare tire, I believe, because
13 it was smaller I'm not sure. But it basically knocked it
14 completely off of it.

15 Q And just for the jury's edification, I mean, you have
16 to say tree or the light pole when what damage was done
17 are you able to determine that?

18 A No, ma'am.

19 Q Okay. But this was the damage that appeared?

20 A I would -- well, can I give my opinion. I would say
21 the tree because the gouge in the parking lot came after
22 the tree and that's the only thing I could think of maybe
23 a gouge mark did damage the tire rim.

24 Q State's Exhibit 92?

25 A The same just a close up of the back corner driver's

1 side portion.

2 Q As far as State's Exhibits 93 and 94 you also take
3 general photographs of the interior?

4 A Of the interior of the vehicle, yes, ma'am.

5 Q Were the doors open when you got there?

6 A I cannot recall if they were actually open when I got
7 there or not.

8 Q But you had photographed them in the condition it
9 was?

10 A Yes.

11 Q So whatever is reflected is how it was?

12 A Yeah. I know both of the people that were in the
13 vehicle were actually removed and rendered aid and taken
14 to the hospital.

15 Q Before you ever got there?

16 A Before I ever got there.

17 Q And State's Exhibits 95 and 96 just generally show?

18 A The inside of the car is the passenger side and the
19 backside, the back passenger side.

20 Q And then State's Exhibit 97 what does that show?

21 A That is the inside of the trunk, I believe.

22 Q What's this sticking up?

23 A It's a sledge hammer.

24 Q State's Exhibit 98 what does that show?

25 A That is the back part of the passenger compartment of

1 the vehicle.

2 Q And what is this?

3 A That is a glove and weed eater. The engine part of
4 the weed eater. The front part was in the front passenger
5 seat.

6 Q While you were at the scene, did you also note some
7 bullet holes and some direction on those?

8 A Yes, ma'am, we put trajectory rods or plastic rods in
9 the actual projectile holes to get a better feel of what
10 angle they were coming in at. We also did that again
11 later once we got the vehicle -- that was just showing
12 general direction on scene and then we did it again or
13 more thorough once we got it in.

14 Q And State's Exhibit 101 showing the other side of the
15 vehicle?

16 A That's the passenger side.

17 Q After doing that, did you also put out markers?

18 A The numbered placards for evidence, yes, ma'am.

19 Q I call them markers.

20 A Yeah, that's fine.

21 Q And they run number wise like in this case 1 through
22 37?

23 A Yes, ma'am.

24 Q And do you put them in a certain order for any reason
25 or is it just...

1 A Usually, it's just how I walk through, how I go
2 through and I put them in order as I -- how I find them.

3 Q So you don't know when anything ---

4 A Yeah, number one is not the first casing that was
5 fired or anything. It's no order. It's just how I
6 located them.

7 Q When we're going through these, if you can get your
8 report say what's in each one. State's Exhibit Number 102
9 is that good. I see markers one, two and three; is that
10 correct?

11 A Yes, ma'am.

12 Q And what were the three items you were marking there?

13 A They were WCC plus .9 millimeter casings.

14 Q When you say .9 millimeter casings when we're talking
15 about projectiles versus shell casings, can you explain to
16 the jury the difference in what we're talking about?

17 A The actual bullet is the whole thing together. You
18 have the bullet, the projectile and then the cartridge
19 casing. After the bullet hit them, discharged or fired
20 all you have is the active cartridge casing left if it was
21 not a revolver or if it's a revolver, it's in the
22 cylinder, but the projectile is where it went.

23 Q So the projectile comes out of where, it's a
24 semiautomatic as these were?

25 A If it's an automatic, the projectile come out the

1 front of the riffling go towards ---

2 Q People that don't know guns like me I would think
3 that's the bullet?

4 A The projectile the bullet the same thing comes out
5 the front and the casing will get ejected out the side.

6 Q It goes out the side?

7 A Yes, ma'am.

8 Q And once it's ejected from the gun, does it get
9 ejected the few feet or can you say exactly where the
10 person is from where the shell casing ends up?

