

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Williamsburg County
Howard P. King, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRITTANY EMOESHA EPPS,

APPELLANT

APPELLATE CASE NO 2016-001806

RECORD ON APPEAL

SUSAN B. HACKETT
Appellate Defender

ALAN WILSON
Attorney General

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

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

ATTORNEY FOR APPELLANT

SUSANNAH R. COLE
Assistant Attorney General
P. O. Box 11549
Columbia, SC 29211
(803) 734-6305

ERNEST A. FINNEY, III
Solicitor, Third Judicial Circuit
141 N. Main St.
Sumter, SC 29150
(803) 436-2185

ATTORNEYS FOR RESPONDENT

RECEIVED
NOV 09 2017
SC Court of Appeals

INDEX

INDEX.....	i
MISTRIAL TRANSCRIPT DATED MARCH 28, 2016 – APRIL 1, 2016	1
FIRST JURY QUESTION.....	2
SECOND JURY QUESTION.....	4
THIRD JURY QUESTION	7
FOURTH JURY QUESTION.....	11
DECLARATION OF MISTRIAL	12
TRIAL TRANSCRIPT DATED JULY 26, 2016.....	13
OPENING STATEMENT BY MS. BARR.....	14
OPENING STATEMENT BY MS. BUTCHER.....	21
TESTIMONY	
JOEY PHILLIPS	
Direct examination by Ms. Barr.....	24
Cross examination by Ms. Butcher.....	32
PEARLINE PRESSLEY	
Direct examination by Ms. Barr.....	34
Cross examination by Ms. Butcher.....	46
VINCENT STAGGERS	
Direct examination by Ms. Barr.....	48
Cross examination by Ms. Butcher.....	63
SAMUEL BARR	
Direct examination by Ms. Barr.....	66
Cross examination by Ms. Butcher.....	84
ARNOLD GAMBLE	
Direct examination by Ms. Barr.....	89
Cross examination by Ms. Butcher.....	110
Redirect examination by Ms. Barr.....	114
Recross examination by Ms. Butcher	120

JESSICA JACKSON

Direct examination by Ms. Barr.....	126
Cross examination by Ms. Butcher.....	228
Redirect examination by Ms. Barr.....	251

MARK HATTEN (PROFFER)

Direct examination by Ms. Barr.....	266
Cross examination by Ms. Butcher.....	269

MOTION TO EXCLUDE IMPEACHMENT QUESTIONS.....	274

RULING BY THE COURT.....	278

TESTIMONY

MARK HATTEN

Direct examination by Ms. Barr.....	281
Cross examination by Ms. Butcher.....	301
Redirect examination by Ms. Barr.....	306

ARCHIE KENNEDY

Direct examination by Ms. Barr.....	309
Cross examination by Ms. Butcher.....	347
Proffer examination by Ms. Butcher.....	359
Cross examination by Ms. Butcher.....	362
Redirect examination by Ms. Barr.....	374
Recross examination by Ms. Butcher.....	384

HALEY QUAM

Direct examination by Ms. Barr.....	387
Cross examination by Ms. Butcher.....	439
Redirect examination by Ms. Barr.....	448
Recross examination by Ms. Butcher.....	451

ELLEN RIEMER

Direct examination by Ms. Barr.....	453
Cross examination by Ms. Butcher.....	479

CHAD SMITH

Direct examination by Ms. Barr.....	482
Cross examination by Ms. Butcher.....	491
Redirect examination by Ms. Barr.....	493

TYLER STURKIE

Direct examination by Ms. Barr.....	494
Cross examination by Ms. Butcher.....	507

Redirect examination by Ms. Barr	511
KIMBERLY MEARS	
Direct examination by Ms. Barr	513
Cross examination by Ms. Butcher	529
MARYANN BOEHM	
Direct examination by Ms. Barr	536
Cross examination by Ms. Butcher	556
Redirect examination by Ms. Barr	564
Recross examination by Ms. Butcher	566
J. MARK CREECH	
Direct examination by Ms. Barr	568
Cross examination by Ms. Butcher	578
Proffer examination by Ms. Butcher	579
Cross examination by Ms. Butcher	581
Redirect examination by Ms. Barr	582
RULING ON ADMISSIBILITY OF IMPEACHMENT EVIDENCE REGARDING THEODORE MCKNIGHT	
	584
TESTIMONY	
BRITTANY EPPS	
Direct examination by Ms. Butcher	590
Cross examination by Ms. Barr	617
Redirect examination by Ms. Butcher	696
Recross examination by Ms. Barr	702
THEODORE MCKNIGHT (PROFFER)	
Direct examination by Ms. Butcher	705
Cross examination by Ms. Barr	717
SCHAIN MCCRAE (PROFFER)	
Direct examination by Ms. Butcher	720
Cross examination by Ms. Barr	725
MOTION TO ADMIT IMPEACHMENT EVIDENCE	
	727
RULING BY THE COURT	
	741
THEODORE MCKNIGHT	
Direct examination by Ms. Butcher	751
Cross examination by Ms. Barr	763
Redirect examination by Ms. Butcher	773

SCHAIN MCCRAE	
Direct examination by Ms. Butcher.....	775
Cross examination by Ms. Barr	783
Redirect examination by Ms. Butcher	800
Recross examination by Ms. Barr.....	804
MOTION FOR DIRECTED VERDICT.....	807
RULING BY THE COURT.....	807
CLOSING ARGUMENT BY MS. BUTCHER.....	810
CLOSING ARGUMENT BY MS. BARR	824
CHARGE ON THE LAW	850
JURY NOTE.....	871
JURY NOTE.....	873
JURY NOTE.....	878
VERDICT	880
MOTION FOR A NEW TRIAL.....	881
RULING BY THE COURT.....	882
SENTENCING TRANSCRIPT DATED AUGUST 24, 2016	886
SENTENCING	887
COURT'S EXHIBIT #2 (JURY NOTE).....	888
COURT'S EXHIBIT #3 (JURY NOTE).....	889
COURT'S EXHIBIT #4 (JURY NOTE).....	890
INDICTMENT.....	891
SENTENCE SHEETS	893
CERTIFICATE OF COUNSEL	895

THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE'S EXHIBIT #1 (911 Tape)

SW - T. STURKIE - DIRECT

1 A In this case Joseph Brown was a victim. And per
2 our protocol, when we receive victim kits we include
3 the results entirely so we still receive the right
4 palm, right back, left palm, left back. But once
5 GSR is found, we include that result as a whole with
6 the victims. The reason being is because the victim
7 of a gunshot wound is expected to have gunshot
8 residue on them, they were in the vicinity or they
9 were being shot by a weapon. GSR tends to travel
10 with a weapon. GSR being in that vicinity,
11 therefore, gunshot residue is expected on a victim
12 and we do not sub-itemize the results for victim
13 kits.

14 (WHEREUPON, State Exhibit No. 86 was
15 marked for identification only.)

16 MS. BARR: Your Honor, I marked photograph
17 as State's Exhibit Number 86. I understand it's
18 without objection from Defense.

19 THE COURT: All right. What's the number?

20 MS. BARR: 86.

21 THE COURT: All right. No objection, Ms.
22 Butcher?

23 MS. BUTCHER: No, Your Honor.

24 THE COURT: All right, number 86 is
25 admitted without objection.

SW - T. STURKIE - DIRECT

1 (WHEREUPON, State Exhibit No. 86 was
2 admitted into evidence.)

3 BY MS. BARR:

4 Q Mr. Sturkie, I'm gonna publish what's been
5 admitted as State's Exhibit Number 86, and I'll
6 represent to you that that is the body of the
7 deceased victim in this case with pants being here.
8 Can you see the two paper bags here and here?

9 A Yes, ma'am.

10 Q All right. Have you ever seen, or do you know
11 the reason why there are paper bags on the victim?

12 A In regards to gunshot residue?

13 Q Yes, sir, I'm sorry. Yes, sir.

14 A With regards to gunshot residue at times
15 investigators will place the bags over subject's
16 hands in order to preserve any gunshot residue that
17 may have been present.

18 Q Okay. Is there an advantage for lack of a better
19 word, with regard to your analysis or does it make a
20 difference if the individual by which a GSR kit is
21 collected is alive or deceased? Does that affect
22 your analysis at all?

23 A Yes, ma'am.

24 Q Tell us how.

25 A With deceased victims, with -- I'll back up.

SW - T. STURKIE - DIRECT

1 With living witnesses or subjects who I have
2 received evidence from, there is a period of six
3 hours in which we will test or analyze gunshot
4 residue kits. This being that with a living person,
5 from the time shooting to the time of collection
6 that person is mobile. There are environmental
7 factors such as wind, rain. A person may be rubbing
8 their hands, putting their hands in their pockets.
9 All this movement has the potential to remove any
10 GSR that may have been present previously.

11 With deceased victims and inanimate
12 objects, there is no time frame as to when analysis
13 will cease because they're not moving. Their bodily
14 functions have ceased. There's only environmental
15 outside factors that will remove any GSR that may
16 have been present previously.

17 Q All right. Now you have candidly told us that in
18 this particular case you don't have anything to do
19 with the collection of a GSR kit. You just simply
20 analyze the results once they're sent to your
21 agency; is that right?

22 A Yes, ma'am, that's correct.

23 Q But are you familiar with the collection process?

24 A Yes, ma'am.

25 Q All right. And if you would, can you tell me

SW - T. STURKIE - DIRECT

1 what's the standard protocol with regard to your
2 training in reference to time frames and collecting
3 a GSR kit?

4 A Generally when a GSR kit is performed the acting
5 investigator will take a, what we call particle
6 lifts. These particle lifts look like roofing
7 nails. They have small little stems and a bigger
8 head on top. And on top of these particles are
9 carbon double sided sticky tabs. And what the
10 officer will do, is they will take that lift and
11 begin to dab the areas of the hand that are in these
12 particle lifts. Those four lifts will then be
13 submitted to me and I will analyze it. In the kit
14 there is a gunshot residue analysis information
15 form. This form outlines the subject's name, date
16 of birth, certain information. Key information that
17 I look for on this information form is the time of
18 the shooting and the time of the collection. These
19 two must be between six hours on a living person in
20 order to analyze the kit. If it is beyond six
21 hours, per our protocol we will not analyze that
22 kit. For deceased victims and inanimate objects,
23 this time frame does not matter.

24 Q Okay. And with regard to collection of a GSR kit
25 on a live being, do you rely on whoever is

SW - T. STURKIE - DIRECT

1 collecting the kit with regard to when they collect
2 it and whether or not they're inside that six hour
3 window?

4 A Yes, ma'am.

5 Q All right. And you don't have any control on
6 whether they're within the six hour window or not,
7 do you?

8 A I do not.

9 Q All right. Now if we assume for purposes of this
10 question that an individual had gone 14 hours after
11 the shooting and turned herself in, would you expect
12 that a GSR would have been collected and would be in
13 a position to analyze it?

14 A If the time of the shooting had been known and
15 the person was beyond the six hour time frame of
16 collection, if a kit was taken from the subject I
17 would not have analyzed it due to the six hour
18 window.

19 Q Okay. Now with regard to the two GSR kits --
20 well, let's just focus on Ms. Jackson because we're
21 not as much concerned about the deceased in this
22 case in terms of when it's collected; is that right?

23 A Correct.

24 Q Okay. Let's talk about Ms. Jackson. Do you have
25 on the particular exhibit that's her GSR kit, any,

SW - T. STURKIE - CROSS

1 the time when the shooting occurred or was believed
2 to have occurred and the time that collection, the
3 kit was taken?

4 A In State's Exhibit 72, my item 25, inside it what
5 is the GSR kit and would have been gunshot residue
6 analysis information form. I'd take that form out
7 and place it into my case report so I have it here
8 with me, but it is not physically in State's Exhibit
9 72.

10 Q Okay. What time frame do you have within your
11 case report?

12 A For the gunshot residue analysis information form
13 on item 25, one GSR kit from Jessica Jackson. I
14 have the date and time of shooting occurred as the
15 date of March 30th, 2014, as the time being before
16 5:30 a.m. And the collection time and date as March
17 30th, 2014, with the time of 9:41 a.m.

18 Q Do you have any personal knowledge of your own as
19 to when the shooting actually occurred?

20 A No, ma'am.

21 Q And sir, there's been testimony in this case that
22 Ms. Jackson touched the firearm and put it in a
23 glove compartment after it was fired. We assume
24 those facts to be true, would you expect to find
25 GSR on her hand assuming she picked up the firearm

SW - T. STURKIE - CROSS

1 with her right hand?

2 A I would assume GSR would be present on the hand
3 of someone who just picked up an object that pretty
4 much had GSR on it.

5 Q Okay. Mr. Sturkie, I believe that's all the
6 questions I have for you. Please answer any
7 questions defense counsel may have. Thank you.

8 THE COURT: Cross-examination, Ms.
9 Butcher?

10 MS. BUTCHER: Yes, Your Honor.

11 **CROSS-EXAMINATION**

12 BY MS. BUTCHER:

13 Q You stated that there's a six hour time frame on
14 collecting the gunshot residue from a person. How
15 late on clothes?

16 A There is no time frame for inanimate objects such
17 as clothes.

18 Q Okay. And you tested Jessica's hand, right hand,
19 correct?

20 A Yes, ma'am.

21 Q Okay. And do you -- and the results of that test
22 were positive for gunshot residue?

23 A Yes, ma'am.

24 Q Okay. Now let me ask you this, someone's right
25 handed, they shoot a gun, your findings were

SW - T. STURKIE - CROSS

1 consistent with someone shooting a gun, correct?

2 A Yes, ma'am.

3 Q Okay. And it is most common for someone who is
4 right handed to shoot a gun with their right hand,
5 correct, most common?

6 A Sure.

7 Q Was that sure?

8 A Sure, yes, ma'am.

9 Q Okay. Y'all didn't realize that y'all were
10 actually testing her, what, approximately nine hours
11 later than the gun had been fired?

12 A I have on my information form a time of shooting
13 at before 5:30. This is not a definitive time. I
14 have the collection time of 9:41. We typically have
15 definitive time frames such as 5:30 instead of
16 before 5:30; but because of this information, I
17 cannot exclude that the shooting and collection
18 occurred between six hours or after. And because I
19 could not exclude that, I was obligated per protocol
20 to analyze this kit.

21 Q Okay. Now, so you went ahead and analyzed?

22 A Yes, ma'am.

23 Q And collected and you analyze. Now you explained
24 to the jury the reason why you do not typically do
25 an analysis beyond a six hour time frame is because

SW - T. STURKIE - CROSS

1 it wears off, correct, ---

2 A It has ---

3 Q ---over time?

4 A It has the potential to wear off, yes, ma'am.

5 Q Okay. And as you approach that six hour time
6 frame every hour is worn off more and more
7 typically, correct?

8 A Theoretically, yes, ma'am.

9 Q So, because by that six hour time frame typically
10 it's gone, it would be a waste of your time?

11 A It is assumed beyond the six hours that gunshot
12 residue if present prior would be dissipated beyond
13 findings so we would not, therefore, analyze the
14 kit.

15 Q Okay. And it dissipates over time?

16 A Yes, ma'am.

17 Q Okay. Now did anyone ever ask you to analyze
18 clothes from Ms. Brittany Epps?

19 A No, ma'am.

20 Q Do you know why no one ever submitted Ms. Epps'
21 clothes to be analyzed?

22 A No, ma'am.

23 Q You could have analyzed them, correct?

24 A If submitted, yes, ma'am.

25 Q And there's no time frame not allowing that.

SW - T. STURKIE - REDIRECT

1 You'd have tested them ---

2 A Correct.

3 Q ---had they been submitted?

4 A Yes, ma'am.

5 Q Did anyone ever -- I withdraw that.

6 A The only reason I would not have tested clothing
7 would be if that clothing has been a victim of a
8 gunshot wound, if that clothing has a bullet hole,
9 or has been known to have be fired upon, we will not
10 analyze the clothing then.

11 Q Now you talk about the different ways someone can
12 come to have the GSR on them, correct?

13 A Yes, ma'am.

14 Q Typically is it more likely that the person who
15 shot the gun is gonna have a greater amount of GSR?

16 A The closer the subject is to the discharge of a
17 firearm is more likely to have a higher population
18 of particles present.

19 Q And GSR dissipates over time?

20 A Yes, ma'am.

21 Q And nine hours after a shooting Ms. Jessica
22 Jackson was tested for GSR and you analyzed that,
23 correct?

24 A I analyzed a GSR kit from Jessica Jackson, yes.

25 Q And you found GSR still present on her hand?

SW - T. STURKIE - REDIRECT

1 A Yes, ma'am.

2 Q Her right hand?

3 A The right hand results were particles of gunshot
4 residue, particles consistent with gunshot residue
5 and particles associated with gunshot residue were
6 found.

7 Q Thank you. No further questions.

8 THE COURT: Redirect?

9 MS. BARR: Just a couple, Judge.

10 **REDIRECT EXAMINATION**

11 BY MS. BARR:

12 Q Sir, who collected the GSR kit for Ms. Jackson?

13 A According to my information form for item 25
14 Special Agent Haley Quam.

15 Q And you talked about GSR dissipating over time?

16 A Yes, ma'am.

17 Q Tell me some of the factors or give us some idea
18 of what would cause gunshot residue on an
19 individual's hands to dissipate over time.

20 A On moving hands subjects tend to sweat. Sweat
21 will potentially remove any gunshot residue present.
22 Wind, rain, rubbing of the hands, putting them in
23 your pocket, rubbing them through your hair, just
24 any movement of the hands where GSR may be found
25 would dissipate over time.

SW - K. MEARS - DIRECT

1 Q What about if an individual had changed clothes
2 after that person fired a weapon, would that cause
3 GSR potentially to dissipate?

4 A Potentially, yes.

5 Q What about the person washed their hands?

6 A Washing your hands would definitely -- and this
7 has been practiced in training that washing of the
8 hands does remove some GSR that has been present.

9 Q Okay. What about if a person moved from location
10 to location? Say, moved about 20-miles within a 12,
11 14 hour time period, could that cause GSR on hands
12 to dissipate?

13 A Normal activity of a person will cause GSR to
14 dissipate. Gunshot residue is a very fragile
15 microsize matter that can be easily removed.

16 Q Thank you, sir.

17 THE COURT: Recross?

18 MS. BUTCHER: No recross.

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

20 MS. BARR: Judge, we'd ask the witness be
21 excused.

22 THE COURT: Any objection, Ms. Butcher?

23 MS. BUTCHER: We can excuse, and I
24 subpoenaed him also he's also released from mine.

25 THE WITNESS: Thank you.

SW - K. MEARS - DIRECT

1 THE COURT: You are excused. Thank you
2 for coming.

3 All right, Ms. Barr, you may call your
4 next witness.

5 MS. BARR: We call Kimberly Mears.

6 THE COURT: Come around to the clerk to be
7 sworn please.

8 WHEREUPON,

9 **KIMBERLY MEARS,**
10 having been duly sworn by the Clerk, testified
11 as follows:

12 THE CLERK OF COURT: Take your seat in the
13 witness box.

14 MS. BARR: May it please the Court.

15 **DIRECT EXAMINATION**

16 BY MS. BARR:

17 Q Good morning, Ms. Mears. If you would, please
18 state your full name for us and spell your last name
19 please.

20 A My name is Kimberly Mears. My last name is
21 spelled M-E-A-R-S.

22 Q All right. Tell the jury where you work.

23 A South Carolina Law Enforcement Division, which is
24 commonly known as SLED.

25 Q Okay. And what is it that you do for SLED?

SW - K. MEARS - DIRECT

1 A I am a forensic scientist in the latent print
2 department.

3 Q All right. Give us an idea what all that means.
4 What do we mean by latent prints, I'm sorry.

5 A Explain latent prints?

6 Q Please.

7 A If you look closely at the palm or side of your
8 hand you'll see tiny little raised lines on your
9 skin. Those are what we call ridges, and they rely
10 on sweat pores. Throughout the day you exude sweat
11 or eat greasy foods, touch your face, and moisture
12 accumulates on those ridges. When you go touch a
13 surface, that moisture transfers to the surface
14 corresponding those ridges on your skin. That is
15 your latent print. The word latent means hidden or
16 invisible meaning some form of processing or
17 development to be seen.