11 A There's no -- it can change every day it just
12 depends.

13 Q And once it hits the ground it can bounce when people
14 are going through the scene they can kick them.

15 A Yeah.

16 Q But it shows a general area which is how ---

17 A They particularly go out their right side.

18 Q But not always?

19 A Not always.

20 Q And if the gun's held at an angle, it can go down?

21 A Yeah.

22 Q All those factors can show a general area?

23 A Yes.

24 Q Okay. And one, two, and three what were those items
25 as shown in State's Exhibit 19?

1 A .9 millimeter cartridge casings, the casings.

2 Q And that shows where those were?

3 A Yes, ma'am.

4 Q And that's the shell casing that would have been
5 extended?

6 A After it was fired.

7 Q On the side?

8 A Uh-huh.

9 Q And State's Exhibit 103 I show items four, five, and
10 six?

11 A All together right there in the middle. Four, five
12 and six were also WWCC plus .9 millimeter casings.

13 Q Seven and what was that?

14 A And seven was the same.

15 Q Okay.

16 A Nine casings those were all after the shot -- after
17 they fired the cartridge casing.

18 Q Okay. And moving on to eight, nine, ten, 11, 12, 13
19 and 14 in State's Exhibit 105 what were those?

20 A Nine or eight through 14 were all 40 Smith and
21 Wessons of different makes, so Winchester and Spears, but
22 they're all 40 Smith and Wesson casing cartridge casings
23 after it had been discharged.

24 Q And again when you're putting down that little marker
25 what you call it?

1 A That placard the number placard?

2 Q Yeah, the placard. You're putting that right next to
3 the -- when you take those photographs, it can be put in
4 context?

5 A Yes, ma'am.

6 Q And, I believe, this is another view of the same
7 evidence from another angle. And State's Exhibit 107
8 shows items 15 and 16 what is this -- which car is this?

9 A This is the tree here. This is the vehicle that was
10 damaged on the front end and those two 15 and 16 were .9
11 millimeter casings.

12 Q And State's Exhibit 108 we got 17, 18 and 19 those
13 are casings again?

14 A Yes, those are casings 17, 18 and 19 were all .9
15 millimeter cartridge casings as well.

16 Q State's Exhibit 109 just shows part. And this here
17 in the middle of this you know what part of what car that
18 belongs to?

19 A That's the headlight out of this door vehicle. It
20 popped it right out.

21 Q State's Exhibit 110 item number 21 -- where were we
22 19?

23 A We already did 15 through 20.

24 Q Here's ---

25 A Those are all .9 millimeter cartridge casings.

1 Q And then 21?

2 A Twenty-one was actually a projectile fragment, so
3 actually the bullet fragment after it had been shot.

4 Q And in a crime scene such as this say a gun is -- the
5 guns are discharged up to 20 times, are you going to
6 recover all the projectiles?

7 A No, they can go anywhere. I mean, they can bounce
8 off things. They can ricochet. They can be damaged to
9 the point where we don't find all of the pieces. It just
10 depends on what the actual background or surface is. I
11 mean, if I'm shooting in a woods area, I might not find
12 them because they might be in trees or out in the woods.
13 This is the parking lot. It might be -- it was woods off
14 to the right, left and right, so just depends if they
15 bounced or...

16 Q State's Exhibit 114 your markers 22 and then 115 is
17 23?

18 A Twenty-two was actually I was marking the shoe and
19 then 23 I was actually -- it was a projectile which is the
20 bullet projectile part.

21 Q State's Exhibit 116 item number 24?

22 A Twenty-four was actually a magazine out of one of
23 the -- it was the -- had .9 millimeter bullets, so it came
24 out of the .9 millimeter pistol. It was unloaded and it
25 dropped.

1 Q State's Exhibit Number 117 shows your marker number
2 25 what does that show?

3 A Twenty-five is a cell phone a Metro PCS cell phone.

4 Q And again when you're marking evidence you don't know
5 what may or may not be significant?

6 A Not at that point, no, ma'am.

7 Q And then State's Exhibit 118 shows marker number 26
8 which is right next to the car?

9 A I collected all those items together. Those items
10 were, I believe, pulled out of -- I'm not sure which one.
11 One of the people in the vehicle pockets as they were
12 heading off to the hospital.

13 Q And you don't know if that's Mr. Warner's?

14 A I don't know if they're Mr. Warner's or not.

15 Q Okay. State's Exhibit 11 is your number 27?

16 A Twenty-seven is a Samsung tablet in the rear
17 passenger floorboard.

18 Q Okay. And then marker number 28 which is here?

19 A That was found a little bit after we done a further
20 search. Once we found the stuff in the parking lot, we
21 move into the woodline. This 28 is actually the tree that
22 was damaged. It was also .9 millimeter casing just the
23 cartridge casing.

24 Q State's Exhibit 121 which is marker 29 where is that?

25 A That is a black pen, driving pen in the middle of the

1 parking lot. I don't know if it was actually significant
2 or someone dropped it out of their pocket there before we
3 came up.

4 Q Then State's Exhibit 122 your items 30 and 31.

5 A Thirty and 31 were projectiles actual bullets that
6 were found in the ground next to the tree, I believe.

7 Q Okay.

8 A We were able to move some of the pine straw back and
9 go through it a little bit more hands on and found
10 projectiles.

11 Q And then finally after the car was removed, did you
12 go back and look underneath where the car was?

13 A Yes, ma'am.

14 Q And I show you State's Exhibits 123 and 124 which are
15 your item numbers 32 and 33?

16 A Yeah, those were projectiles or projectile fragment
17 and another fragment. When I say fragment, I meant like
18 not a whole bullet a piece of it and those were underneath
19 the vehicle. So I'm not sure if they were under their
20 lane there or if they were -- came out when we rolled out.

21 Q And the cars that are in the background here those
22 were -- that was just a later time so the crime scene ---

23 A Yeah, those were just officers on the outside.

24 Q You can take a seat. Once you done your placards and
25 photographed it that way, did you collect this evidence

1 that we mentioned?

2 A Yes, ma'am. Each item was collected by their number.

3 Q And in that one photograph where we saw personal
4 belongings down next to the car?

5 A Yes.

6 Q In your report, does it indicate which subjects that
7 came from?

8 A The pocket number 26 they were actually removed from
9 Quinten Warner's.

10 Q And what were those actual items?

11 A It was one Samsung Galaxy cell phone, one black T-
12 Mobile cell phone, six different business cards, ID cards,
13 credit cards type, six condoms, one piece of paper, orange
14 piece of a shirt and three one dollar bills totaling
15 \$3.00.

16 Q And again by the time you got there EMS had already
17 removed everybody?

18 A Yes, ma'am.

19 Q After collecting the evidence there at the scene that
20 day, was the car actually towed to your headquarters or to
21 your compound?

22 A Yes, ma'am.

23 Q And was the search warrant -- did you actually fill
24 out a return and return it to Richland County or was that
25 done?

1 A Yes, ma'am, I did. Both of the search warrants one
2 for the scene and the one from the car were both -- the
3 first one was returned to Richland County because it was
4 originally drafted in Richland County for the actual scene
5 location. The other one, I believe, was Lexington County.
6 We got the search warrant for the vehicle, so it was
7 returned to Richland County -- Lexington County I'm sorry.

8 Q That was done on the seventh the next day?

9 A Yes, ma'am.

10 Q Let's go on and move to that. Once you got the car
11 into headquarters, you got another search warrant and then
12 you did a more thorough inspection of the vehicle there?

13 A Yes, ma'am.

14 Q And on the front passenger seat you said that there
15 were two areas that tested positive for blood?

16 A Yes, ma'am. I took photographs of the interior and
17 two locations on the front passenger seat where a brown
18 reddish stain substance appearing to be blood. I labeled
19 them A and B and collected swabs from both locations and
20 conducted a presumptive test with Phenolphthalein and I
21 had a positive reaction for blood.

22 Q Okay. And did you also inspect further to see if you
23 can locate any additional projectiles or pieces of
24 projectile?

25 A Yes, ma'am.

1 Q And where were those located on the seventh?

2 A Projectiles I located projectiles in the passenger
3 side B pillar, which would be the metal piece between the
4 front and back door the B pillar, inside the seat on the
5 back portion. One was on the passenger seat on the seated
6 portion, so the seat and then the back. One was actually
7 in the steering wheel between the steering wheel and
8 steering wheel cover, inside the dashboard on the
9 passenger side, and I had two in the trunk and one in the
10 front inside grill.