18 Q Okay. And ma'am, have you had an opportunity
19 during your employment with SLED to testify in the
20 general sessions court in South Carolina?

21 A Yes, ma'am.

22 Q And have you been qualified as an expert witness?

23 A Yes, I have.

24 Q In what particular field?

25 A Latent print examination.

SW - K. MEARS - DIRECT

1 Q All right.

2 MS. BARR: Your Honor, at this time, of
3 course, we tender Ms. Mears as an expert in the
4 field of latent print examination.

5 THE COURT: Ms. Butcher, any objection?

6 MS. BUTCHER: No objection, Your Honor.

7 THE COURT: All right. The witness will
8 be qualified as an expert in the field of latent
9 print examination. Again, ladies and gentlemen, the
10 witness is qualified as an expert in her field
11 because of her experience, training, and education,
12 and therefore, will be allowed to give an opinion.

13 All right, Ms. Barr.

14 BY MS. BARR:

15 Q Ms. Mears, of course you assisted the
16 Williamsburg County Sheriff's Office in analyzing
17 certain evidence with regard to the death of the
18 victim Joseph Brown?

19 A Yes, I did.

20 Q All right. And if you would, and for your
21 reference I'm specifically referring to the first
22 report of June 10th, 2014.

23 A Okay.

24 Q Are you with me?

25 A Yes.

SW - K. MEARS - DIRECT

1 Q All right. On that particular day what items of
2 evidence did you analyze in connection with this
3 case?

4 A I looked at items 44.1, 45.1, 46.1, 47.1, 48.1,
5 49.1, which are all photographs of latent
6 impressions from the scene and compared them,
7 analyzed them for comparison with item 50, which are
8 postmortem major case prints from Joseph Brown.

9 Q All right. Tell us what's meant by major case
10 prints.

11 A Major case prints are representations of all of
12 the hand. You can have a ten print card which is
13 just your fingerprints. Major case prints include
14 your palm, sides of the hand, the joints of the
15 fingers, basically all parts of the hand.

16 Q Okay. State's 88 through 95?

17 (WHEREUPON, State Exhibits Nos. 88 through
18 95 were marked for identification
19 only.)

20 MS. BARR: The State would move to
21 introduce 88 through 95. I believe they are without
22 objection.

23 MS. BUTCHER: No objection, Your Honor.

24 THE COURT: Admitted without objection
25 State's Exhibits Numbers 88 through 95.

SW - K. MEARS - DIRECT

1 (WHEREUPON, State Exhibits Nos. 88 through
2 95 were admitted into evidence.)

3 BY MS. BARR:

4 Q Ms. Mears, when you indicate that you had various
5 latent print impressions that were taken from the
6 scene, what do you understand the scene to be?

7 A The photographs are said to be from different
8 parts of a vehicle.

9 Q Of a vehicle? All right. I'm going to publish
10 State Exhibit Number 88 first, which is the driver's
11 side or probably more appropriately the left side of
12 the victim's vehicle in this case and then I'll
13 publish State Exhibit Number 84, which is a view of
14 the rear driver's side window of the victim's
15 vehicle. Ma'am, you indicated that you received
16 various latent print impressions from the vehicle or
17 a vehicle in this case?

18 A Yes.

19 Q You understand that to be the victim's vehicle?

20 A It does not indicate whose vehicle.

21 Q All right, let's do this, tell me with regard to
22 your SLED item number 44.1, what is that particular
23 item number a latent impression of?

24 A Said to be from rear driver's window.

25 Q Rear driver's window. Okay. And you compared

SW - K. MEARS - DIRECT

1 that to what in particular?

2 A This one was actually no value for comparison so
3 it was not compared.

4 Q What does that mean, no value for comparison?

5 A No value means you can see ridge detail in the
6 photo; however, it is not suitable for comparison.
7 There's not enough of the print there to compare to
8 a known standard from an individual.

9 Q Explain this to me so that I'm clear. Isn't it
10 that whenever an individual touches a surface
11 they'll leave a print? That's not the case?

12 A Not necessarily.

13 Q Okay, explain that to the jury.

14 A Leaving a print, more specifically a comparison
15 quality print, is a chance even that depends on the
16 surface that was touched, the environment that that
17 surface is in, and the individual themselves. If
18 the person -- as I explained the print is residue on
19 the skin. If the person is not sweating, is not
20 touching greasy surfaces -- for example, if they
21 just washed and dried their hands, you probably do
22 not have enough residue on your skin to leave a
23 print. On the other hand, if you are sweating too
24 much or your hands are wet, that's too much moisture
25 that will cloud the ridge detail transferring to

SW - K. MEARS - DIRECT

1 that surface. If you touch, for example, this
2 smooth wood, that's generally a good surface to
3 touch. Clothing, carpet, any kind of textured
4 leather surfaces, those are not generally suitable
5 surfaces for prints because the residue can get down
6 in that texture and not leave a comparison qualify
7 print. The environment, this car is outside, if
8 it's raining, that's gonna wash away residue. If
9 it's too hot it's going to make off that residue.
10 So leaving a print really just depends on multiple
11 variables.

12 Q Can I get you to step off the witness stand for
13 just a moment for me. I want you to help us for
14 demonstrative purposes. Let me know how much
15 contact would have to be made between an
16 individual's, say for example, palms, and a surface
17 like an automobile to actually leave a readable
18 identifiable print.

19 A It can just be just a tap as long as you're not
20 sliding or smearing your prints 'cause that's also
21 going to affect how the ridges reproduce on that
22 surface; but it could be just, just a slight, slight
23 touch. Or you could also bear down, that does not
24 affect the print. We can still get comparison
25 quality print from enough pressure so really any

SW - K. MEARS - DIRECT

1 touch can leave a print.

2 Q All right. I'll get you to have a seat up there.

3 Tell me about your item number 45.1.

4 A Photographs of latent impression said to be from
5 rear driver's side above quarter window.

6 Q Above the quarter window?

7 A Yes.

8 Q From the rear driver's side of the vehicle?

9 A Yes.

10 Q All right. What was the result?

11 A Also no value for comparison.

12 Q Tell us about 46.1.

13 A Photos of latent impressions said to be from rear
14 driver's side behind door.

15 Q Okay. I'm gonna publish State Exhibit Number 90.

16 Can you read the writing that's contained in that
17 exhibit from where you are?

18 A Yes, ma'am.

19 Q What does it say?

20 A Rear driver's window 3/30/14.

21 Q All right. I'm gonna publish State's Number 92.

22 Can you read the writing that's in that particular
23 exhibit?

24 A Yes. Rear driver's above quarter side -- excuse
25 me, rear driver's side above quarter window.

SW - K. MEARS - DIRECT

1 Q All right. And going to publish State's Exhibit
2 Number 93. Can you read the writing on that
3 exhibit?

4 A Rear driver's side behind door.

5 Q And what was your results of SLED item number
6 46.1?

7 A No value for comparison.

8 Q What's 46 -- 47.1?

9 A Photographs of latent impressions said to be from
10 back windshield near bottom on passenger side.

11 Q I'm gonna publish State's Exhibit Number 91. Can
12 you read that?

13 A Back windshield near bottom on passenger side.

14 Q Okay. And based upon your familiarity with how
15 latent print impressions are collected, does this
16 seem to correspond with your SLED item numbers?

17 A Yes, it does.

18 Q Okay, all right. Tell us about the result on
19 that particular item.

20 A 47.1 is the photograph itself. I then sub-itemed
21 47.1.1 which is the impression represented in the
22 photo.

23 Q Okay.

24 A And the result of that is inconclusive based on
25 the quality of item 50, which are the major case

SW - K. MEARS - DIRECT

1 prints of Joseph Brown.

2 Q Who collected the major case prints for
3 Mr. Brown?

4 A I do not have that information.

5 Q Are you familiar with Haley Quam?

6 A Yes.

7 Q Okay. And she works in crime scene, or worked in
8 crime scene with SLED back in 2014?

9 A Yes.

10 Q Okay. Tell us about item number 48.

11 A 48?

12 Q Yes.

13 A .1 is photographs of latent impression said to be
14 from hood area.

15 Q All right. I'm gonna publish State's Exhibit
16 Number 94. Does that appear be the hood of the
17 vehicle?

18 A Yes.

19 Q All right. And going to publish State's Exhibit
20 Number 95. Can you read the writing on that
21 particular exhibit?

22 A Hood area near front.

23 Q Okay. Tell us about your analysis of that
24 particular latent print.

25 A 48.1 was also sub-itemized to 48.1.1, which is

SW - K. MEARS - DIRECT

1 the latent impression in this photo. It was not
2 identified to item 50, that postmortem prints of
3 Joseph Brown.

4 Q Okay, so, out of all of the latent print
5 impressions that were collected from this vehicle,
6 your testimony is you were not able to conclude that
7 the victim left those latent print impressions?

8 A Correct.

9 Q Okay. If I represented to you that that's the
10 victim's vehicle and that he owned it for two years,
11 would that surprise you that his prints aren't on
12 his own vehicle?

13 A Not necessarily. As I explained, it's a chance
14 event. We don't -- I do not know the history of the
15 vehicle. He may have just washed it or how he
16 handles the vehicle in the manner of just touching
17 it or sliding his hand across or with too much
18 pressure or not enough pressure.

19 Q Okay. Let's talk about the July 16th, 2014,
20 report.

21 A Okay.

22 Q You with me?

23 A Yes.

24 Q All right. Were you provided a case prints for
25 Jessica Jackson?

SW - K. MEARS - DIRECT

1 A Yes, I was.

2 Q Were you able to compare those major case prints
3 to the impressions that we have just talked about
4 with regard to the victim's vehicle?

5 A Yes, I was.

6 Q All right. Would you tell us please what the
7 results of your analysis was.

8 A Item 47.1.1, which is the impression said to be
9 from the back windshield near bottom on passenger
10 side, was identified to the prints collected from
11 Jessica Blair Jackson.

12 Q All right. And this is from the back windshield?

13 A Yes, ma'am.

14 Q I'm gonna publish State's Exhibit 91 again. Does
15 that appear to be the area in which Ms. Jackson's
16 prints were collected?

17 A Yes.

18 Q Now did you compare Ms. Jackson's case prints to
19 all of the other latent print impressions on the
20 victim's vehicle?

21 A It was also compared to item 48.1.1, which is the
22 prints said to be from the hood area.

23 Q Okay.

24 A And that print was not identified to her.

25 Q All right. Now Ms. Mears, let's talk about

SW - K. MEARS - DIRECT

1 please your report dated February 18th of 2016 and
2 let me know if you're with me.

3 A Okay, ready.

4 Q All right. Now were you also given latent
5 print -- strike that. Major case prints for an
6 individual by the name of Vanity Epps?

7 A Yes, I was.

8 Q All right. And did you compare the latent print
9 of Vanity Epps, major case prints of Vanity Epps to
10 any of the latent print impressions that were
11 recovered from the victim's vehicle?

12 A Yes, they were compared to item 48.1.1, the
13 prints from the hood area.

14 Q Okay. Were you able to determine whether or not
15 it was a match?

16 A No, that was inconclusive based on the quality of
17 the major case prints.

18 Q Okay. Now you probably don't know this, but a
19 name of Theodore has been thrown around quite a bit
20 during the trial. Were you given a set of major
21 case prints for Theodore McKnight?

22 A Yes, I was.

23 Q Did you compare those to any latent print
24 impressions from the victim's vehicle?

25 A They were also compared to the prints said to be

SW - K. MEARS - DIRECT

1 from the hood area, and he was not identified to
2 that print.

3 Q Okay. So out of all the major case prints that
4 you were given, and from all of the latent print
5 impressions on the vehicle, the only person that you
6 can say with certainty as having left a latent print
7 is Jessica Jackson?

8 A Correct.

9 Q And that's just on the back windshield?

10 A Yes.

11 Q All right. Are you able to tell us who might
12 have left the remaining latent prints?

13 A No, I cannot.

14 Q Okay. Now let me ask you this, the fact that
15 you're not able to help us in determining who left
16 the other latent prints including the one on the
17 hood, does that concern you in any way, or does that
18 suggest to you that somebody else was involved in
19 this?

20 A That -- particularly the print on the hood ---

21 MS. BUTCHER: Your Honor, I would object,
22 speculation.

23 THE COURT: No, she can give an opinion.
24 She's a qualified expert.

25 MS. BUTCHER: Okay.

SW - K. MEARS - DIRECT

1 THE WITNESS: The print on the hood was
2 not identified to any of the people whose major case
3 prints I received, meaning it is not any of those
4 individuals.

5 BY MS. BARR:

6 Q Okay. Let me ask you this, there's testimony
7 that the victim had gone to a cookout and was
8 surrounded by a number of his family members prior
9 to the shooting, same day. Based upon your
10 experience, is it possible that someone at the
11 cookout or a family member might have left that
12 print on the hood?

13 A Yes, it's possible.

14 Q There was testimony in this case also that the
15 victims had given a ride to somebody to a
16 convenience store earlier in the day. Is it
17 possible that whoever he gave the ride to earlier,
18 they could have left that case print?

19 A Yes, it was.

20 Q What would you have to have in order to be able
21 to tell who left that print on the victim's vehicle?

22 A I would need the known prints of that person.

23 Q All right. I'm gonna pick on the court reporter
24 for a minute. If she just happened to be at a
25 convenience store at the same time the victim was

SW - K. MEARS - CROSS

1 earlier in the day and she came by and said, hi, Mr.
2 Joe, and sat and kind of leaned on his hood and kind
3 of had her hand like I have it now, kind of pressed
4 against, hit the hood of his vehicle. Would you
5 have to have her case prints in order to be able to
6 compare it and determine whether or not that's her
7 latent print impression on the hood?

8 A Yes, I would.

9 Q Okay. Can you tell us when that latent print
10 impression was left?

11 A No, I cannot.

12 Q So it could have been left a day before it was
13 collected?

14 A Possibly.

15 Q Could it have been a left a month before it was
16 collected?

17 A Possibly.

18 Q Six months before it was collected?

19 A Possibly.

20 Q Would you have any way of knowing of being able
21 to tell when that latent print was left or who it
22 belongs to?

23 A No, I would not.

24 Q And if a hundred people had touched the hood of
25 his car, you have to have major case prints for all

SW - K. MEARS - CROSS

1 hundred of those people to be able to determine who
2 left that print?

3 A That's correct.

4 Q Ms. Mears, those are all the questions I have.
5 Thank you so much. Please answer any questions Ms.
6 Butcher may have.

7 THE COURT: Cross-examination,
8 Ms. Butcher?

9 MS. BUTCHER: Thank you, Your Honor.

10 **CROSS-EXAMINATION**

11 BY MS. BUTCHER:

12 Q Let me ask you this, how do you determine whether
13 the latent prints are on the car? Do you dust the
14 entire car? Is that how you do it?

15 A In this case I just received the photographs so
16 all I had to go on was the item description here in
17 the photo.

18 Q Okay. So you have no idea if the entire car was
19 dusted or?

20 A Correct.

21 Q Okay. Now you were -- when you were asked to
22 test these prints, whose prints were you first asked
23 to test against and what date?

24 A I first compared the impressions to Joseph Brown
25 on June 3rd, 2014.

SW - K. MEARS - CROSS

1 Q Okay. Was Jessica Jackson added to that on
2 June 10th -- did you say 13 or 14?

3 A 14.

4 Q Okay. Was Jessica Jackson name added to that in
5 June of 2014, June 10th?

6 A That I'm not sure. That the date I actually
7 compared her prints was July 7th, 2014.

8 Q Okay. And were Brittany Epps' prints later added
9 to what they wanted you to analyze?

10 A They were added at the same time Jessica
11 Jackson's prints were, and I analyzed those on
12 July 7th as well.

13 Q Okay. When were you asked to analyze Theodore
14 McKnight's prints?

15 A That was done on February 8th, 2016.

16 Q Okay. Do you know why his prints were submitted
17 so late?

18 A I do not.

19 Q Okay. You just analyze as you're requested,
20 correct?

21 A That's correct.

22 Q Okay. Were you ever requested to analyze any
23 fingerprints from the inside of the car?

24 A I was not.

25 Q Do you know why not?

SW - K. MEARS - CROSS

1 A I do not.

2 Q Had you been asked to analyze prints from the
3 inside of the car, would you have?

4 A Yes, I would.

5 Q Okay. And how about the glove box area, that's
6 also inside the car?

7 A I did not receive any prints from that location.

8 Q Okay. Now if someone were to open a glove box to
9 reach for a gun, would that have been a very
10 important area to analyze fingerprints for?

11 A I cannot say.

12 Q If they had to open it to reach for the gun and
13 you want to know who opened that glove box, would
14 that have not been a very important area to find out
15 that information?

16 A It could have been depending on, like I said, the
17 environment and how the object is touched.

18 Q Okay. And I'm not asking you if prints were
19 still there, but to test to see if they could even
20 be found, the prints. Do you agree as an expert
21 that would have been a prime place, a very important
22 place to test and analyze?

23 A Yes.

24 Q Thank you. Now I want to show you what's been
25 marked as -- I'll let you look at it first so you

SW - K. MEARS - CROSS

1 can see it well. It's State's Exhibit 48. All
2 right. Now there's been testimony that law
3 enforcement found this remote at Vanity Epps' home,
4 okay.

5 A Okay.

6 Q Do you know why law enforcement would have had on
7 gloves?

8 A So as not to contaminate any evidence with their
9 own DNA or fingerprints, and also to protect
10 themselves from any possible evidence on this item.

11 Q And that's important; isn't it?

12 A Yes.

13 Q Now was this item ever submitted to you to be
14 tested for fingerprints?

15 A No, it was not.

16 Q Do you know why?

17 A No, I do not.

18 Q Do you agree that that would have been a very
19 important piece of evidence to submit for
20 fingerprint analysis?

21 A It could have been. I'm not familiar with the
22 role of that key chain in this case.

23 Q Now, and in your analysis -- well, you had
24 testified that it, I guess Ms. Barr asked you if it
25 was a little surprising that the owner of the car

SW - K. MEARS - CROSS

1 didn't have any print, y'all didn't find prints of
2 his on the vehicle. And you had suggested, well, it
3 could have been washed, you don't know the condition
4 of the car. In your analysis, you're not able to
5 detect if it had been washed or anything?

6 A That's correct.

7 Q And you don't know if the entire car was actually
8 tested or dusted for prints, correct?

9 A Correct.

10 Q Okay, so there could have been a lot more
11 fingerprints on that car as far as you know that
12 just were never submitted to be analyzed?