11 Q And did you also find pieces of a metal projectile?

12 A Yes, we found two different pieces of metal
13 projectiles. One from the front passenger interior side
14 door and one from underneath the hood in the fabric
15 covering that they have on the top of the hood.

16 Q And then about five days later did you go back and do
17 another search on the vehicle?

18 A Yes, ma'am, the search warrant was still open and I
19 got some colleagues of mine to help me go through just in
20 case to give a fresh eye to take a look over. We were
21 actually able to take apart some of the vehicle and find
22 some more projectiles. Underneath the front grill and the
23 plastic pan underneath the engine, we found a projectile.
24 The rear passenger door in the window motor, it was
25 actually stuck in the motor. So we had to take apart the

1 door and get into the motor and then the steering column,
2 there was one embed in the steering column underneath, so
3 we had to take out the steering column.

4 Q And at that point once you completed that search, did
5 you then return that search warrant?

6 A Yes, ma'am, and that was Lexington County search
7 warrant and was returned to Lexington County judge.

8 Q Once all these items were collected, the projectiles
9 the parts of the part projectiles and shell casings as
10 well as the guns that I believe Mr. Phipps had collected?

11 A Yes, ma'am.

12 Q Would you -- are you the one that does additional
13 testing for ballistics on that?

14 A No, I don't. We package them, seal them and usually
15 we turn them over to SLED, but in this case, SLED being
16 involved we actually went outside and we went to Georgia
17 Bureau of Investigations. So we took all the evidence
18 down to Georgia.

19 Q And she's already testified, but her department did
20 that testing?

21 A Yes, they did all the advance testing.

22 Q And I believe while y'all were out there, some
23 measurements were also taken by Investigator Phipps as
24 well?

25 A Yes, ma'am, we took some measurements with our total

1 station as well drawing sketches or drew a sketch or two.

2 MRS. CAMPBELL: Thank you. I don't have
3 anything further.

4 THE COURT: All right. Ladies and gentlemen,
5 we're going to break for lunch now and we're going to
6 return at 2:15. You're not required to stay in the jury
7 room. I assume your lunch is here now. I need you back
8 in the jury room so that we can start at 2:15. Please do
9 not discuss the case.

10 (WHEREUPON, the jury retire to the jury room.)

11 THE COURT: All right. During the break, you
12 cannot discuss your testimony with anyone. And we'll all
13 be back and ready to go at 2:15.

14 (WHEREUPON, a lunch break was taken.)

15 THE COURT: All right.

16 MRS. CAMPBELL: Your Honor, can I put up two
17 house keeping matters?

18 THE COURT: Yes.

19 MRS. CAMPBELL: As far as we got to State's
20 Exhibit 2 with that language. Do I have permission of the
21 Court to take this out of the courtroom and copy it so I
22 can redact it because I got to make another copy?

23 THE COURT: All right. Any objection to that?

24 MS. PINNOCK: No, Your Honor.

25 THE COURT: All right.

1 MRS. CAMPBELL: And I'll bring it back. Your
2 Honor, in addition to that, there is a statement I have by
3 the defendant. I have spoken with defense counsel, it's
4 an oral statement to Investigator Moore from Lexington
5 County. I think we've agreed to most of it other than one
6 line, Your Honor. And I can just hand up so you can
7 follow with my copy and I apologize for the highlights.
8 And I think Ms. Pinnock objects to one part it. His is
9 actually a written statement.

10 THE COURT: All right. What are we concern with
11 at this point?

12 MRS. CAMPBELL: Your Honor, on page four of that
13 summary down towards the bottom. I don't think he has any
14 problem with it until it gets to about five lines up from
15 the bottom. And it says he said that people were looking
16 for him that morning. He was then asked what kind of
17 people. He said you know bondmen. And then the question
18 was do you know what they wanted and he replied by saying
19 yes. I think that's the language she objects to.

20 THE COURT: I'm on page five -- four.

21 MRS. CAMPBELL: Four.

22 THE COURT: Page four starting...

23 MRS. CAMPBELL: About five lines from the
24 bottom.)

25 THE COURT: From the bottom one, two, three,

1 four, five he said that people were looking for him this
2 morning, okay.