13 A Correct.

14 Q Okay. Now in your analysis you are able to only
15 identify one person as having fingerprints on that
16 car?

17 A That is correct.

18 Q And who was that?

19 A Jessica Blair Jackson.

20 Q And where were those prints located?

21 A Said to be from back windshield near bottom on
22 passenger side.

23 Q I apologize, say that one more time.

24 A Said to be from back windshield near bottom on
25 passenger side.

SW - K. MEARS - CROSS

1 Q Thank you. No further questions.

2 THE COURT: Redirect, Ms. Barr?

3 MS. BARR: No, Your Honor.

4 THE COURT: All right. Thank you, you may
5 step down.

6 Would you like to have the witness
7 excused.

8 MS. BARR: Please, Judge.

9 THE COURT: Any objection?

10 MS. BUTCHER: None, Your Honor.

11 THE COURT: You are excused. Thank you
12 for coming.

13 All right, Ms. Barr, you may call your
14 next witness.

15 MS. BARR: Your Honor, may counsel and I
16 approach the Bench?

17 THE COURT: Yes.

18 (WHEREUPON, counsel approached the
19 Bench for an off-the-record discussion.)

20 THE COURT: Ladies and gentlemen of the
21 jury, the Court has been advised the next witness is
22 going to be fairly lengthy so I think that it is
23 appropriate that we take a recess at this time,
24 about ten minutes. So go to your jury room. Please
25 do not discuss the case among yourselves. It's

SW - M. BOEHM - DIRECT

1 still premature for you to begin any discussion of
2 this matter. We'll take a short break. We'll be
3 ready to start with the next witness about ten
4 minutes. Thank you, you may go with the bailiff.

5 (WHEREUPON, the jury was removed from the
6 courtroom at 10:41 a.m.)

7 THE COURT: Let's be prepared to start
8 back about five minutes till 11 if we can. Take
9 about ten minutes.

10 (WHEREUPON, a recess was taken from the
11 proceedings.)

12 (WHEREUPON, State Exhibits Numbers 96
13 through 113 were marked for
14 identification only.)

15 THE COURT: Back on the record with regard
16 to the matter of the State versus Brittany Epps.
17 Ms. Epps is present with her counsel, Ms. Butcher.
18 The State is present represented by the Third
19 Circuit Solicitor's Office, Ms. Barr.

20 Ready to proceed, Ms. Barr?

21 MS. BARR: Yes, sir.

22 THE COURT: Ready to proceed, Ms. Butcher?

23 MS. BUTCHER: Yes, Your Honor.

24 THE COURT: Bring the jury in please.

25 (WHEREUPON, the jury was returned to the

SW - M. BOEHM - DIRECT

1 courtroom at approximately 10:57 a.m.,
2 and the following proceedings commenced
3 in open court.)

4 THE COURT: All right, thank you very
5 much. Ladies and gentlemen, and we are now ready to
6 proceed. The State was presenting their case and
7 they can continue to do so.

8 Ms. Barr, you may call your next witness.

9 MS. BARR: We call Maryann Boehm.

10 MS. BARR: Come around please, right up
11 here and be sworn.

12 THE CLERK OF COURT: Good morning. Place
13 your left hand on the Bible, raise your right hand.
14 WHEREUPON,

15 **MARYANN BOEHM,**
16 having been duly sworn by the Clerk, testified
17 as follows:

18 THE CLERK OF COURT: Ma'am, take your seat
19 in the witness box.

20 MS. BARR: May it please the Court.

21 **DIRECT EXAMINATION**

22 BY MS. BARR:

23 Q Good morning, Ms. Boehm.

24 A Good morning.

25 Q How are you doing today?

SW - M. BOEHM - DIRECT

1 A I'm doing great.

2 Q Good. If you would please state your full name
3 for us and spell your last name for the benefit of
4 the court reporter.

5 A My name is Maryann Elizabeth Boehm, B-O-E-H-M.

6 Q All right. And ma'am, where do you work?

7 A I work at the South Carolina Law Enforcement
8 Division, commonly known as SLED.

9 Q All right. Tell us please, you've had the
10 benefit, of course, of having heard some of your
11 coworkers. Tell this jury what you do for a living.

12 A I am a forensic scientist assigned to the DNA
13 casework department at SLED. I receive evidence and
14 known standards from local law enforcement agencies.
15 I will generate DNA profile from the evidence and
16 DNA profile from the standards, compare the
17 standards to the evidence and write a report based
18 on my findings.

19 Q Okay. Give us a little background, if you will,
20 about your education and your training.

21 A I received a bachelor of science in integrated
22 science technology with a concentration in
23 biotechnology from James Madison University, and
24 that's in Harrisonburg, Virginia. Upon employment
25 at SLED I was trained by a court qualified senior

SW - M. BOEHM - DIRECT

1 analyst for approximately a year in specific
2 procedures and techniques using our laboratory. I
3 took a series of five tests before I was signed off
4 to be able to do independent DNA analysis.

5 Q All right. Now ma'am, you have testified in
6 circuit courts in this state before; haven't you?

7 A Yes, I have.

8 Q And you've been qualified as an expert witness?

9 A Yes, ma'am.

10 Q In what particular field?

11 A In serology and DNA analysis.

12 Q All right.

13 MS. BARR: Your Honor, at this time we
14 would tender the witness as an expert in the field
15 of serology and DNA analysis.

16 THE COURT: Any questions regarding
17 qualifications, Ms. Butcher?

18 MS. BUTCHER: No, Your Honor.

19 THE COURT: All right, no objection to
20 qualifying? Okay.

21 MS. BUTCHER: No objection.

22 THE COURT: The witness will be qualified
23 as an expert in the field of serology and DNA
24 analysis. Again, ladies and gentlemen, I've told
25 you many times, the difference between a expert

SW - M. BOEHM - DIRECT

1 witness and a nonexpert witness. But an expert
2 witness by training, experience, and education is
3 allowed to give an opinion so this witness has been
4 qualified as an expert in the field of serology and
5 DNA analysis.

6 All right, Ms. Barr.

7 MS. BARR: Thank you, Your Honor.

8 BY MS. BARR:

9 Q Ms. Boehm, tell us what is meant by, first,
10 serology, and then DNA.

11 A Serology is the identification of human body
12 fluid. We test for body fluid such as semen,
13 saliva, and blood. DNA stands for deoxyribonucleic
14 acid. It is a chemical found in all the cells of
15 our body. It gives us our physical features like
16 our hair color or our height. It's also important
17 for passing along traits from generation to
18 generation. We get half of our DNA from our mother
19 and half from our father. With the exception of
20 identical twins, no two individuals have the same
21 DNA. In forensic science we test 15 different
22 locations that differ between individuals. The
23 combination of those test results make up a DNA
24 profile.

25 Q All right. Now you assisted us with regard to

SW - M. BOEHM - DIRECT

1 testing evidence involving the death of the victim
2 Mr. Joseph Brown; is that right?

3 A Yes, ma'am.

4 Q Okay. One of the many items that you received
5 were what we call known standards?

6 A That's correct.

7 Q All right, tell the jury what are known
8 standards.

9 A A known standard is taken off or collected from a
10 person, it's either blood or buccal swab, which is,
11 are swabs inside of your mouth. These are known
12 source of DNA versus evidence, which is an unknown
13 source of DNA; we don't know who left that evidence
14 DNA behind.

15 Q And so the distinction would be, for example, if
16 we came into the courtroom and there was a blood
17 stain in the middle of the floor and we had no idea
18 who left that blood stain or how it got there, that
19 would be a piece of evidence?

20 A That's correct.

21 Q All right. Now you took a swab and you swabbed
22 my mouth, and I acknowledge that you swab my mouth
23 and you secured that piece of evidence, that would
24 be considered my known sample?

25 A That's correct.

SW - M. BOEHM - DIRECT

1 Q My known standard?

2 A Yes.

3 Q All right. Now what individuals or which known
4 standards were you given in connection with this
5 case?

6 A I received known standards from Joseph Brown,
7 Jessica Jackson, and Brittany Epps.

8 Q Okay. And we'll go over various pieces of
9 evidence that you analyzed; and for clarity, I'll
10 refer to your March 23rd, 2016 report. You have
11 that with you?

12 A Yes, ma'am.

13 Q Awesome. Let's first talk about SLED item number
14 2.1 and 2.2. Are you familiar with what I'm talking
15 about?

16 A Yes, ma'am.

17 Q All right. Tell us what SLED number 2 is.

18 A SLED item 2 was a cut strap. I received items
19 2.1 and 2.2 which were swabs from the cut strap.

20 Q Okay. And when we talk about a strap we're
21 talking about a purse strap or what appears to be a
22 purse strap?

23 A I just have it described as a cut scrap so I
24 don't know for sure.

25 Q Okay. Ma'am, I'm going to publish what's

SW - M. BOEHM - DIRECT

1 previously been admitted as State's Exhibit Number
2 36, which are two cut straps from a tan purse. It's
3 been identified as two straps from a tan purse.

4 Tell us about your analysis of SLED item number 2.1
5 and 2.2.

6 A All right. I received swabs from item 2, which
7 were items 2.1 and 2.2, what there was no request
8 for serology testing so I didn't look for any kind
9 of body fluid on these swabs. I just went straight
10 to DNA. In this case we're looking for touch DNA to
11 when you touch an object there's a possibility of
12 leaving DNA behind so there's no serology testing to
13 do, to show that we just take the swab straight to
14 DNA. So I cut part of that swab, extracted DNA from
15 it, the various chemicals and instrumentation I
16 generate a DNA profile from both items 2.1 and 2.2.

17 Q So you compared the swab from both purse straps
18 to the known standard of Jessica Jackson, Brittany
19 Epps, and Joseph Brown?

20 A Yes, ma'am.

21 Q Tell us what were the results of that analysis
22 were.

23 A Okay. The DNA profile developed from item 2.1
24 which was a swab from the cut strap is a mixture of
25 two individuals. Joseph Brown and Jessica Jackson

SW - M. BOEHM - DIRECT

1 cannot be excluded from this mixture. The
2 probability of randomly selecting unrelated
3 individual who could have contributed to this
4 mixture is approximately 1 in 9.6 million. Brittany
5 Epps can be excluded as a contributor to this
6 mixture.

7 Q All right. So with regard to the tan purse
8 straps, your testimony is the swab of those straps
9 contains the DNA of the victim Joseph Brown as well
10 as Jessica Jackson?

11 A Yes, ma'am.

12 Q Okay. Now, let me ask your opinion about
13 something. Assume for me, if you will, that
14 Ms. Jackson testified that she strangled the victim
15 from behind with those purse straps, okay, and that
16 her palms were sweaty at the time. We assume those
17 two things to be true, would you expect to find her
18 DNA and the victim's DNA on those purse straps?

19 A Yes, ma'am, I would.

20 Q Okay. All right, tell me about SLED item number
21 24 and 24.1.

22 A SLED item 24 was a pair of red shorts collected
23 from Jessica Jackson, and item 24.1 was a cutting
24 from those shorts.

25 Q All right. Did you itemize that cutting from the

SW - M. BOEHM - DIRECT

1 shorts?

2 A Yes, ma'am, I did.

3 Q And what were the results of that analysis?

4 A The DNA profile developed from item 24.1 matches
5 DNA profile of Jessica Jackson. The probability of
6 randomly selecting an unrelated individual having a
7 DNA profile matching this item is approximately 1 in
8 730 quadrillion.

9 Q All right. Tell us about SLED item number 37 and
10 37.1.

11 A Item 37 was a bag. Item 37.1 was swabs from the
12 ripped area of the bag.

13 Q All right. And while I have you testifying with
14 regard to that I'm gonna publish State's Exhibit
15 Number 55 and represent to you that that is the rear
16 passenger seat of the victim's vehicle with a pair
17 of jeans and a plastic bag. Tell me what the result
18 of that particular analysis was.

19 A The partial DNA profile developed from item 37.1,
20 which is the swab from the bag, also matches the DNA
21 profile of Jessica Jackson. The probability of
22 randomly selecting an unrelated individual having a
23 DNA profile matching this item is approximately 1 in
24 730 trillion.

25 Q All right. And just to be clear, SLED item

SW - M. BOEHM - DIRECT

1 number 37 is what, again, for me?

2 A A bag.

3 Q Okay. And it's described as a ripped bag?

4 A Yes, ma'am.

5 Q Now what I'm holding is the contents of what's
6 been previously admitted as State's Exhibit Number
7 34. I'll show it to you here. Can you see it?

8 A Uh-huh.

9 Q All right. And on the projector, does the white
10 and blue item near the jeans on the projector appear
11 to be the same as this ripped plastic bag?

12 A It appears to be, yeah.

13 Q All right. Ms. Boehm, if you would, tell us
14 about SLED item number 38, or 38.1.

15 A Item 38 was the pepper spray. I received a swab
16 from the pepper spray, item 38.1.

17 Q I'm gonna publish State Exhibit Number 109. I'll
18 represent to be the front passenger seat of the
19 victim's vehicle. You indicated you received a swab
20 from a pepper spray?

21 A Yes, ma'am.

22 Q All right. Tell us what the results of that
23 analysis were.

24 A The DNA profile developed from item 38.1 is a
25 mixture of at least two individuals. The partial

SW - M. BOEHM - DIRECT

1 DNA profile of the major contributor matches the DNA
2 profile of Joseph Brown. The probability of
3 randomly selecting an unrelated individual having a
4 DNA profile matching the major contributor to this
5 item is approximately one in 59 billion. Due to the
6 limited information obtained, a partial DNA profile
7 of the minor contributor of this picture is not
8 suitable for comparison.

9 Q All right, tell us what that means. You
10 essentially told us that upon an analysis of the
11 swab from the pepper spray it revealed the DNA
12 profile, or at least two individuals?

13 A At least two individuals.

14 Q All right. And you were able to tell us that one
15 of those individuals was Mr. Brown?

16 A Yes, ma'am.

17 Q All right. Now you mentioned that you could not
18 determine the profile of the second individual.
19 What do you mean by that?

20 A Yes. Sometimes when we get a DNA profile it will
21 be a mixture. And in some instances there will be
22 more DNA of one person left on that item of evidence
23 and then other, at least one other person so we call
24 the major contributor the person who left the DNA
25 that we can determine. As far as this minor

SW - M. BOEHM - DIRECT

1 contributor, there was not enough information to
2 make any kind of interpretation with it so I could
3 not make any kind of comparison.

4 Q All right. If you would, ma'am, please tell us
5 about SLED item number 39.1. While you're doing
6 that I'm gonna publish State's Exhibit 106, which
7 I'll represent to be the rear of the victim's
8 vehicle along with the front seat cover.

9 A Item 39.1 was a cutting from a beige in color
10 seat cover from the front center area.

11 Q Okay. And can you tell us what the results of
12 that analysis was?

13 A Yes. The DNA profile developed from item 39.1
14 matches the DNA profile of Joseph Brown. The
15 probability of randomly selecting an unrelated
16 individual having a DNA profile matching this item
17 is approximately one in 170 quintillion.

18 Q Okay. I need to skip around for just a moment,
19 okay. Let's go to SLED item number 55. Are you
20 with me?

21 A Uh-huh.

22 Q What do you have SLED item 55 as being?

23 A Item 55 is swabs from the center of the rear
24 seat.

25 Q Swabs from the center of the rear seat?

SW - M. BOEHM - DIRECT

1 A Yes, ma'am.

2 Q Okay. Do you see this measuring tape here that's
3 in State's Exhibit 106?

4 A Yes, ma'am.

5 Q All right. Do you see what looks like a red
6 substance here where my finger is?

7 A Yes, ma'am.

8 Q Okay. All right, so the rear of the victim's
9 vehicle was swabbed. What were the results of that
10 analysis.

11 A The DNA profile developed from SLED item 55
12 matches the DNA profile of Jessica Jackson. The
13 probability of randomly selecting an unrelated
14 individual having a DNA profile matching this item
15 is approximately one in 170 quintillion.

16 Q Okay. Ms. Jackson's DNA is on the rear passenger
17 seat?

18 A Yes, ma'am.

19 Q All right. I'm going to publish again State's
20 Exhibit 55. You see what looks like a pair of jeans
21 again in that photograph?

22 A Yes, ma'am.

23 Q Tell us about your analysis of SLED item number
24 40.1.

25 A SLED item 40.1 was a swab from a pair of blue

SW - M. BOEHM - DIRECT

1 jeans size 16 from rear driver's seat.

2 Q Okay. And what were the results of that
3 analysis?

4 A The DNA profile developed from item 40.1 is a
5 mixture of at least two individuals. The DNA
6 profile of the major contributor to this mixture
7 also matches the DNA profile of Jessica Jackson.
8 The probability of randomly selecting an unrelated
9 individual having a DNA profile matching the major
10 contributor to this mixture is approximately 1 in
11 730 quadrillion. Due to the limited information
12 obtained, a partial DNA profile of the minor of this
13 mixture is not suitable for comparison.

14 Q All right. So Ms. Jackson's DNA was found on the
15 blue jeans in the rear of the victim's vehicle?

16 A Yes, ma'am.

17 Q All right now, did you compare the swabs to the
18 known standard of the defendant with regard to the
19 swabs from the jeans?

20 A I compared the major contributor. The minor
21 contributor, there was not enough there for
22 comparison.

23 Q Okay. Now can you tell us whether or not Ms.
24 Jackson owned the jeans that are depicted in that
25 exhibit?

SW - M. BOEHM - DIRECT

1 A No, I cannot tell you that.

2 Q What, if anything, does the presence of her DNA
3 on those jeans tell you?

4 A That, just that, that her DNA was on those jeans.
5 She may have come in contact with those jeans.

6 Q All right. Let's talk about SLED item number
7 41.1. Give me just a second. What is your, what is
8 that particular item?

9 A Item 41.1, SLED number, is a swab from a camo
10 hoodie size large from front passenger floorboard.

11 Q Okay, all right. Ma'am, while you're testifying
12 I'll publish State Exhibit Number 8. It's
13 previously been identified as a view of the front
14 passenger seat of the victim's vehicle. And I'll
15 publish State Exhibit Number 9 which is the
16 floorboard of the front passenger side of the
17 victim's vehicle. And I'll publish State Exhibit
18 Number 11 which is the Realtree, a picture of a
19 Realtree camo hoodie. With regard to testing swabs
20 from the camo hoodie, what were the results of your
21 analysis?

22 A The DNA profile developed from item 41.1 which
23 was from the hoodie, is a mixture of at least three
24 individuals. The DNA profile of the major component
25 is a mixture of at least two individuals. Jessica

SW - M. BOEHM - DIRECT

1 Jackson and Brittany Epps cannot be excluded from
2 the major component. The probability of randomly
3 selecting an unrelated individual who could have
4 contributed to the major component of this mixture
5 is approximately one in 27 million.

6 Q All right.

7 A Due to the limited information obtained the
8 partial DNA profile of the minor component of this
9 mixture is not suitable for comparison.

10 Q All right. And in layman's terms does that
11 indicate the presence of Jessica Jackson and
12 Brittany Epps' DNA?

13 A Yes, ma'am.

14 Q All right. Tell us about 42.1.

15 A 42.1 was a swab from a black camisole from rear
16 driver's side seat near blue jeans.

17 Q A black camisole in rear driver's seat near blue
18 jeans; is that right?

19 A Yes, ma'am.

20 Q All right. I'm gonna publish State's 55 again
21 while we're talking about that. Tell me what the
22 results of that particular analysis were.

23 A The DNA profile developed from item 42.1 matches
24 the DNA profile of Jessica Jackson. The probability
25 of randomly selecting an unrelated individual having

SW - M. BOEHM - DIRECT

1 a DNA profile matching this item is approximately
2 one in 730 quadrillion.

3 Q Was Ms. Epps' DNA present on the swab, the black
4 camisole that's in the back seat of the victim's
5 vehicle?

6 A No, ma'am.

7 Q I'm removing the contents of what's previously
8 been admitted as State Exhibit Number 38, key chain
9 and remote. And I believe that the swabs from that
10 would be your SLED item numbers 51, 52, and 53; is
11 that right?

12 A Yes, ma'am.

13 Q Tell the jury what the results of that analysis
14 was.

15 A The DNA, there's no DNA profile that was
16 developed from items 51 and 52. And due to the
17 limited information obtained a partial DNA profile
18 from item 53 is not suitable for interpretation.

19 Q Okay. If there's been testimony that the key
20 remote and key chain belonged to the deceased victim
21 in the case, would you expect to find his DNA on his
22 key chain and his remote?

23 A It's possible.

24 Q And so we're clear, Ms. Jackson's DNA was not
25 discovered on the swabs from the key chain and key

SW - M. BOEHM - DIRECT

1 remote.

2 A That's -- that would be correct.

3 Q And neither was the defendant's?

4 A No, ma'am.

5 Q All right. Tell us about your item, SLED item
6 number 54.

7 A Item 54 was swabs from the driver's side of the
8 vehicle Cadillac near the driver's door.

9 Q Okay. And what were the results of that
10 analysis?

11 A No DNA profile was developed from item 54.

12 Q Ma'am, I'm removing the contents of what's been
13 previously marked and admitted as State's Exhibit
14 Number 71, a track phone. Tell us, if you will,
15 what SLED item number 68 is.

16 A Item 68 is swabs from track phone at marker two.

17 Q From a track phone at marker 2?

18 A Yes, ma'am.

19 Q Ma'am, also publishing State's Exhibit Number 99,
20 side by side with the track phone. And for the
21 record State's Exhibit Number 99, is that ---

22 THE COURT: Is that in evidence, Ms. ---

23 MS. BARR: It is.

24 THE COURT: It is?

25 MS. BUTCHER: I believe it is. There's no

SW - M. BOEHM - DIRECT

1 objection.

2 THE COURT: All right, admitted into
3 evidence without objection.

4 MS. BARR: Your Honor, for the record, I
5 have shown these photographs to Ms. Butcher and she
6 has no objection to State's Exhibits 96 through 113
7 being admitted into evidence, and we move to so
8 admit.

9 THE COURT: Is that correct?

10 MS. BUTCHER: That's correct, Your Honor.

11 (WHEREUPON, State Exhibit Nos. 96 through
12 113 were admitted into evidence.)

13 BY MS. BARR:

14 Q Tell me what the results were of your analysis of
15 the swabs from the track phone at marker 2.

16 A The DNA profile developed from item 68, which was
17 swabs from the track phone, matches the DNA profile
18 of Joseph Brown. The probability of randomly
19 selecting an unrelated individual having a DNA
20 profile matching this item is approximately one in
21 170 quintillion.

22 Q Okay. Based upon your analysis of all of the
23 swabs in items from the rear of the vehicle, was
24 anyone else's DNA on the item from the rear of the
25 vehicle other than Jessica Jackson?

SW - M. BOEHM - CROSS

1 A Um---

2 Q And let me do better so that we're on the same
3 page. You've told me about the swab from the rear
4 seat?

5 A Yes, ma'am.

6 Q All right. Did that have anyone else's DNA on it
7 other than Ms. Jackson?

8 A No, ma'am.

9 Q What about the blue jeans?

10 A Yes. That one was a mixture so the major
11 contributor matched Jessica Jackson; and that minor
12 contributor, there was not enough there to make
13 comparisons but there someone else's DNA on that
14 item.

15 Q What about the camisole, which for reference
16 would be SLED item number 42.1?

17 A That's Jessica Jackson.

18 Q All right. What about the plastic bag in the
19 rear for reference would be your SLED item number
20 37.1?

21 A That's also Jessica Jackson.

22 Q Okay. Ms. Boehm, I believe that's all the
23 questions I have for you at this time. If you
24 would, please answer any questions defense counsel
25 may have for you.

SW - M. BOEHM - CROSS

1 THE COURT: Cross-examination, Ms.

2 Butcher?

3 MS. BUTCHER: Yes, Your Honor.

4 **CROSS-EXAMINATION**

5 BY MS. BUTCHER:

6 Q Good morning. How are you?

7 A Good morning.

8 Q Let me ask you, if I go on a trip or something
9 and I got my clothes of mine and I put them in a bag
10 and I put them in the trunk of my car and you test
11 those clothes later for DNA, does that indicate that
12 I was in the trunk of my car?

13 A No, just that your DNA was on those clothing.

14 Q If I take my clothes and I put them in the back
15 seat, does that indicate I was sitting in the back
16 seat?

17 A No, ma'am.

18 Q Okay. So basically, if those were my blue
19 jeans -- let me ask you this, there was prior
20 testimony from Ms. Jackson that she thought those
21 were her jeans, that was her camisole, and that she
22 had packed a bag. You would expect to find her DNA
23 on those items; wouldn't you?

24 A Yes, ma'am.

25 Q Doesn't indicate where she was sitting at all in

SW - M. BOEHM - CROSS

1 that car, does it?

2 A No.

3 Q Okay. One thing I noticed when I was looking at
4 the reports, and may be I'm wrong, misreading it,
5 but it appears that there was no analysis done on
6 these until January of 2016; is that correct?

7 A Yeah, I started analysis in December but.

8 Q December of---

9 A My report was -- of 2015. But my report was not
10 issued until January 2016.

11 Q Any reason why it took that long?

12 A We're very backlogged at SLED; we have lots of
13 cases. And right now we basically get assigned
14 cases when we get a phone call on a case.

15 Q Okay. And those first two analyses on the
16 report, they included Joseph Brown and Jessica
17 Jackson; is that correct?

18 A I want to check to make sure.

19 Q I said two analyses, I apologize, I have a copy.

20 A The only standards I received in my initial
21 report were from Jessica Jackson and from Joseph
22 Brown.

23 Q Okay. And you did another report later in March
24 of 2016, March 23rd, 2016?

25 A Yes.

SW - M. BOEHM - CROSS

1 Q And that analysis actually included Joseph Brown,
2 Jessica Jackson, Brittany Epps, Theodore McKnight,
3 and Vanity Epps?

4 A I did not have all those standards, no, ma'am.

5 Q But that was who they were looking for?

6 MS. BARR: Objection, speculation.

7 MS. BUTCHER: Let me ask you ---

8 MS. BARR: She has no way of knowing what
9 anyone ---

10 THE COURT: All right, she doesn't have
11 any way to know what they're looking for. She can
12 only testify as to what was submitted to her.

13 MS. BUTCHER: And I'll rephrase that, Your
14 Honor, I apologize.

15 BY MS. BUTCHER:

16 Q Those are the names that are on the front of your
17 report, correct?

18 A Correct. Those names are from our log-in
19 receipts that the investigating officer brings to us
20 so. The first time we just had those two names,
21 then the additional one had more names on it.

22 Q Explain to me from your log-in and how the other
23 names came to be added to that.

24 A Well, I don't know how they were added. When a
25 local law enforcement agent brings in evidence or

SW - M. BOEHM - CROSS

1 from a crime scene agent, they log it all. Someone
2 at SLED logs all the information into a computer
3 system and that's where our chain of custody track
4 all, as far as DNA goes, all of our work sheets are
5 made. We do all of our analysis within that
6 computer system. So when I go to write my report
7 the names that are affiliated with that case are
8 applied to that report.

9 Q Okay. And the "S" that's in parentheses, does
10 that stand for suspect?

11 A No, it stands for subject.

12 Q Subject, okay. Now overall you found Jessica
13 Jackson's DNA on numerous items, correct?

14 A That's correct.

15 Q Okay. And the only thing that you found that was
16 indicated of Brittany Epps was the hoodie,
17 correction? It was that she couldn't be ruled out?

18 A That's correct.

19 Q Okay. It wasn't a definite match but she
20 couldn't be ruled out?

21 A She could not be excluded from that item.

22 Q Okay. And on that hoodie and that's the -- and
23 I'm gonna put this up.

24 MS. BARR: Which exhibit is it?

25 MS. BUTCHER: I apologize, that is State's

SW - M. BOEHM - CROSS

1 Exhibit 11.

2 BY MS. BUTCHER:

3 Q And is this the hoodie we're talking about?

4 A I believe so. I just received a swab or, yes, a
5 swab from that item.

6 Q There's only one hoodie though, correct?

7 A That was submitted to me, yes.

8 Q Yeah, okay. Now you also found in your analysis
9 that you would not exclude Jessica Jackson's DNA?

10 A That's correct.

11 Q Okay. So let's assume for a second that if, say,
12 that was Brittany Epps' sweatshirt or hoodie and she
13 wore it, then later in the night she took it off and
14 lent it to Jessica Jackson who was cold, would you
15 expect to find both the girls' DNA on it?

16 A Yes, it's possible.

17 Q And also that perhaps DNA that could not be
18 excluded?

19 A Yes, it's possible.

20 Q Okay. There was -- you also analyzed some straps
21 that had supposedly been cut off of her purse,
22 correct?

23 A Yes, ma'am.

24 Q Okay. And on that you found Jessica Jackson's
25 DNA, correct?

SW - M. BOEHM - CROSS

1 A Yes, ma'am.

2 Q Along with Joseph Brown's, correct?

3 A That's correct.

4 Q And Ms. Barr led you through a scenario that
5 could have possibly been the reason why both of
6 those people's DNA was on those straps, correct?

7 A Yes, ma'am.

8 Q How about if Jessica had that purse and Mr. Brown
9 just touched it, picked it up, or anything of that
10 nature, or perhaps even moved it?

11 A It's possible. With touch DNA there's various
12 factors going into potentially leaving DNA behind.
13 If you're barehanded there's, you don't have a glove
14 or clothing over your hand, it depends on how often
15 you touch it or how hard you touch it. If you just
16 brush up to an item or touch it real briefly, the
17 potential to leave DNA behind is not as great as if
18 you really rub an item. Also sweating, it's, in
19 leaving DNA behind.

20 Q Okay. So, say if an 87 year old man thought he
21 was about to have sex with a young girl, he might be
22 a little sweaty and picked that up, that would be
23 inclined to leave a little more DNA?

24 A It's possible, yes.

25 Q You from your analysis, you just cannot determine

SW - M. BOEHM - CROSS

1 how?

2 A No, ma'am, I cannot.

3 Q Okay. There's nothing beyond a reasonable doubt
4 that you can present to us to determine how that DNA
5 got on any of those items, correct?

6 A That's correct.

7 Q Now you tested swabs from a remote and a key
8 chain, correct?

9 A That's correct.

10 Q And when I read your report I see, see DNA
11 analysis. Can you explain again, I'm sorry, what
12 the results were.

13 A Yes, ma'am. There was no DNA profile developed
14 from item 51 and 52. Item 51 was swabbed from the
15 key ring. Item 52 was swabs from the key chain
16 labeled Cadillac. And for item 53, which was swabs
17 from the remote labeled Cadillac, the results were
18 due to limited information the partial DNA profile
19 developed from item 53 is not suitable for
20 interpretation.

21 Q Okay, and that's what I was getting. You said
22 it's not suitable for interpretation, or is there
23 just nothing there that you can develop at all?

24 A There is some DNA there, however, we have lots of
25 criteria to determine if we can use it for

SW - M. BOEHM - REDIRECT

1 interpretation purposes. And for this item, no,
2 there was not enough information there for any kind
3 of interpretation.

4 Q Okay. And if, let's say, I was holding those and
5 would it be something like I could grab it and wipe
6 it off and, you know, throw it somewhere, is that
7 sort of the result you would expect?

8 A It's possible, yes.

9 Q Okay. So, but you can't determine from your
10 analysis with any, beyond any reasonable doubt,
11 whether or not those keys were wiped clean and
12 tossed or how they came to have no DNA that you can
13 analyze on there?

14 A No, ma'am, I cannot.

15 Q Do you know why Theo McKnight's DNA was never
16 submitted to you to analyze?

17 A No, ma'am.

18 Q You certainly would have analyzed it had it been
19 submitted?

20 A Yes.

21 Q Still capable of analyzing it; aren't you?

22 A Yeah.

23 Q And we know, unfortunately, Mr. Brown was shot
24 that night, but your analysis does not in any way
25 show who shot Mr. Brown, does it?

SW - M. BOEHM - REDIRECT

1 A It does not.

2 Q Also in no way shows who was present when he was
3 shot, correct?

4 A That's correct.

5 Q Thank you.

6 THE COURT: Redirect?

7 MS. BARR: Yes, please.

8 **REDIRECT EXAMINATION**

9 BY MS. BARR:

10 Q Ms. Boehm, just a quick followup questions. Did
11 I understand you to say on cross-examination that
12 the lack of identifiable DNA on the victim's, on the
13 Cadillac key chain and key remote is possible if
14 someone had wiped prints or wiped the remote and the
15 key chain off and threw it in a yard?

16 A You could either clean the DNA away or wipe the
17 DNA off. It is possible that they removed the DNA
18 some factor by wiping it that I would not get a DNA
19 profile from it.

20 Q All right. And Ms. Jackson asked you -- I pose a
21 hypothetical to you that if Jessica Jackson's DNA is
22 found in the rear of the victim's car, that that
23 doesn't indicate that she was seated in the rear of
24 the victim's car. You remember her asking you that
25 question?

SW - M. BOEHM - RECROSS

1 A Yes, ma'am.

2 Q Okay. Is it your testimony that that would
3 indicate that she wasn't in the rear seat of the
4 car?

5 A I can't make that determination.

6 Q Now one last question, I appreciate your
7 patience. You were asked why it took so long to
8 perform an analysis in this case?

9 A Yes, ma'am.

10 Q In terms of what you do, how many agencies in the
11 State does SLED assist in these type cases?

12 A I have no idea what the total number. It's every
13 agency within South Carolina can submit any DNA from
14 a crime to our lab.

15 Q Every law enforcement agency in the state?

16 A Yes, ma'am.

17 Q And we have 46 counties in South Carolina?

18 A Yes, ma'am.

19 Q Of course, we'd assume each county has at least
20 one law enforcement agency in that county?

21 A Yes.

22 Q And some have two or three?

23 A Yes, ma'am.

24 Q All right. So SLED is responsible for analyzing
25 when asked, evidence that's submitted by all the law

SW - M. BOEHM - RECROSS

1 enforcement agencies within the state of South
2 Carolina?

3 A Yes, ma'am.

4 Q All right. Is it unusual at all for you all to
5 receive evidence initially for testing and then
6 subsequently get other evidence?

7 A No. We have case acceptance guidelines that we
8 like to give to our law enforcement agencies. Since
9 we are, we do have, work so many cases, we try to
10 limit the amount of items we start our analysis
11 with; and then if they need more analysis done on
12 different items after that, they can request more
13 additional analysis.

14 Q All right. Thank you, ma'am, I appreciate that.
15 That's all the questions I have.

16 THE COURT: Recross?

17 MS. BUTCHER: Just briefly.

18 **RECROSS-EXAMINATION**

19 BY MS. BUTCHER:

20 Q Ms. Barr's last point, you said you like to have
21 everything there when you begin the analysis,
22 correct?

23 A It's not necessary.

24 Q No, but you like to for time purposes is what I
25 understood.

SW - M. CREECH - DIRECT

1 A Well, not necessarily. We like to have it
2 narrowed down to probative information perhaps just
3 so we're not doing items that aren't necessarily
4 probative and manner so we have -- we can't just
5 determine that we have law enforcement submit what
6 they think is, what they're interested in, and then
7 if they want more done, if they need more done then
8 they could submit more.

9 Q Okay. But if, so if Theodore McKnight's DNA
10 sample was submitted to you, you certainly test for
11 that, correct?

12 A Yes, ma'am.

13 Q Thank you. No further questions.

14 THE COURT: All right. Thank you, ma'am.
15 You may step down.

16 Would you like to have this witness
17 excused, Ms. Barr?

18 MS. BARR: Please, Your Honor.

19 THE COURT: Any objection?

20 MS. BUTCHER: None, Your Honor.

21 THE COURT: All right, you are excused.
22 Thank you for coming.

23 All right, Ms. Barr, you may call your
24 next witness.

25 MS. BARR: We call Mark Creech.

SW - M. CREECH - DIRECT

1 THE COURT: Come around to be sworn, Mr.
2 Creech.

3 THE CLERK OF COURT: Good morning. Place
4 your left hand on the Bible, raise your right.
5 WHEREUPON,

6 J. MARK CREECH,
7 having been duly sworn by the Clerk of Court,
8 testified as follows::

9 THE CLERK OF COURT: Have a seat in the
10 witness box.

11 MS. BARR: May it please the Court.

12 **DIRECT EXAMINATION**

13 BY MS. BARR:

14 Q Good afternoon, Mr. Creech.

15 A Good morning.

16 Q Still technically morning, yes. How are you
17 doing today, sir?

18 A Good.

19 Q Good. If you would, please state your full name
20 for us, spell your first and last name for the
21 benefit of the court reporter.

22 A John Mark Creech, J-O-H-N C-R-E-E-C-H.

23 Q Okay, Mr. Creech, where do you work?

24 A South Carolina Law Enforcement Division.

25 Q All right. And how long have you worked there?

SW - M. CREECH - DIRECT

1 A December will be 17 years.

2 Q Now, sir, in the interest of time I'll just kind
3 of cut to the chase if you will. Did you have an
4 occasion to assist the Sheriff's Office regarding
5 the murder of Mr. Joseph Brown?

6 A I did.

7 Q Do you know Haley Quam?

8 A I do.

9 Q All right. Of course, she participated in trying
10 to help us in this case as well.

11 A Yes, ma'am.

12 Q All right. Now in terms of your role, how would
13 you describe your role in this case?

14 A Just basically as assisting agent. I came, went
15 to the crime scene, stayed there kind of assisting
16 our crime scene if they need anything, and just kind
17 of helping the Sheriff's Office whatever they needed
18 me to do. They're the primary investigators on the
19 case and I was assisting agent.

20 Q And we have to be careful, we have hearsay rules
21 so I can't have you tell me what people said. I'll
22 just ask you specifically about your presence when
23 certain things happened and that sort of thing,
24 okay.

25 A Uh-huh.

SW - M. CREECH - DIRECT

1 Q Did you have any opportunity to be a part of
2 interviews with Jessica Jackson during the first
3 three days after the murder?

4 A I don't believe I did on the first several. I
5 did later on several months later, but not in the
6 first few stages, no.

7 Q All right. Now did you have an opportunity to be
8 present or assist our Sheriff's Office with
9 interviewing an individual by the name of Vanity
10 Epps?

11 A I don't recall being present for that.

12 Q Okay. Did you help in creating a case file, a
13 SLED case file, with regard to this particular
14 murder?

15 A Yes.

16 Q All right. Don't tell she what you said. Do you
17 know whether or not Ms. Epps gave a statement to law
18 enforcement?