3 MRS. CAMPBELL: Specifically, Your Honor, I
4 don't have any problem taking out the language what kind
5 of people you know bondmen. And then on the next page
6 there's a reference to he said he knew he was wanted for
7 failure to appear. We both agree that should be taken
8 out.

9 THE COURT: All right. Any problem with that?

10 MS. PINNOCK: Well, Your Honor, the concern I
11 have would be the part that says what kind of people you
12 know bondmen is it changes the context of what was said.

13 THE COURT: So you want it in?

14 MS. PINNOCK: No, sir, I don't.

15 THE COURT: Well, what do you want?

16 MS. PINNOCK: That's kind of the problem. I'm
17 not quit sure how to fix that issue because removing it --
18 I do strongly agree it needs to be removed, but it then
19 changes the context of the conversation. I don't know
20 what the solution is for that.

21 THE COURT: We'll take out those two sentences.
22 What kind of people you know bondmen. Either you redacted
23 it or you don't. In the grand scheme of things, I don't
24 see how it really matters. He knew he was wanted. I
25 mean, wanted because they were looking for him. Is this

1 the first event or the second event?

2 MRS. CAMPBELL: This is the second event.

3 THE COURT: So he obviously knew he was wanted.

4 MS. PINNOCK: Yes.

5 THE COURT: Use the word bondman...

6 MRS. CAMPBELL: We won't mention the aiding
7 stuff. We won't mention the bondmen stuff.

8 THE COURT: All right.

9 MRS. CAMPBELL: I will strike it.

10 THE COURT: Anything else on it? You all want a
11 Jackson v. Denno hearing on it?

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

13 (WHEREUPON, a pause in the proceedings.)

14 MS. PINNOCK: No, Your Honor.

15 THE COURT: All right. You all acknowledge that
16 whatever statements he gave were freely and voluntarily
17 given?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right. Sir, if you'll stand to
20 be sworn.

21 Swear him please.

22 THE CLERK: Raise your right hand. Do you
23 solemnly swear or affirm that the testimony you're about
24 to give in this case to be the truth, the whole truth, and
25 nothing but the truth so help you God?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: All right. Sir, you understand you
3 have the right to a hearing on whether or not any
4 statements that you made were given freely and
5 voluntarily?

6 THE DEFENDANT: Yes, ma'am -- yes, sir.

7 THE COURT: And you agree that the statements
8 were given freely and voluntarily?

9 THE DEFENDANT: If you don't mind, can I look at
10 it? I don't recall.

11 THE COURT: All right. So we'll deal with this
12 issue later. He can look at it in the meantime. We'll
13 bring the jury and proceed at this point.

14 MRS. CAMPBELL: Thank you, Your Honor.

15 (WHEREUPON, the jury came into open court.)

16 THE COURT: Cross-examination.

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

19 CROSS-EXAMINATION

20 BY MS. PINNOCK:

21 Q Investigator, right?

22 A Yes, ma'am.

23 Q Investigator Derrick, you went through a number of
24 pictures. You went to the scene and you helped process
25 the scene?

1 A Yes, ma'am.

2 Q And how many shell casings did you collect?

3 A A total on scene, I believe, it was 21 actual
4 casings, cartridge casings.

5 Q Okay. How many total projectiles?

6 A Five projectiles and fragments.

7 Q Okay. And that was actually on scene?

8 A Yes, ma'am.

9 Q And then when you got back to Lexington Sheriff's
10 Department and you processed the car more?

11 A Yes, ma'am.

12 Q And you found more projectiles?

13 A Yes, ma'am.

14 Q And those were lodged in different areas of the car?

15 A Yes, ma'am.

16 Q And how many did you find after the original file?

17 A So in the car one, two, three -- 13 or so. Some of
18 them were fragment pieces.

19 Q Okay. And that total doesn't include the four that
20 were inside of Keylan and inside Mr. Warner, right?

21 A No, that's a total separate number.

22 Q All right. I believe, it might have been the third
23 time when you got the help coming and literally took the
24 car apart to process it?