19 MS. BUTCHER: Your Honor, I would object.
20 My client has a Fifth Amendment right to not ---

21 MS. BARR: I said Vanity Epps.

22 THE COURT: She's not arguing, she's not
23 offering the statement. She just wanted to know
24 whether the statement was made. That's overruled.
25 Go ahead. That's the only question is, whether or

SW - M. CREECH - DIRECT

1 not the statement was made. Does he know if a
2 statement made to SLED, which could be answered yes
3 or no.

4 MS. BUTCHER: And Your Honor, I withdraw
5 that objection. Ms. Barr said Vanity Epps; I
6 misunderstood her.

7 THE COURT: Okay.

8 MS. BUTCHER: So I apologize.

9 MS. BARR: Judge, may I approach the
10 witness.

11 THE COURT: Yes.

12 BY MS. BARR:

13 Q Mr. Creech, I'm gonna hand you this particular
14 item. Don't tell us what it is but ask -- let me
15 know if you've ever seen it before.

16 A Yes, I've seen a copy of this at some point in
17 time.

18 Q All right. And with regard to my question as to
19 whether or not you are aware if Ms. Epps gave a
20 statement in connection with this case.

21 A This statement proves that she did.

22 Q All right.. Now this fellow Theo McKnight's name
23 has been tossed around a lot so let me ask you some
24 questions about him. Did you have an opportunity to
25 be a part of an interview with him?

SW - M. CREECH - DIRECT

1 A Yes, ma'am.

2 Q All right. And again, you can't tell me what he
3 said. I'm gonna hand you this particular document
4 and ask you if you recognize that.

5 A I do.

6 Q When did you interview Mr. McKnight or have an
7 opportunity to talk with him?

8 A Myself and Investigator Juan Ballard with the
9 Sheriff's Office spoke with Mr. McKnight on
10 May 13th, 2014.

11 Q May 13th of 2014?

12 A Yes, ma'am.

13 Q So that's about a month-and-a-half after the
14 murder?

15 A Yes, ma'am, I believe the murder was about the
16 last day in March. It was shortly thereafter, right
17 around that time, yeah.

18 Q That's correct. Do you recall where you
19 physically were when you all were talking to him?

20 A I believe we were at the Sheriff's Office if I'm
21 not mistaken.

22 Q Okay. Was he under arrest at that time?

23 A No, ma'am.

24 Q All right. How did you all come to get him to
25 the Sheriff's Office to talk with him about this

SW - M. CREECH - DIRECT

1 case?

2 A Investigator Ballard if I'm not mistaken had
3 called me and said he had -- we had been trying to
4 locate Mr. McKnight. We had received information
5 that the two females in this case had lived with him
6 prior to this crime, and of course, we wanted to
7 talk to him, you know, just to see what he could
8 tell us or as a witness or anything about it. We
9 had tried to locate him several times. We'd been to
10 his residence, could not locate him. And then
11 Ballard called me at some point in time and said,
12 I've got him, he's on the way to the office, and I
13 came down here. I believe I was in Effingham and I
14 came down here and we talked with him.

15 Q So wait a minute now. He comes in voluntarily?

16 A He comes in voluntarily, yes, ma'am.

17 Q Okay. Let me ask you this, could he have said, I
18 don't want to talk to you about that?

19 A Absolutely. We can't force anybody to talk with
20 us if they don't want to.

21 Q So he came to the Sheriff's Office. Did you all
22 tell him why you want to talk to him?

23 A Yes, I mean, yeah. He knew, yes, yes, ma'am.

24 Either myself or Ballard told him we wanted to talk
25 to you about these females.

SW - M. CREECH - DIRECT

1 Q About these females?

2 A Uh-huh.

3 Q Is that a yes?

4 A Yes, ma'am.

5 Q Okay, all right. Did you ask him specifically --
6 don't tell me what he said, just what you asked --
7 him specifically about whether or not he had any
8 knowledge of the murder of Mr. Joe Brown? Just if
9 you asked him that question, not what he said.

10 A We did not have any information that he was a
11 part of this or was at the crime scene. The only
12 reason we wanted, to my recollection, the only
13 reason we wanted to talk to him is because these two
14 individuals lived with him.

15 Q Okay, all right. After the interview from or
16 with Mr. McKnight was he free to go?

17 A Yes, ma'am, he wasn't under arrest.

18 Q Did he go?

19 A Yes, ma'am, as far as I know.

20 Q So this interview happened May 13th of 2014. It
21 is now -- I'm losing track of days -- July 28th of
22 2016?

23 A Something like that, yeah.

24 Q You're bad as me I guess.

25 A I've been sick for two days with a stomach virus

SW - M. CREECH - DIRECT

1 so my days are off. I'm better now.

2 Q So we're two plus years out from that initial
3 interview. Has Mr. McKnight ever been changed in
4 connection with the murder of Mr. Joe Brown?

5 A No, ma'am.

6 Q All right. Now one thing that I wanted you to
7 kind of explain, Mr. McKnight's prints were sent to
8 SLED?

9 A At some point in time, yes, ma'am.

10 Q Can you tell why, if he wasn't a suspect or
11 wasn't under arrest?

12 A My recollection is we had an unknown print on
13 car. You know, they couldn't match it with anyone.
14 I know we discussed and, you know, whenever we read
15 on it, run different people, and because of the
16 girls lived with him. And I think Vanity Epps, we
17 ran her too and just to send them in. To see if we
18 can eliminate that one print. We don't know when
19 that print was put on that car. We could have -- we
20 just don't know. It could have been there for a
21 long time but we wanted to just check it out.

22 Q What about Ms. Vanity Epps, why did y'all decide
23 to run her prints?

24 A She's the aunt of Brittany.

25 Q Okay.

SW - M. CREECH - DIRECT

1 A And we also know that she went -- that'd be
2 hearsay so I'm not gonna say that but, just
3 different people that were connected with these
4 girls.

5 Q All right. Now we -- you weren't here when this
6 testimony came out, but the jury heard evidence
7 about a key remote and a key chain being found that
8 belonged to a Cadillac vehicle. Were you present
9 when that key chain and key remote were both found?

10 A I was on the premises. I think I was inside, not
11 outside, but I do remember it, yes, ma'am.

12 Q Where were the key chain and key remote found?

13 A Outside on the ground at Vanity Epps' house.

14 Q At Vanity Epps' house?

15 A Yes, ma'am.

16 Q All right. Do you know where Ms. Vanity Epps is
17 now?

18 A I have no idea.

19 Q Have you all tried to find her for this court
20 case?

21 A I haven't personally. Like I said, I've been out
22 sick for a few days.

23 Q I got you. Now you've participated with the
24 Sheriff's Office in an assistant role and advisory
25 role, so to speak, in investigation of this case?

SW - M. CREECH- CROSS

1 A Yes, ma'am.

2 Q And you've done that from the moment the murder
3 was discovered and through the week of trial; is
4 that right?

5 A Yes, ma'am, whenever they called and asked for my
6 assistance. I'm sure there's things they did
7 without me but whenever they would call me.

8 Q And as you sit on the stand today, are you aware
9 of any evidence that would implicate Vanity Epps in
10 the murder of Joseph Brown?

11 A No, ma'am.

12 Q As you sit on the witness stand today are you
13 aware of any evidence that would implicate Theodore
14 McKnight in the murder of Mr. Joseph Brown?

15 A No, ma'am.

16 Q If you had such evidence or such leads would you,
17 either yourself or would you request that the
18 sheriff's office pursue those leads?

19 A Yes, ma'am.

20 Q Does it matter to you personally who murdered Mr.
21 Brown? Do you have interest in that at all?

22 A No, ma'am.

23 Q What's your interest in terms of investigating
24 the murder of Mr. Brown?

25 A To find the truth.

SW - M. CREECH- CROSS

1 Q Thank you, sir.

2 THE COURT: Cross-examination, Ms.
3 Butcher?

4 MS. BUTCHER: Thank you, Your Honor.

5 **CROSS-EXAMINATION**

6 BY MS. BUTCHER:

7 Q Good morning, Mr. Creech, how are you.

8 A Good morning, fine.

9 Q Now, and again, not what anyone said, but when
10 Theo McKnight gave his statement to you he indicated
11 that he had nothing to do with this crime, correct?

12 A Yes, ma'am.

13 Q And he came in voluntarily to tell you that?

14 A Yes, ma'am. Yes, ma'am.

15 Q Okay. To your knowledge did law enforcement ever
16 speak with him again after that?

17 A I don't recall if they did.

18 Q Okay. Now you mentioned that Mr. McKnight's
19 fingerprints were run, or excuse me, were tested or
20 analyzed against the fingerprints found on the car,
21 correct?

22 A I believe it was palm prints, but yeah, his and
23 Vanity Epps' were.

24 Q Okay. And did you ask Mr. McKnight to submit to
25 you a sample of those fingerprints?

SW - M. CREECH - PROFFER

1 MS. BARR: Judge, may we approach the
2 Bench.

3 THE COURT: Yes.

4 (WHEREUPON, counsel approached the
5 Bench for an off-the-record discussion.)

6 THE COURT: Ladies and gentlemen of the
7 jury, if you will go out for a few minutes. Let me
8 take care of this evidentiary question, and I'll
9 send for you in just a few minutes. Do not discuss
10 the case among yourselves.

11 (WHEREUPON, the jury was removed from the
12 courtroom at approximately 12:02 p.m.,
13 and the following proceedings commenced
14 in open court.)

15 THE COURT: Counsel, please don't request
16 a Bench conference unless you're willing to speak
17 out loud where I can understand you and know what's
18 going on. I can't read lips and I can't hear
19 whispers. All right, ask the question and I'll hear
20 the objection.

21 MS. BUTCHER: Thank you, Your Honor.

22 **P R O F F E R E X A M I N A T I O N**

23 BY MS. BUTCHER:

24 Q Mr. Creech, now did Mr. McKnight give y'all a
25 sample of his fingerprints to be analyzed?

SW - M. CREECH - CROSS

1 A A sample was done. I don't know how it was
2 taken. I don't know whether the Sheriff's Office
3 did it or whether they had it on file, I'm not sure.

4 THE COURT: All right, I'll sustain the
5 objection.

6 MS. BUTCHER: And Your Honor, just while
7 we're without the jury, do you want me to go into?

8 THE COURT: Yeah, go ahead.

9 BY MS. BUTCHER:

10 Q Did you ever request a sample or -- did you ever
11 request of Mr. McKnight to give a sample of his DNA?

12 A I don't recall, no, ma'am.

13 Q Through your investigation do you know if that
14 was ever done?

15 A I don't recall if it was.

16 MS. BUTCHER: And I don't know that there
17 would have been any objection. I just, while we're
18 on it.

19 THE COURT: All right, that -- there's
20 nothing objectionable about that if he was requested
21 to give a sample of DNA. Do you have any problem
22 with that, Ms. Barr?

23 MS. BARR: No, sir, Judge.

24 THE COURT: Just the fingerprint, kind of
25 stay away from it. Anything else?

SW - M. CREECH - REDIRECT

1 MS. BUTCHER: Your Honor, I take it I am
2 allowed to ask the question as I asked it?

3 THE COURT: About the DNA.

4 MS. BUTCHER: About the fingerprints that

5 ---

6 THE COURT: No, his answer was that he ---

7 MS. BUTCHER: I'll just leave that alone.

8 THE COURT: That's right.

9 MS. BUTCHER: They obviously know they got
10 out of it, okay.

11 THE COURT: All right, bring the jury in.

12 (WHEREUPON, the jury was returned to the
13 courtroom at approximately 12:05 p.m.,
14 and the following proceedings commenced
15 in open court.)

16 THE COURT: Ladies and gentlemen, we've
17 resolved this issue and ready to go forward. You
18 may continue your cross-examination.

19 BY MS. BUTCHER:

20 Q And Mr. Creech, did anyone ever to your knowledge
21 through your investigation, did anyone ever request
22 Theodore McKnight to give a sample of his DNA?

23 A I don't recall that, no, ma'am.

24 Q Also, through your investigation, you're aware
25 where Vanity Epps lived?

SW - M. CREECH - REDIRECT

1 A I had been to her house.

2 Q How about Theodore McKnight's?

3 A Yes, I've been to his house.

4 Q And you say they were close proximity?

5 A From what I recall it's not that far.

6 Q Okay.. No further ---

7 A Same general area.

8 Q Right. Thank you, no further questions.. Thank
9 you.

10 A Thank you.

11 THE COURT: Redirect, Ms. Barr?

12 MS. BARR: Very briefly, Your Honor.

13 **REDIRECT EXAMINATION**

14 BY MS. BARR:

15 Q Mr. Creech, you were asked about whether or not
16 to your knowledge, if Mr. McKnight was asked to give
17 a DNA sample. Do you remember Ms. Butcher asking
18 you that question?

19 A Yes, ma'am.

20 Q Do you know whether or not Ms. Pearline Pressley
21 was ever asked to give a DNA sample in this case?

22 A I do not recall that.

23 Q What about Ms. Vanity Epps?

24 A I do not recall that.

25 Q What about Samuel Monkey Joe Barr, was he ever

1 asked to give DNA sample?

2 A Not to my knowledge, I don't recall any of that.

3 Q Why, why not?

4 A There was no need. I mean, these are witnesses,
5 had no reason to do it.

6 Q Okay. Thank you, sir.

7 THE COURT: Recross?

8 MS. BUTCHER: None, Your Honor.

9 THE COURT: All right. Thank you, Mr.
10 Creech, you may step down.

11 Ms. Barr, you may call your next witness.

12 MS. BARR: Your Honor, the State would
13 rest.

14 THE COURT: All right. Ladies and
15 gentlemen, you have heard the State announce that
16 they have rested their case. That means that you
17 have heard all that you will hear in connection with
18 this matter for at this time from the State. There
19 are certain matters of law which I now need to take
20 up, and I have to do those on the record and outside
21 of your presence. So I think that the best thing
22 for us to do is to adjourn and take an early lunch,
23 which we're going to do at this time. It is 12:10
24 and I'm going to ask that you be back in the
25 courtroom, in your jury room, not courtroom, at

1 at a later time. But let's go discuss that in
2 chambers and then we'll take a lunch recess till
3 1:30.

4 (Whereupon, a lunch break was taken.)

5 THE COURT: Back on the record with regard
6 to the State versus Epps. Ms. Epps is present with
7 her counsel Ms. Butcher. The State is present
8 represented by the Third Circuit Solicitor's Office,
9 Ms. Barr. Prior to breaking for lunch the Defense
10 indicated that they wanted to call, were planning to
11 call Theodore McKnight and wanted to impeach him
12 first with a criminal record of a later charge
13 pending against him for a murder that occurred some
14 two years after this event, and also, to impeach him
15 with testimony of Schain McCrea. That's S-C-H-A-I-N
16 McCrea, who apparently was in jail with Mr. McKnight
17 at some point in time and made certain statements,
18 or McCrea is going to testify that McKnight made
19 certain statements to him regarding this case. And
20 the question is the admissibility of those two
21 matters and the right of the Defense to present
22 those matters. First of all, I will rule that
23 the -- any testimony with regard to Mr. McKnight's
24 criminal record of a pending charge of murder after
25 this are not admissible and cannot be gone into.

1 With regard to the statements made to Mr. McCrea, I
2 have read the case cited by the State of Morlange
3 versus United States of America; and while the
4 language in there would seem to indicate that it is
5 not appropriate to do this, to allow that, I am
6 persuaded by the fact that that was a state case or
7 that was the government that was trying to introduce
8 that or to present that testimony indirectly and not
9 the Defense. I feel that the Defense can attack the
10 credibility of Mr. McCrea with and I find that he
11 can attack the credibility of Mr. McCrea by the
12 test-- of Mr. McKnight by the testimony of
13 Mr. McCrea provided that it's done in accordance
14 with the rules and that I will give a limiting
15 instruction to the jury that the testimony is not to
16 be considered as to whether the statements made by
17 McKnight are true, but only go to the credibility of
18 the witness McKnight, that they might not consider
19 the statements for any other purpose than the
20 credibility of McKnight and the truth of the matter
21 to which the witness testified is the only thing
22 they can consider him for. In connection with that,
23 appropriate time of argument in this case, Ms.
24 Butcher, you would not be able to argue that McCrea
25 testified that McKnight made certain admissions or

1 made certain statements, but can only argue that
2 McCrea told him something different from what he
3 testified and that it was only to credibility that
4 you can, what your argument will be limited to.

5 All right, now having said that, is there
6 any issue of McKnight's criminal record as far as
7 it's gonna come in from the standpoint of the State,
8 Ms. Barr?

9 MS. BARR: No, Your Honor.

10 THE COURT: Ms. Butcher?

11 MS. BUTCHER: No, Your Honor.

12 THE COURT: All right, how about McCrae's
13 criminal record?

14 MS. BARR: Yes, sir, Judge, and I'm
15 ultimately in the process of getting that
16 information now. I know from my own personal
17 knowledge because I handled Mr. McCray's most recent
18 case. He was convicted in 1995 of grand larceny,
19 armed robbery, ABHAN, and was sentenced to prison in
20 excess of 20 years such that the armed robbery
21 conviction we believe ---

22 THE COURT: Be under 609.

23 MS. BARR: ---are appropriate for
24 impeachment. He's also currently serving a sentence
25 in the Department of Corrections for armed robbery.

1 THE COURT: Well, I don't believe that's
2 gonna be the first witness, is it, Ms. Butcher? Mr.
3 McKnight would have to be testified before
4 Mr. McCrea would be called.

5 MS. BUTCHER: Correct.

6 THE COURT: All right. I'll give you a
7 chance -- we'll send the jury out, Ms. Barr, before
8 McCrea is allowed to testify, and I'll rule on the
9 matters. By then you should be able to get to your
10 NCIC or whatever you need.

11 MS. BARR: I got it.

12 THE COURT: You got it?

13 MS. BARR: Yes, sir, Judge. In 1995 Mr.
14 Schain McCrea was convicted of armed robbery and
15 attempted armed robbery as well as two counts of
16 robbery, breaking into a motor vehicle, and grand
17 larceny, and an ABHAN charge. On the armed robbery
18 he was sentenced to a 30 year sentence. He is
19 currently in the Department of Corrections having
20 pled guilty on June 25th, 2015, for a separate count
21 of armed robbery, and he's serving a 15 year
22 sentence.

23 THE COURT: So the first one, '95 with a
24 30 year sentence, and 2015 with a 15 year sentence.

25 MS. BARR: Yes, sir.

1 THE COURT: Okay. Ms. Butcher, do you
2 contest that the, those are the matters under 609
3 which would be admissible and which upon which the
4 State may cross-examine the witness?

5 MS. BUTCHER: Your Honor, I believe the
6 only, under 609 the only ones admissible are those
7 for moral turpitude.

8 THE COURT: No, no, that -- there's no
9 moral turpitude as the rule anymore in our evidence.

10 MS. BUTCHER: All right.

11 THE COURT: 609 is pretty clear. It
12 says...

13 MS. BARR: And Judge, we believe this
14 attempted armed robbery, armed robbery, and grand
15 larceny are both crimes of dishonesty.

16 THE COURT: Dishonesty is the test.

17 MS. BARR: Yes, sir.

18 MS. BUTCHER: And Your Honor, Judge James
19 once explained to me I could sit here with a gun and
20 say I'm gonna rob you and be very honest in that I
21 don't think those are crimes of moral turpitude.

22 THE COURT: As I said, the test is not
23 moral turpitude. Rule 609(2), evidence that any
24 witness has been convicted of a crime shall be
25 admitted if it involved dishonesty or false

1 statement regardless of punishment, and I think, I
2 think that they're, would be admissible.

3 MS. BUTCHER: Thank you. Your Honor, my
4 understanding is that evidence character can be
5 attacked in the form of opinion or reputation if it
6 refers to truthfulness and untruthfulness.

7 THE COURT: They're not asking about his
8 reputation. They're intending to impeach him on
9 evidence of conviction of a crime. That's 609.
10 That's different from ---

11 MS. BUTCHER: And I guess, Your Honor, I'm
12 missing where that is bigger than impeach him just
13 because he's committed a crime.

14 THE COURT: Well, that's what a rule 609
15 provides. Impeachment by evidence of conviction of
16 a crime gives a circumstances under which it can be
17 admitted. You can't have it both ways, Ms. Butcher.
18 If you want to use this witness you're gonna, I
19 think it's evidence that can be, that the State has
20 the right to impeach him on. If you don't want to
21 use him, then there's no issue.

22 MS. BUTCHER: I will just object to it,
23 his prior record coming in, Your Honor.

24 THE COURT: All right. I rule that it is
25 admissible under 609. In addition, before we bring

DW - B. EPPS - DIRECT

1 WHEREUPON,

2 **BRITTANY EPPS,**

3 having been duly sworn by the Clerk of Court,
4 testified as follows:

5 THE CLERK OF COURT: You may take your
6 seat in the witness box.

7 **DIRECT EXAMINATION**

8 BY MS. BUTCHER:

9 Q Ms. Epps, can you state your full name for the
10 jury.

11 A Brittany Epps.

12 Q Where are you from?

13 A Kingstree, South Carolina.

14 Q How old are you?

15 A Nineteen.

16 Q Okay. You realize we're here today because you
17 were accused of a crime, correct?

18 A Yes, ma'am.

19 Q Okay, you remember the date that that incident
20 supposedly happened?

21 A March 29th, 2014.

22 Q Okay. Would it be fair to say that the incident
23 occurred after midnight, that March 30th would
24 probably be the date?

25 A Yes, ma'am.

DW - B. EPPS - DIRECT

1 Q Okay. But around about that time. How old were
2 you at that time?

3 A Sixteen.

4 Q Okay. And you know Jessica Jackson?

5 A Yes, ma'am.

6 Q She's also accused of this crime?

7 A Yes, ma'am.

8 Q Okay. How old was she at that time?

9 A I think 18.

10 Q Okay. So she was a little bit older than you?

11 A Yes, ma'am.

12 Q Okay. Brittany, I just want you to tell the jury
13 what happened, and you can start -- well, let me ask
14 you a few questions first. How do you know Jessica?

15 A A group home.

16 Q Uh-huh.

17 A And I went there because I guess I wasn't going
18 to school and we met there.

19 Q Okay. And did y'all come -- do you know Theo
20 McKnight?

21 A Uh-huh, yes, ma'am.

22 Q How do you know him?

23 A Friend of the family's.

24 Q Okay. At some point did you reside with Theo
25 McKnight?

DW - B. EPPS - DIRECT

- 1 A I do?
- 2 Q Yes, ma'am.
- 3 A Along with Jessica?
- 4 Q Yes, ma'am. Okay, how did that come to be?
- 5 A I can't say what someone else said.
- 6 Q You can't say what someone else said.
- 7 A Well, she just came down here and I was
- 8 staying -- well, we stayed with Theo and she never
- 9 left so.
- 10 Q Okay. Now tell me about your relationship with
- 11 Jessica.
- 12 A What do you want to know about it?
- 13 Q Huh?
- 14 A What do you want to know about it?
- 15 Q What type of relationship did y'all have?
- 16 A I guess, she was saying she was my girlfriend
- 17 but, yeah, say.
- 18 Q Were y'all girlfriends?
- 19 A Something like that, yes, ma'am.
- 20 Q Were y'all involved romantically?
- 21 A Yes, ma'am.
- 22 Q Okay. Did there come a time when you didn't want
- 23 to live with Jessica anymore?
- 24 A Yes, ma'am.
- 25 Q What was the circumstances of that?

DW - B. EPPS - DIRECT

1 A Why?

2 Q Uh-huh.

3 A Because I felt her and Theo had something going
4 on.

5 Q How did you know?

6 A Because he was into, they was into doing their
7 little drugs whatever, and I just smoke weed but
8 they was doing coke so I would just leave and go to
9 my uncle Herbert's house and go to work and I would
10 come back and they would be acting strange, just
11 acting.

12 Q Strange in what way?

13 A By they were just saying and doing little things
14 that, just saying and doing little things.

15 Q What did it make you think that things they were
16 doing?

17 A That he was having sex that he was doing
18 something. Jessica was cheating on me.

19 Q And did you decide, and did you decide to live
20 somewhere else?

21 A Yeah, I was going back to live with my momma
22 'cause she didn't know that I moved in the first
23 place. I had -- she didn't know.

24 Q Okay. You and Jessica were still friends?

25 A Were we?

DW - B. EPPS - DIRECT

1 Q At that time were y'all still friends?

2 A Uh-huh, yes, ma'am.

3 Q Okay. And how old is Theo McKnight?

4 A I don't know.

5 Q You know roughly?

6 A Probably, probably like around my momma age. I
7 think 38.

8 Q Probably a good bit older than you and Jessica,
9 okay.

10 A Yes, ma'am.

11 Q Brittany, I want you to tell the jury what
12 occurred and what happened the day of March 29th and
13 through this incident, okay?

14 A You mean start it off?

15 Q Go ahead. I just want you to tell your story.

16 THE COURT: If it's inadmissible stuff I'm
17 gonna require you to ask questions.

18 BY MS. BUTCHER:

19 Q Okay, Your Honor. And Brittany, you cannot say
20 what other people said.

21 A Okay.

22 Q You can say what you did and who was with you.

23 A Okay. I think it started off we was at Theo's
24 house and ---

25 Q I don't mean to interrupt. Who is "we"?

DW - B. EPPS - DIRECT

1 A Oh, me and Jessica and Theo. We was at Theo's
2 house and he had said he was going to rake somebody
3 yard or something so he left and me and Jessica were
4 sitting down arguing because I told her what I had
5 thought about her and Theo and she got mad at me.
6 We started arguing and told her I was going to my
7 momma's house. She said ---

8 Q Don't say what she said.

9 A Oh, I'm sorry. I told her I was going to my
10 momma's house and probably like five, six minutes
11 later we, both of us end up walking to my momma's
12 house. Well, she stayed at that time. We stayed
13 there for a little bit. We came back. I think my
14 momma was there. And we came back to Cedar Hill, my
15 aunt's house. Jessica said she wanted to use the
16 phone.

17 Q Don't say what she said.

18 A I'm sorry. Well, she went to my aunt's house,
19 Vanity house, Vanity's house. We walked back to
20 Theo house. From Theo house we went to Metts, which
21 where Mr. Brown live. And we had -- well, she had
22 met Mr. Brown earlier. I knew Mr. Brown since I was
23 13 at Sonoco. But we walked to the Metts and ---

24 Q And let me ask you there, in reference to
25 Mr. Brown was there ever discussion that you said

DW - B. EPPS - DIRECT

1 anything about Mr. Brown wanting to trick or have
2 sex with Jessica?

3 A Yeah, he told me that when we was at ---

4 Q Not what he said, did you say.

5 A Did I say that he wanted to have sex?

6 Q Did you tell Jessica that Mr. Brown wanted to
7 trick or have sex with Jessica?

8 A We doth did.

9 Q Okay.

10 A Me and Mr. Brown both. I may continue?

11 Q Yes.

12 A All right. I was at the Metts. We was at the
13 Meets. We met up with Mr. Brown and Mr. Brown knew
14 me so he was like, what y'all doing. I was like,
15 nothing, just come to the mill. So he end up taking
16 Trey -- I don't know if his name is Trey, but he end
17 up taking somebody to the store and left us there
18 and I was outside talking to Freddie and Jessica
19 went in, and I guess Freddie was his nephew or
20 somebody was kin to him and I was talking to him
21 probably about five, ten minutes later Mr. Brown
22 came back and he, I guess he got -- we all sat on
23 the porch. I guess he got a phone call, said you
24 want to go to a cookout. And I told him I didn't
25 care to go. And Jessica said she didn't care so we

DW - B. EPPS - DIRECT

1 went to the cookout and the cookout was in
2 Greeleyville at the other dude's house who was here
3 earlier. And from the cookout we sat there. I
4 think we ate, then we left, and he went to drop us
5 off. And from when he dropped us off we went to
6 Theo's house back to Theo's house.

7 Q Was Mr. Brown still with y'all?

8 A Yes, ma'am. All us was, me, Jessica, and
9 Mr. Brown.

10 THE COURT: Wait, wait, wait just a
11 minute, slow down. She wouldn't know anything after
12 she was dropped off. She wouldn't know where he
13 went. That's what she testified to.

14 MS. BUTCHER: Your Honor, that's what I
15 was trying to clarify if Mr. Brown was still with
16 her.

17 THE COURT: She said she was dropped off
18 at that point because she wouldn't know anything.
19 Go ahead.

20 BY MS. BUTCHER:

21 Q Mr. -- you're saying Mr. Brown took y'all to be
22 dropped off.

23 A No, he took -- yes, ma'am, he took us to be
24 dropped off.

25 Q Okay.

DW - B. EPPS - DIRECT

1 A But we went there and ---

2 Q Were y'all dropped off?

3 A No.

4 Q Okay. So y'all were not dropped off. What
5 happened?

6 A I went inside to change myself, and I guess when
7 I came out it was decided I wanted to get some weed
8 or whatever. And Theo wanted to go get some blue
9 top so it was decided that while he was going to
10 have sex, while they was going to do what they was
11 going to do, we was gonna go at Kendall Park Road,
12 my weed man house is on that road. It was decided I
13 was going to go down there, and then Theo was going
14 to go to Windy's to get him something to drink. And
15 by the time we was all supposed to meet up,
16 everything was supposed to be done this was going
17 on.

18 Q Let me stop you right there. You said you went
19 inside to change yourself.

20 A Yes, ma'am.

21 Q What do you mean by that? It's okay.

22 A It was my time of the month.

23 Q You were on your period?

24 A Yes, ma'am.

25 Q What were you going to change?

DW - B. EPPS - DIRECT

1 A Pad.

2 Q Were you going to change your clothes?

3 A No, ma'am.

4 Q Okay. So you went inside to change yourself?

5 A Yes, ma'am.

6 Q Y'all came back out. You were going to get weed.

7 Y'all were are all riding together?

8 A Yes, ma'am.

9 Q You were going to get weed?

10 THE COURT: It's your witness.

11 MS. BUTCHER: I'm just restating what she
12 said.

13 THE COURT: I know you are, but you ask
14 questions.

15 MS. BUTCHER: Okay.

16 BY MS. BUTCHER:

17 Q Where did you say Theo was going? What was
18 Theo's purpose for riding with y'all?

19 A To go to Windy's.

20 Q What is, is that Windy's Club?

21 A Yeah, yes, ma'am.

22 Q Okay. And what was he gonna do there?

23 A Get something to drink.

24 Q Okay, what was Jessica's purpose?

25 A To have sex.

DW - B. EPPS - DIRECT

- 1 Q Okay. With Mr. Brown?
- 2 A Yes, ma'am.
- 3 Q Okay. So the four of y'all got back in the car?
- 4 A Yes, ma'am.
- 5 Q Then what happened?
- 6 A We rode down. We was going down to Gosstown (ph)
- 7 Road. We took Braywood Way behind the horse track;
- 8 we took that way. And we got to Gosstown Road and
- 9 we stopped at Ms. Bee store and I got out and I went
- 10 walking to where I was going.
- 11 Q Bee store?
- 12 A Yes, ma'am.
- 13 Q What is Bee Store?
- 14 A It's like a old, a older lady, and she serve
- 15 lunch and do everything for kids.
- 16 Q Oh, is her name Bee?
- 17 A Yes, ma'am.
- 18 Q Okay. So you got out at Bee's store?
- 19 A Yes, ma'am.
- 20 Q And who was still in the car?
- 21 A Theo, Jessica, Mr. Brown.
- 22 Q And then what do you know from there, what
- 23 happened?
- 24 A I wanted to get me some weed. I wanted to go get
- 25 some marijuana and, you know, and I came back and

DW - B. EPPS - DIRECT

1 was walking back down the road and I saw Jessica
2 sitting down crossing down at the driveway. And I
3 mean, I was kind of -- but yeah, I saw her coming
4 down and we went walking and I saw her fingers start
5 bleeding we was all panicking, me and her were
6 panicking. I was fussing and yelling. She was
7 fussing and yelling.

8 Q Okay. How long -- where did you, where exactly
9 did you see Jessica?

10 A Coming down Kendell Park Road, I guess the place
11 where that trailer was at it's two lanes. She was
12 in -- coming from my right she was in the second
13 lane.

14 Q All right. And do you recognize this?

15 A Uh-huh, that's...

16 (Attorneys confer.)

17 MS. BARR: I don't have an objection to
18 this.

19 BY MS. BUTCHER:

20 Q Now you said you were dropped off at Bee's store?

21 A Yes, ma'am.

22 Q Okay. And if I'm -- all right, how far away from
23 Bee's store was it that you met back up with
24 Jessica?

25 A From Bee's store?

DW - B. EPPS - DIRECT

1 Q Uh-huh.

2 A Probably, like walking distance how long it took?

3 Q Uh-huh.

4 A Probably like 10, 15 minutes.

5 Q Okay. Where was it you met back up with her?

6 A In front of Windy's.

7 Q Okay.

8 A Across from Windy's.

9 Q Okay. And were you planning on meeting Theo and
10 those there too?

11 A All of us supposed to be there.

12 Q Okay. Continue your story.

13 A So I saw her crouched down. We went walking
14 'cause I was like, well, she was panicking and I was
15 panicking and I guess we came to the conclusion that
16 we need to call the ambulance. And I told her I
17 knew Ms. Pearline 'cause I did know her. And we
18 went walking and not too far from I guess where that
19 lane is, it's a rocky road and Theo came back up
20 with us and he was like, where y'all going. I was
21 like, we going to call the ambulance, ambulance,
22 'cause she bleeding real bad. And he was like, all
23 right. So we went walking to Ms. Pearline's house,
24 me, Jessica, Theo.

25 Q Okay. And what happened at Ms. Pearline's house?

DW - B. EPPS - DIRECT

1 And don't say what other people said, okay. It's
2 hard to tell a story.

3 A I ended up going across the street from Ms.
4 Pearline's house to, to the neighbor's name, her
5 house, and getting the phone, using her phone and
6 calling the ambulance, ambulance.

7 Q You called, did you call 9-1-1?

8 A Yes, ma'am.

9 Q Okay. And did, were you trying to tell them your
10 name?

11 A Yes, ma'am.

12 Q Okay. Were you trying to give them an address?

13 A Yes, ma'am.

14 Q Okay. And were you able to, were you able to
15 clearly give that?

16 A Yes, ma'am.

17 Q And I apologize, that's a poor question. To your
18 knowledge was the 9-1-1 operator able to clearly
19 hear you?

20 A I saw him testify yesterday. He said he couldn't
21 really hear me.

22 Q Was the connection good or?

23 A No, ma'am.

24 Q Do you know why the connection was not very good?

25 A I think, she let me use her house phone and I

DW - B. EPPS - DIRECT

1 think that's probably why.

2 Q Did you walk away from her house?

3 A Yes, ma'am.

4 Q Okay. Okay. What happened after that?

5 A The ambulance came -- well, when the ambulance
6 came?

7 Q Yeah, you can go from there.

8 A They came -- well, first it was a police officer
9 there and Mr. Staggers, and he came and he asked me
10 where the gun was and I lied, I told him it was with
11 my uncle. And then the ambulance came and they took
12 her. She went to the hospital and I told the
13 officer I was going to my aunt's house to go to the
14 hospital.

15 Q Okay, let me ask you this. You gave law
16 enforcement a story about what happened about
17 hunting and Jessica's hand being shot by accident,
18 correct?

19 A Yes, ma'am.

20 Q Okay. Why did you tell them that story?

21 A I'm -- I was told to.

22 Q Okay. Did you know how Jessica's hand actually
23 became shot?

24 A No, ma'am, I didn't know she was shot until I was
25 on the phone.

DW - B. EPPS - DIRECT

1 Q Did you ever ask her why she was bleeding?

2 A Yeah, she didn't say nothing. She just like,
3 call the ambulance.

4 Q Okay. Did you see the wound?

5 A I didn't -- she just had her hand balled up I
6 guess.

7 Q Where did you go from there after you spoke to
8 law enforcement?

9 A I went to my aunt's house.

10 Q Who is your aunt?

11 A Ree, Vanity.

12 Q I'm sorry, say again?

13 A Vanity, Vanity.

14 Q And you also said Ree?

15 A Ree.

16 Q Okay, is Ree a nickname?

17 A Yes, ma'am.

18 Q Okay. What happened there?

19 A We went to the Kingstree Hospital and she wasn't
20 in there so my aunt say she wasn't riding all the
21 way down to Florence so I went back to her house and
22 went to sleep.

23 Q Then what?

24 A We woke up. Jessica had been calling, whatever,
25 and my mom had been calling so we called them back.

DW - B. EPPS - DIRECT

1 Well, we didn't get in touch with my momma first
2 time we called Jessica back.

3 Q Okay. What did y'all do after that? What did
4 you do?

5 A Me and my aunt? Well ---

6 Q What did you do?

7 A Call Jessica.

8 Q Okay.

9 A At the hospital.

10 Q And after that?

11 A The police came to my house.

12 Q Did you turn yourself in to law enforcement?

13 A Yes, ma'am.

14 Q Okay. How did you know that law enforcement was
15 looking for you?

16 A Because when the police came to my aunt's house,
17 we thought it was for her boyfriend at first so I
18 didn't open the door, and she went and she said she
19 was going to see what they wanted and they said they
20 wanted me so I called my momma and I told my momma
21 the police wanted me and we need to go to the
22 station and we went.

23 Q Okay.

24 A I'm -- we didn't go directly to the station. We
25 went to my grandma's house, my grandma Hazel who

DW - B. EPPS - DIRECT

1 stay in Cedar Hill, her house.

2 Q Okay, why'd did you go there?

3 A My momma was scared. She didn't know what they
4 wanted me for, and I told her what happened the
5 night before. She was like ---

6 Q Don't say what she said.

7 A Well, it was decided that I stop by my grandma's
8 house.

9 Q Was that just -- okay, did you talk to your
10 grandma?

11 A Uh-huh, she came back down to the station with
12 me.

13 Q Okay. Was that just to get the family together?

14 A Uh-huh.

15 Q Okay. Did you ever change your clothes---

16 A No, ma'am.

17 Q ---between the time you went to the picnic and
18 the time you went to the police station?

19 A Cookout, no, ma'am.

20 Q Okay. And what were you wearing?

21 A Gray joggers, Forces, some black Forces, a white
22 T-shirt.

23 Q I'm sorry, slow down.

24 A Gray joggers, and Forces, and white T-shirt and I
25 had on a camo coat.

DW - B. EPPS - DIRECT

- 1 Q Okay. So you said joggers, a what?
- 2 A White T-shirt.
- 3 Q White T-shirt.
- 4 A Gray joggers, white T shirt, and Forces.
- 5 Q And what?
- 6 A Black shoes, Forces.
- 7 Q Oh, okay. And a camo coat. Okay, that's what
- 8 you wore to the police station?
- 9 A Yes, ma'am.
- 10 Q Okay. What did you have on at the picnic or the
- 11 cookout?
- 12 A I had on a hoodie, a camo hoodie, and I had on a
- 13 camo coat and I had on the same thing.
- 14 Q Okay. Why didn't you have the hoodie on when you
- 15 went to police station?
- 16 A 'Cause I had took it off at Bee's store.
- 17 Q Why'd you take it off at Bee's store?
- 18 A Jessica asked for it.
- 19 Q Why? Do you know why she wanted it?
- 20 A I mean, I don't know. She asked for it.
- 21 Q What was she wearing?
- 22 A She ---
- 23 Q Do you recall?
- 24 A A tank top and some basketball shorts.
- 25 Q Okay. And this was in the spring, March?