25 A Yeah, after I did the original search warrant or the

1 vehicle on scene and then we moved the vehicle to
2 Lexington County, I did a search warrant on that or the
3 first exam and then I had my colleagues come in and go
4 back with it. I guess, it would be probably a third time
5 actually going through the vehicle.

6 Q Okay. And y'all were removing parts of the vehicle,
7 right?

8 A Yeah, like door frames and door panels and part of
9 the steering column underneath and stuff to get to spots.

10 Q And part of that -- the reason that y'all did that
11 was because of some of the places that the bullet holes
12 were located on the vehicle?

13 A That's correct.

14 Q Okay. Am I correct in saying there was six shots to
15 the front grill area of the car -- yeah, the front grill
16 area?

17 A The actual grill part?

18 Q Yes, ma'am.

19 A Hold on. To the actual grill part, I believe, there
20 was only one, two, three, four or five.

21 Q Okay.

22 A And then there was some of the hood and dash.

23 Q How many were in the hood?

24 A I had two, I believe, holes on the top hood part.

25 Q And how many were in the windshield?

1 A Five, I believe.

2 Q So the five -- 12 total on the top area of the car?

3 A I'm looking at my drawings. Let me look at the
4 report and see if I listed them where each one of them
5 came from. The Windshield, yes.

6 Q Five in the windshield, okay. And there was a shot
7 that went through, I guess -- can I assume that a shot
8 that came through the windshield went through the
9 passenger seat and landed in the back is that where you
10 collected that projectile?

11 A Okay. I collect one projectile from inside the
12 passenger seat.

13 Q Okay.

14 A And there was also one sitting on the seat like at
15 the corner where the seat in the back join.

16 Q Okay. Now, you mentioned there was some damage to
17 the pavement leading from the tree to the light pole?

18 A Yes, there was like a gauge or a cut into the
19 asphalt.

20 Q And State's Exhibit Number 92 that they put into
21 evidence, that's the driver's...

22 A Yeah, that is the driver's back corner panel.

23 Q Okay. And the tire in this picture is off?

24 A Yeah, it's turned towards the front, completely broke
25 off the axle.

1 Q And when you looked at the car, the metal part of the
2 car in that tire well was exposed?

3 A Yes.

4 Q So if that car was moving this ---

5 A Would be dragging the ground more than likely, yeah,
6 pieces of it.

7 Q And that's when it hit the tree?

8 A Yeah, after it hit the tree is when it caused the
9 marks.

10 Q Okay. And number 114 that's been introduced, that's
11 the passenger side rear tire?

12 A Yes, back passenger quarter panel.

13 Q Okay. And that's the damage that you believe came
14 from when it hit the light pole?

15 A Yes.

16 Q Okay. So this car was pretty damaged after it hit
17 the tree?

18 A Yes.

19 Q Okay. Did you -- you said you took measurements
20 while you were out there? ..

21 A With our total station, yes, ma'am.

22 Q Okay. Did you measure the distance between Officer
23 Brown's car the first car and Deputy Britt's car?

24 A I didn't take the measurements myself, sorry.

25 Q No, that's fine. How many bullet holes did you

1 document on the passenger's side of the vehicle?

2 A Do we have a picture of that when I marked them? I'm
3 not sure off the top of my head.

4 Q You recognize that?

5 A Okay, yes. I believe there were five holes.

6 Q Five holes on the passenger side?

7 A It's either five or four. I put collected next to
8 this one and, I believe, that's the one that was in the
9 window motor. So I'm not sure if that was an actual hole
10 on the outside or if it was just marking the projectile
11 inside.

12 Q Did you document any bullet holes to the driver side
13 of the car?

14 A Yes, ma'am, I should -- I don't have them diagrammed,
15 so if they were holes, they were on the inside, I believe.

16 Q Only on the inside and nothing on the exterior door
17 that you photographed?

18 A I don't believe so I'd have to look at the
19 photographs of the vehicle. I'm looking at one specific
20 photo. I think the majority of the actual projectiles or
21 the holes damaging was on the passenger side in front.
22 There may have been one or the two on the driver's side
23 I'm not sure.

24 Q I think you have that one.

25 A Yeah, I think it is in this group. I think all the