DW - B. EPPS - DIRECT

1 A I believe so, yes, ma'am.

2 Q Okay. Now you say you walked from Ms. Pearly's
3 to your aunt's house?

4 A Yes, ma'am.

5 Q Okay. And how far of a walk is that?

6 A I don't know if, how much mile. I know it's
7 probably about 15, 20 minute walk. It's not that
8 long of a walk.

9 Q Okay. Where was Theo during this time?

10 A I don't -- when I was walking to my aunt's house?

11 Q Yeah.

12 A I don't know. Theo been left.

13 Q When did he leave?

14 A I don't know when exactly, but when I looked he
15 was gone.

16 Q Was he present when you were making the call to
17 9-1-1?

18 A Yes, ma'am.

19 Q Did he talk to you during that call to 9-1-1?

20 A Yes, ma'am.

21 Q What'd he say?

22 A Oh, well ---

23 Q I'm sorry, you cannot say that, okay. Jessica
24 [sic], did law enforcement ever ask you for a sample
25 of your DNA, a buccal swab? Did they ever ask to do

DW - B. EPPS - DIRECT

1 that, to test your DNA?

2 A No. Oh, yes, ma'am, they did.

3 Q And you agreed to that?

4 A Yes, ma'am.

5 Q Okay. Did they ever ask you or attempt to do a
6 gunshot residue test on you?

7 A You say did they?

8 Q Yes.

9 A No, ma'am.

10 Q How about on your clothes?

11 A The clothes I had on?

12 Q Yeah.

13 A No, ma'am.

14 Q And you had on the same clothes that day?

15 A Yes, ma'am.

16 Q Okay. And let me ask you this...

17 (Attorneys confer.)

18 MS. BARR: No objection.

19 BY MS. BUTCHER:

20 Q Jessica, do you recognize this?

21 A Brittany.

22 Q Brittany, I apologize, do you recognize this?

23 A Yes, ma'am, that's my coat.

24 Q Okay.

25 MS. BUTCHER: Your Honor, I'd like to

DW - B. EPPS - DIRECT

1 admit this as ---'

2 THE COURT: You offering it into evidence?

3 MS. BUTCHER: Yes, Your Honor, State's
4 [sic] exhibit 4.

5 THE COURT: Any objection?

6 MS. BARR: No, sir.

7 THE COURT: All right, admitted into
8 evidence.

9 (WHEREUPON, Defense Exhibit No. 4 was
10 marked for identification and admitted
11 into evidence.)

12 BY MS. BUTCHER:

13 Q Was this the same coat you were wearing that
14 night?

15 A Yes, ma'am.

16 Q Only. And you wore this when you left the police
17 station?

18 A Yes, ma'am.

19 Q Okay. Do you know what happened to it after
20 that?

21 A The people at DJJ took it.

22 Q Okay. And did your mother at some point get it
23 back?

24 A When they transferred me to county she got it
25 back.

DW - B. EPPS - DIRECT

1 Q Okay. And she's had it since then?

2 A Yes, ma'am.

3 Q Do you recognize this?

4 A Yes, ma'am.

5 Q Okay.

6 MS. BUTCHER: And Your Honor, I put in
7 State's -- Defendant 5.

8 THE COURT: Any objection?

9 MS. BARR: No, sir.

10 THE COURT: All right, Defense Exhibit
11 Number 5 admitted without objection.

12 (WHEREUPON, Defense Exhibit No. 5 was
13 marked for identification and admitted
14 into evidence.)

15 MS. BUTCHER: Your Honor, may the witness
16 come down?

17 THE COURT: Yes, step down please.

18 BY MS. BUTCHER:

19 Q Brittany, come down here. Now can you tell me
20 what this map is an area of?

21 A Cedar Hill.

22 Q Okay. And can you, I know you cannot, can you
23 point to the area where Windy's club is and Kendall
24 Road? I know you can't actually see the road over
25 in this area.

DW - B. EPPS - DIRECT

1 A Over in this area.

2 Q Over in this area?

3 MS. BARR: I'm sorry, Judge, I can't hear
4 her.

5 BY MS. BUTCHER:

6 Q Let's do this. Do you know this area, where does
7 Vanity, Vanity Epps, where does she live in relation
8 to this map?

9 A Right in there.

10 Q Right around in here?

11 A Yes, ma'am.

12 Q Okay. And how about Theo McKnight?

13 A Right here.

14 Q And are these in the same neighborhood pretty
15 much?

16 A Yes, ma'am.

17 Q Okay. Now in relation to this, what direction is
18 Wendy Hill at, Kendell Road where ---

19 A This one over here.

20 Q Over in this area?

21 A You take this road.

22 Q Okay, you take that road?

23 A Uh-huh.

24 Q Okay, the rest of it is not on the map, okay.

25 Now if I were at Windy Hill, Windy's Club, excuse

DW - B. EPPS - DIRECT

1 me, in that area, and I was going back to your
2 aunt's house, what direction would I go in?

3 A Say it again, your question.

4 Q So if I were over at Windy's Club, I would have
5 to go in this direction towards your aunt's house?

6 THE COURT REPORTER: I can't hear her.

7 THE WITNESS: You would have to take this
8 road right here, Promise Land Road.

9 THE COURT REPORTER: Thank you.

10 BY MS. BUTCHER:

11 Q Okay. And that's the direction you went in?

12 A Yes, ma'am.

13 Q Towards your aunt's, okay. So -- you can step
14 back on the witness stand.

15 A (Complies.)

16 Q Jessica -- I'm sorry, Brittany, did you make any
17 plans with Jessica to rob Mr. Brown?

18 A No, ma'am.

19 Q Did you make any plans with Jessica to kill
20 Mr. Brown?

21 A No, ma'am.

22 Q Were you present when he was killed?

23 A No, ma'am.

24 Q Okay. Do you know how it came about that he was
25 killed?

DW - B. EPPS - DIRECT

1 A No, ma'am.

2 Q You know who shot Mr. Brown?

3 A No, ma'am.

4 Q You were in this courtroom when you saw remote
5 control keys to a Cadillac introduced into evidence.

6 A Yes, ma'am.

7 Q Okay. Are you familiar with those?

8 A No, ma'am, they're not mine.

9 Q Okay. Law enforcement claimed they found them in
10 Ms. Epps' yard?

11 A Yes, ma'am.

12 Q Okay. Did you put them there?

13 A No, ma'am.

14 Q Did you remove those keys from the crime scene?

15 A No, ma'am.

16 Q Okay. Do you recall, you recall just as being a
17 passenger in the car with Mr. Brown what kind of
18 keys he had or used to drive or anything?

19 A I don't know. I don't know.

20 MS. BUTCHER: Your Honor, may I ask the
21 witness to come down?

22 THE COURT: Yes.

23 MS. BUTCHER: The defendant.

24 BY MS. BUTCHER:

25 Q Can you step down here. You know how tall you

DW - B. EPPS - CROSS

1 are?

2 A 5'8".

3 THE COURT: Speak up, ma'am. You have to
4 keep your voice up.

5 THE WITNESS: 5'8".

6 BY MS. BUTCHER:

7 Q Okay, you got on flats?

8 A Yes, ma'am.

9 Q Okay, step on that.. Okay, and what does that
10 measure?

11 A 5'8".

12 THE COURT: I can't hear you.

13 THE WITNESS: 5'8".

14 BY MS. BUTCHER:

15 Q Okay. Now how tall were you -- you may step back
16 up, I'm sorry. How tall were you back in March of
17 2014?

18 A 5'7" probably.

19 Q So basically the same size you are now?

20 A Yes, ma'am.

21 Q Okay. So your testimony is that that night after
22 the cookout Mr. Brown was driving, you and Jessica
23 hung, ended up that you and Jessica and Theo and
24 Mr. Brown left Theo's house, you got out at Bee's
25 store?

DW - B. EPPS - CROSS

1 MS. BARR: Judge, I'm gonna object to
2 leading.

3 THE COURT: Sustained.

4 BY MS. BUTCHER:

5 Q Did you see Mr. Brown anymore after you got out
6 at Bee's store?

7 A No, ma'am.

8 MS. BUTCHER: Court's indulgence. No
9 further questions.

10 THE COURT: Cross-examination, Ms. Barr?

11 **CROSS-EXAMINATION**

12 BY MS. BARR:

13 Q Ms. Epps, you were asked on direct, direct
14 examination by your lawyer about your relationship
15 with Jessica Jackson?

16 A Yes, ma'am.

17 Q Let's see if we can agree on some things, okay.
18 You had known Jessica Jackson for probably about a
19 year-and-a-half before Mr. Brown was killed, right?

20 A I believe so, yes, ma'am.

21 Q You met in a group home?

22 A Yes, ma'am.

23 Q And you were there because you were not attending
24 school like you were supposed to, right?

25 A Yes, ma'am.

DW - B. EPPS - CROSS

1 Q She's not from Williamsburg County, is she?

2 A I don't think, no, ma'am.

3 Q She's out of Horry County, Myrtle Beach area,
4 right?

5 A Yes, ma'am.

6 Q The only thing that brought her to Williamsburg
7 County was her relationship with you, right?

8 A Yes, ma'am.

9 Q And she moved to Williamsburg County in January,
10 February of 2014, right?

11 A No, ma'am.

12 Q She didn't move to Williamsburg County about two
13 months before the murder?

14 A No, ma'am, it was in March she came.

15 Q Okay.

16 A 'Cause we were only staying with Theo for like a
17 week or two.

18 Q A week or two? You sure about that?

19 A Yes, ma'am.

20 Q So she would have only been in Williamsburg
21 County for that week or two?

22 A No, she came and visited a couple of times before
23 that.

24 Q And when she would visit, she would visit with
25 you, right?

DW - B. EPPS - CROSS

1 A Yes, ma'am.

2 Q She didn't have people here, right?

3 A No, ma'am.

4 Q You the only one in Williamsburg County that she
5 knew at that point, right?

6 A Yes, ma'am.

7 Q Now you, of course, you were born and raised in
8 Williamsburg County, right?

9 A Yes, ma'am.

10 Q You would have been familiar with the roads here?

11 A Yes, ma'am.

12 Q All right. She would have been familiar with the
13 roads here, right?

14 A No, ma'am.

15 MS. BUTCHER: Objection, it's speculation.

16 THE COURT: Overruled, cross-examination.

17 BY MS. BARR:

18 Q Now when she ultimately decided to move here you
19 said that was a week or two before the murder?

20 A Yes. We only stayed with Theo. for a week of two,
21 yes, ma'am.

22 Q She didn't meet Theo about two or three weeks
23 before the murder; is that your testimony?

24 A No, we didn't stay with Theo until one or two
25 weeks, whatever; but she met Theo, I think, at

DW - B. EPPS - CROSS

1 something my mom was having a couple of weeks prior
2 to that.

3 Q A couple of weeks prior to you moving in?

4 A Before that, before us moving in with Theo .

5 Q So about a month before the murder is when she
6 first would have met Theo?

7 A Yes, ma'am.

8 Q All right. No more than a month?

9 A I think so.

10 Q All right. Now when she moves here she initially
11 wanted to stay with you and your mother, right?

12 A Yes, ma'am.

13 Q But your mother wasn't having that, right?

14 A Huh-uh.

15 Q Is that a no?

16 A No, ma'am.

17 Q Your mother didn't approve of your relationship
18 with Jessica, did she?

19 A She didn't like Jessica.

20 Q Okay. And she didn't approve of your
21 relationship with her, right?

22 A Yes, ma'am.

23 Q And you have acknowledged that you and Jessica
24 were having sexual relationship?

25 A Yes, ma'am.

DW - B. EPPS - CROSS

1 Q So when you would want to be with her and she
2 would want to be with you, the only way that you all
3 could do that would be at Theodore McKnight's house,
4 right?

5 A Or my aunt's house.

6 Q Or your aunt's house?

7 A Uh-huh.

8 Q So when she starts moving here full time staying
9 with Theo, that's your idea of her to stay there,
10 right?

11 A No, we both came to because -- well, we both came
12 to it.

13 Q Well, she didn't know Theo but through you,
14 right?

15 A Yes, ma'am.

16 Q All right. So she couldn't just come up and say,
17 I'm gonna stay at Mr. McKnight's house. You made
18 the connection between her and Mr. McKnight, right?

19 A I did.

20 Q All right. So during the time that you are
21 living full time in Mr. McKnight's house with
22 Jessica, your mother doesn't know where you are,
23 does she?

24 A No, no, ma'am.

25 Q Your momma thinks you are staying with your dad?

DW - B. EPPS - CROSS

1 A Yes, ma'am.

2 Q And you have your dad believing that you are
3 staying with your mom, right?

4 A Yes, ma'am.

5 Q That way neither one of your parents could know
6 that you were carrying on this relationship with
7 Jessica full time, right?

8 A Yes, ma'am.

9 Q And you intentionally tried to deceive them
10 because you didn't want them to know, right?

11 A I mean, I didn't care about my dad knowing, but
12 I, well my momma ---

13 Q You didn't want her to know?

14 A No, ma'am.

15 Q All right. So during the time that you were
16 living with Jessica at Mr. McKnight's house you
17 weren't working, right?

18 A No, I was working.

19 Q You were working a 9 to 5 job?

20 A No, I was working with my Uncle Herbert. He did
21 construction and landscaping in Kingstree, ---

22 Q All right. So you ---

23 A (Inaudible) Fulton.

24 Q You got, you had a full time job working for your
25 uncle?

DW - B. EPPS - CROSS

- 1 A What do you mean by full time?
- 2 Q Meaning you go to work at a certain hour and get
- 3 out a certain hour every day.
- 4 A I ---
- 5 Q You weren't doing that, ---
- 6 A No, ma'am.
- 7 Q ---right?
- 8 A No.
- 9 Q You were kind of doing hit and miss just whenever
- 10 you need it, right?
- 11 A You can say that.
- 12 Q Jessica didn't have a full-time job, right?
- 13 A She didn't.
- 14 Q Mr. McKnight didn't have a full-time job, right?
- 15 A No.
- 16 Q Now this house where Mr. McKnight lives had four
- 17 bedrooms?
- 18 A Yes, ma'am.
- 19 Q All right. He stayed in one, right?
- 20 A Yes, ma'am.
- 21 Q You and Jessica a second bedroom, right?
- 22 A Yes, ma'am.
- 23 Q Nobody is in the third bedroom, right?
- 24 A No, ma'am.
- 25 Q Nobody is in the fourth bedroom, right?

DW - B. EPPS - CROSS

1 A No, ma'am.

2 Q Okay. Now not only did Mr. McKnight have four
3 bedrooms in his house, during that time he didn't
4 have any running water, did he?

5 A He didn't.

6 Q He didn't have any electricity, did he?

7 A He didn't. I think it went off the second week
8 we was there.

9 Q All right. So it is fair to say that you wanted
10 to see Jessica so bad that you're willing to stay in
11 a house with no running water and no lights just to
12 be with her?

13 A It wasn't just like that; I just wanted freedom.

14 Q I see. Freedom is important to you; isn't it?
15 Right?

16 A Yes, ma'am.

17 Q You would do whatever you got to do to get your
18 freedom; won't you?

19 A What you mean?

20 Q Meaning living in those ungodly conditions with
21 no water and no lights. So long as you can get your
22 freedom you'll do what you got to do, right?

23 A You can put it that way.

24 Q And so part of your being free was to be with the
25 person you love, right?

DW - B. EPPS - CROSS

1 A I guess, yes, ma'am.

2 Q Now let me just ask you something right quick
3 while it's on my mind. Your attorney was asking
4 Agent Haley Quam and some of the other SLED agents
5 about dusting the victim's car for fingerprints and
6 for DNA and for all this other stuff to prove
7 whether or not you were in the car. You remember
8 her asking those witnesses those questions?

9 A Yes, ma'am.

10 Q Well, you don't deny you were in Mr. Joseph's
11 car, do you?

12 A I don't deny it.

13 Q You were in his car.

14 A I was there.

15 Q So it's not any point of whether or not the State
16 has proved that you were in the car, you acknowledge
17 you were in the car, right?

18 A I was.

19 Q You acknowledge that when you all went to the
20 cookout in Greeleyville with Mr. Joseph, Mr. Joseph
21 was driving, right? The victim in this case was
22 driving, took to Greeleyville for the cookout.

23 A Uh-huh.

24 Q Is that a yes?

25 A Yes, ma'am.

DW - B. EPPS - CROSS

1 Q You were in the front passenger seat, right?

2 A Yes, ma'am.

3 Q Jessica is in the back seat behind Mr. Joe when
4 y'all go to Greeleyville, right?

5 A Yes, ma'am.

6 Q When you all leave Greeleyville, when you all
7 leave the cookout with Mr. Joe going back to
8 Kingstree, Mr. Joe is driving, right?

9 A Uh-huh.

10 Q Is that a yes?

11 A Yes, ma'am.

12 Q Jessica is in the back seat behind Mr. Joe,
13 right?

14 A Yes, ma'am.

15 Q And you are still right up in that front
16 passenger seat in Mr. Joe's vehicle when y'all leave
17 the cookout, right?

18 A When we leave the cookout, yes, ma'am.

19 Q And all of this talk about whether or not this
20 hoodie is yours and all that stuff, you admit this
21 is your hoodie.

22 A Yes, ma'am.

23 Q You admit you had it on that night at the
24 cookout, right?

25 A Yes, ma'am.

DW - B. EPPS - CROSS

1 Q And so that we're clear, when we're talking about
2 the hoodie I'm talking about State's Exhibit number
3 33. You admit this is yours?

4 A Yes, ma'am.

5 Q You admit you had it on at the cookout in
6 Greeleyville on that day that Mr. Brown was
7 murdered, right?

8 A Yes, ma'am.

9 Q All right, now you have brought this camouflage
10 jacket to court today with you, right?

11 A Yes, ma'am.

12 Q You testified that this is your jacket?

13 A Yes, ma'am.

14 Q And you claim to this jury that you were wearing
15 it on the night that Mr. Brown was murdered, right?

16 A Yes, ma'am.

17 Q And so the inference from that obviously is that
18 this jacket is at least, at least two-and-a-half
19 years old, right?

20 A Yes, ma'am.

21 Q Now you've had this jacket, the hoodie, State's
22 Exhibit 33, for about that same amount of time,
23 right?

24 A I think longer.

25 Q Okay. You agree with me there is a huge

DW - B. EPPS - CROSS

1 difference between the color and the vibrancy of the
2 colors in this camouflage jacket versus this
3 camouflage hoodie?

4 A Yes, ma'am.

5 Q This looks old and worn, State's Exhibit Number
6 33, the hoodie, doesn't it? Doesn't that look worn
7 to you and faded?

8 A No, it looks like how I got it from the store.

9 Q Doesn't it look faded?

10 A It looks like how I got it from the store.

11 That's how it always looked.

12 Q This looks pretty new, pretty well taken care of,
13 right?

14 A That looks how I got it from the store too.

15 Q All right. Now as far as you know State's
16 Exhibit 33, the camouflage hoodie, that's just been
17 locked up in a box somewhere in evidence since the
18 night of the shooting, right?

19 A I guess.

20 Q You don't have any reason to believe that the
21 Sheriff's Office was letting somebody else wear it
22 or had it out in the street or anything, do you?

23 A No, ma'am.

24 Q And this is the same jacket that you are telling
25 us that you had at the same time you were wearing.

DW - B. EPPS - CROSS

1 the hoodie, this has been out all over the place;
2 hadn't it?

3 A I don't know. I was -- I don't know.

4 Q Well, your momma had it; didn't she?

5 A Yes, ma'am.

6 Q All right. She's taken it back and forth to
7 different places, right?

8 A I don't think she had it on or nothing, taking it
9 back and forth.

10 Q One of the places that your momma didn't take
11 this jacket, though, was to the Sheriff's
12 Department, right?

13 MS. BUTCHER: Your Honor, objection,
14 burden shifting.

15 THE COURT: What's the objection?

16 MS. BUTCHER: Burden shifting. My client
17 has no burden of proof ---

18 THE COURT: No burden shifting, she's
19 taken the stand. She can ask her questions on
20 cross-examination..

21 BY MS. BARR:

22 Q As far as you know, Ms. Epps, your momma didn't
23 take this jacket to the Sheriff's Office to be
24 tested, did she?

25 A I don't think she did.

DW - B. EPPS - CROSS

1 Q All right. So you knew Mr. Brown before he was
2 murdered, right?

3 A Yes, ma'am.

4 Q And you had known him for how long?

5 A Probably two years.

6 Q And he was nice to you; wasn't he?

7 A Yes, ma'am.

8 Q You and Jessica got in his car and went to a
9 cookout with him, right?

10 A Yes, ma'am.

11 Q His family fed you and Jessica; didn't they?

12 A Yes, ma'am.

13 Q Now the morning of the 29th, that was a Saturday
14 morning, March 29th, 2014?

15 A Yes, ma'am.

16 Q You and Jessica woke up that morning in Theodore
17 McKnight's house, right?

18 A Yes, ma'am.

19 Q All right. And you said that when you all woke
20 up that morning you was drinking liquor, right?

21 A I didn't say that.

22 Q You didn't?

23 A We didn't drink liquor that day. We drank the
24 28th. It was her birthday the 27th, I think, 26th.

25 Q Okay. We'll get back to that in a minute. And

DW - B. EPPS - CROSS

1 you were smoking weed that morning, right?

2 A Yes, ma'am.

3 Q You had told us that you went and got weed that
4 morning, right?

5 A I don't remember saying that.

6 Q Okay. You had a stash of weed that morning
7 though, right?

8 A Yes.

9 Q You don't deny that, right?

10 A No, ma'am.

11 Q Okay. So you had your stash of weed before you
12 all ever even leave Theo McKnight's house, right?

13 A (No response.)

14 Q Right?

15 A Yes, ma'am.

16 Q At some point you all leave Theodore McKnight's
17 house, you and Jessica, and you all go to the
18 victim's apartment at the Metts, right?

19 A After we left Theo's house we went to my momma's
20 house.

21 Q I understand that, and then you went to, left
22 your mom's and went to Ree's house, right?

23 A Yes, ma'am.

24 Q You left Ree's house, went back to Theodore's
25 house, right?

DW - B. EPPS - CROSS

- 1 A Yes, ma'am.
- 2 Q Left Theodore's house, went to the Metts to where
- 3 the victim lived, right?
- 4 A Yes, ma'am.
- 5 Q And you all walked to the Metts, right?
- 6 A Yes, ma'am.
- 7 Q And nobody called Mr. Brown and told him you were
- 8 on the way, y'all just walked over there, right?
- 9 A Yes, ma'am.
- 10 Q And your testimony to this jury is you and
- 11 Jessica walked over to the victim's house because
- 12 Jessica was supposed to have sex with him?
- 13 A Yes, ma'am.
- 14 Q All right. And he was supposed to pay her to
- 15 have sex with him?
- 16 A Yes, ma'am.
- 17 Q All right. Now that would have been only the
- 18 second time that Jessica ever met Joe Brown, right?
- 19 A Yes, ma'am.
- 20 Q The first time was in passing two weeks earlier
- 21 at a gas station, right?
- 22 A What you mean by passing?
- 23 Q Meaning in a five minute visit they just happened
- 24 to meet each over at a gas station, right?
- 25 A (There was no response.)

DW - B. EPPS - CROSS

1 Q You understand my question?

2 A Can you say it again please?

3 Q You and Jessica and your Aunt Ree, Vanity Epps,
4 saw Mr. Joe Brown at a gas station two weeks before
5 he died, right?

6 A Yes, ma'am.

7 Q That's the first time that Jessica had ever seen
8 this man, right?

9 A I think so, yes, ma'am.

10 Q So when you all go walk over to his apartment at
11 the Metts on March 29th of 2014, that has only been
12 the second time Jessica had seen that man, right?

13 A I think so.

14 Q And so your testimony to us is that you all walk
15 over there without any advance notice to him, no
16 phone calls or anything, right?

17 A Yes, ma'am.

18 Q For the purpose of going over there for Jessica
19 to have sex with the victim, right?

20 A Yes, ma'am.

21 Q All right. When you all get there Mr. Brown is
22 there?

23 A Yes, ma'am.

24 Q All right. He is outside his apartment sitting
25 down on the porch?

DW - B. EPPS - CROSS

1 A Yes, ma'am.

2 Q All right. He didn't have anybody else in the
3 house with him as far as you could tell, right?

4 A No, ma'am.

5 Q So certainly if the plan was for you and Jessica
6 to go over to Mr. Brown's apartment so Jessica could
7 have sex with him, you'd agree with me that she had
8 an opportunity to have sex with him in his apartment
9 when y'all walked over there, right?

10 A She could.

11 Q That didn't happen like that though, right?

12 A No, ma'am.

13 Q All right. As a matter of fact, he agreed to
14 take his nephew or some friend of his to a gas
15 station run errand, right?

16 A Yes, ma'am.

17 Q He left you and Jessica at his apartment while he
18 did that, right?

19 A And Freddie I think.

20 Q All right. So he's only gone five minutes,
21 right?

22 A I think so, yes, ma'am.

23 Q He comes right back right?

24 A Yes, ma'am.

25 Q And that's when he invites you and Jessica to a

DW - B. EPPS - CROSS

1 cookout?

2 A Yes, ma'am, in the car.

3 Q And you agreed to go? Now before he invited you
4 to a cookout you saw Mr. Joe had a 38 revolver on
5 his hip, right?

6 A He didn't show me a gun.

7 Q I didn't ask you did he show it to you.

8 A You said ---

9 Q I asked you -- hear my question. You saw that he
10 had a 38 revolver, right?

11 A I didn't see it.

12 Q You never saw Mr. Joe's gun? Come on now.

13 A I don't think I did.

14 Q You were sitting in the front passenger seat ---

15 A Yes, ma'am..

16 Q ---when y'all go to Greeleyville?

17 A Yes, ma'am.

18 Q Your testimony to this Court, at no point that
19 day did you ever see his gun?

20 A I don't think I did.

21 Q You don't think so? You don't think you remember
22 that?

23 A No, ma'am.

24 Q Okay. All right, so you all get to the cookout
25 in Greeleyville about 6:00, 6:30 p.m.?

DW - B. EPPS - CROSS

1 A I don't know the exact time.

2 Q All right. Was it completely dark, just about
3 getting dark about that time when y'all got there,
4 right?

5 A I think so. I'm not sure. I don't remember the
6 time.

7 Q And you all stayed there for about two-and-a-half
8 to three hours, right?

9 A I think so. I don't know really about the time.

10 Q Well, didn't you tell us that y'all left the
11 cookout about 9:00?

12 A The dude who was on the stand told you that, Mr.
13 ---

14 Q You don't dispute that though, right?

15 A I don't know. I'm just going along with you so I
16 think so.

17 Q So you don't dispute what the dude on the stand
18 said about what time y'all left Greeleyville?

19 A No, ma'am.

20 Q Now you told us and you've acknowledged that
21 these are your camouflage hoodie and jacket. During
22 this time that is normally how you dressed; isn't
23 it?

24 A What you mean normally how I dress?

25 Q In terms of your attire you would typically dress

DW - B. EPPS - CROSS

1 in camouflage clothing or jeans and that sort of
2 thing. You wouldn't normally have on a dress, would
3 you?

4 A Not unless I was going to church or something
5 like that or something where I needed to where a
6 dress.

7 Q Okay. When is the last time you went to church?

8 A Since I've been -- well, when I got out from the
9 church. When I was on bond I went to church.

10 Q When you were out on bond you went to church?

11 A Yes, ma'am.

12 Q That's quite a good time ago. Let me ask you
13 this, when you were dating Jessica and living with
14 Theodore McKnight, did you take her to church with
15 you?

16 A No, ma'am.

17 Q She's testified that you typically like to wear
18 the Dickey T-shirts, sweatpants, boxers. She was
19 telling the truth about that part; wasn't she?

20 A What you mean, like ---

21 Q In terms of your style of dress.?

22 A Yes, ma'am.

23 Q All right. So the plan is for Jessica to have
24 sex with Mr. Joe. You y'all don't do that; instead
25 you go to a cookout. Then you all leave the

DW - B. EPPS - CROSS

1 cookout. You agree with me that you're not gonna
2 dispute 9:00 is the time you left?

3 A I think so, yes, ma'am.

4 Q And it took you about 20 minutes to get back to
5 Kingstree from Greeleyville, right?

6 A I think so.

7 Q All right. So on the way back your expectation
8 is that Jessica is going to go to the Metts where
9 the victim lives to have sex with him, right?

10 A On the way back from Greeleyville?

11 Q Yeah.

12 A No, I guess she didn't want do it no more. She
13 went to Theo's house.

14 Q Okay, so she decided, she changed her mind. She
15 didn't want to do that anymore?

16 A I guess, yes, ma'am.

17 Q So Mr. Joe then was gonna drop you and Jessica
18 off at Theo's house and he's supposed to go home and
19 she's changed her mind, right?

20 A Yes, ma'am.

21 Q All right. So you all supposedly then get to
22 Theodore's house you indicated that Mr. Brown
23 dropped you off?

24 A I didn't -- drop me off?

25 Q Yeah. Is that what you told us earlier?

DW - B. EPPS - CROSS

- 1 A I said he was supposed to drop us off.
- 2 Q Okay. He's supposed to drop you off?
- 3 A Yes, ma'am.
- 4 Q And Jessica told him that she wasn't interested
- 5 in doing that anymore, right?
- 6 A Yes, ma'am.
- 7 Q All right. Well, and of course, you can't
- 8 explain if Jessica communicated to the victim that,
- 9 okay, I'm not gonna do that anymore, he could have
- 10 just left you and Jessica at Theodore's house,
- 11 right?
- 12 A He could have.
- 13 Q 'Cause y'all were staying there, right?
- 14 A Yes, ma'am.
- 15 Q He could have went on about his way, right?
- 16 A Yes, ma'am.
- 17 Q You're suggesting to us though that that's not
- 18 how that went down?
- 19 A No, ma'am, he didn't leave. He ---
- 20 Q How long were you supposedly at Theodore's house
- 21 with the victim after coming back from the cookout?
- 22 A I'm not sure of the time.
- 23 Q I mean, I wasn't there so you got to tell me.
- 24 Five minutes, ten minutes, an hour?
- 25 A Probably, I don't know, I wasn't looking I don't

DW - B. EPPS - CROSS

1 know.

2 Q Let's do it this way. You said the only, the
3 reason you went in the house was what?

4 A To change myself.

5 Q That's the only reason why you went in the house
6 was to change yourself?

7 A Yes, ma'am.

8 Q Well, wait a minute, I thought you told me that
9 you and Jessica or Jessica decided she wasn't going
10 to sleep with the victim?

11 A She did.

12 Q Okay, all right. But you were supposed to go in
13 the house only to change yourself?

14 A Yes, ma'am.

15 Q Is that what you did?

16 A Yes, ma'am.

17 Q Well, that didn't take you but what, five
18 minutes? I'm trying to help you with the time.
19 That would have taken you five minutes to change
20 yourself, right?

21 A Yes, ma'am, should have been.

22 Q Ma'am?

23 A Should have been.

24 Q All right. Well, don't tell me should have been.
25 You have to tell me 'cause you were there

DW - B: EPPS - CROSS

1 supposedly. You tell me.

2 A I think so, probably.

3 Q So you and Jessica went in the house for five
4 minutes, you changed yourself, and y'all came back
5 out, right?

6 A I went in the house. Jessica sat on the porch.

7 Q She sat on the porch. So Jessica never went in
8 the house?

9 A No, ma'am.

10 Q Did you tell Jessica why you were going in the
11 house? Ma'am?

12 A No, ma'am.

13 Q All right. So she didn't know anything about
14 your plan just to go in and change yourself?

15 A No, I mean ---.

16 Q Why was she waiting on the porch?

17 A She was just sitting on the porch. We do that a
18 lot, sit on the porch.

19 Q So you go in, in the house, right?

20 A Yes, ma'am.

21 Q Change yourself, right?

22 A Yes, ma'am.

23 Q And you come right back out?

24 A Yes, ma'am.

25 Q When you come out of the house who comes out with

DW - B. EPPS - CROSS

1 you?

2 A Well, when I come out the house I came out by
3 myself, but Jessica and Theo was on the porch.

4 Q Okay, and then what happened?

5 A We all got in the car. Theo was like, you want
6 to go get something to drink? And I was, said, I
7 need to go get some more marijuana.

8 Q You want to get some more marijuana?

9 A Yes, ma'am.

10 Q You didn't have enough?

11 A (There was no response.)

12 Q Ma'am?

13 A Ma'am?

14 Q You didn't have enough?

15 A No, I smoke, I used to smoke a lot.

16 Q Okay. So you've gone, you left the cookout at
17 9:00, right?

18 A I believe so.

19 Q You had a 20 minute ride from Greeleyville back
20 to Kingstree, right?

21 A I think so.

22 Q All right. You were going to Theo's house for
23 five minutes, right?

24 A According to you, yes, ma'am, I think so.

25 Q It's not according to me 'cause I promise I

DW - B. EPPS - CROSS

1 wasn't there; I'm asking you.

2 A I told you I'm not sure on the times. I'm going
3 off my memory because ---

4 MS. BUTCHER: Your Honor, I would object,
5 asked and answered, if she doesn't know.

6 THE COURT: Overruled, cross-examination.

7 BY MS. BARR:

8 Q And that's why I'm trying to help you 'cause I
9 want to find out what you did so we can best
10 estimate how long it would have taken you, okay?

11 A Okay.

12 Q Five minutes to change yourself and come back
13 out?

14 A I believe so.

15 Q All right. All right, then your testimony is
16 that you, Theodore, and Jessica get back in
17 Mr. Brown's vehicle?

18 A Uh-huh.

19 Q Is that a yes?

20 A Say it again.

21 Q Your testimony is after you changed yourself
22 Jessica gets back in Mr. Brown's vehicle, you get
23 back in Mr. Brown's vehicle, and Theodore McKnight
24 gets in Mr. Brown's vehicle?

25 A Yes, ma'am.

DW - B. EPPS - CROSS

1 Q All right. And from where Theodore McKnight was
2 living at the time and where the victim was killed
3 across from Windy's Club, how long would it take you
4 to get there riding?

5 A Repeat what you said from where Theo's and where
6 Windy's is.

7 Q Where Mr. Brown's vehicle was found approximately
8 Windy's Club in that abandoned field where the
9 mobile home is.

10 A Probably 20 minutes.

11 Q Okay. So you all drove straight from Theodore's
12 house to where the abandoned mobile home was?

13 A No, ma'am, we stopped at Bee's stores, Ms. Bee's
14 store.

15 Q And that's where they left you out?

16 A Yes, ma'am.

17 Q All right. So we assume y'all left at
18 Greeleyville at 9:00 between the ride to Kingstree
19 five minutes to go in the house and change, we're
20 right at about 9:30, right?

21 A Hmm.

22 Q Right?

23 A Yes, ma'am.

24 Q Then it takes you 20 minutes to get to Bee's
25 store, right?

DW - B. EPPS - CROSS

1 A You said it takes me ---

2 Q From Theo's house.

3 A You said from Windy's house to Theo's house I say
4 it takes about 20 minutes.

5 Q No, no ---

6 A I told you I got dropped off at Theo's -- at Ms.
7 Bee's store.

8 Q Okay. That's what I'm trying to find out.

9 A It takes 20 minutes to get to Ms. Bee's store.

10 Q You tell me, when you all left Theodore's house,
11 how much time went by when they, Mr. Brown
12 supposedly dropped you off at Bee's store? How long
13 did it take you to get from Theo's house to Bee's
14 store if you're riding in the car with Mr. Brown?

15 A I guess 20 minutes.

16 Q Okay, all right.

17 A Same thing I guess.

18 Q Can we agree that at this time Jessica has
19 changed her mind again and decided to, she wanted to
20 have sex with the victim that he could have just
21 taken her to his house at the Metts, right?

22 A Yes, ma'am.

23 Q And your testimony, of course, that didn't happen
24 like that, right?

25 A He was giving us a ride.

DW - B. EPPS - CROSS

1 Q Okay. Now you're dropped off at Bee's store?

2 A Yes, ma'am.

3 Q And your testimony is you never see the victim
4 again? You never see Mr. Brown again?

5 A No, ma'am.

6 Q All right now, you said that you dropped off at
7 Bee's store and you go where from Bee's store when
8 you dropped off?

9 A To Brenda Myers' house.

10 Q That's to get your weed?

11 A Yes, ma'am.

12 Q You told us it took you about maybe 10, 15
13 minutes to walk from Bee's store to get your weed?

14 A I believe so.

15 Q Any reason why you planned to get some weed they
16 could, Mr. Joe didn't just drop you off at the weed
17 man's house as opposed to Bee's store?

18 A People like that don't like people coming unless,
19 who they don't know.

20 Q People like what?

21 A People like -- weed is not legal in South
22 Carolina so people don't like people popping up at
23 the house.

24 Q Okay. So, and your testimony is you're out, this
25 is 9:30, 10:00 at night, you're just walking around

DW - B. EPPS - CROSS

1 10, 15 minutes outside by yourself that time of
2 night, right?

3 A Yes, ma'am.

4 Q Okay. So 10, 15 minutes to go to get your weed
5 and you figured, according to you, by the time you
6 walked back from getting your weed that Jessica and
7 Mr. Joe would be finished doing whatever they were
8 doing, right?

9 A I didn't figure that that's what the plan was.

10 Q Okay. So it doesn't take you but a minute to buy
11 your weed, right? That transaction didn't take
12 long, right?

13 A No, ma'am, I don't think so.

14 Q All right. So you go to the weed man's house,
15 the weed man is there, you get your weed and then
16 you head back to where y'all supposed to meet up at,
17 right?

18 A I start walking, yes, ma'am.

19 Q All right. You immediately start walking to the
20 area where this abandoned mobile home is, right,
21 'cause that's where y'all supposed to meet up at?

22 A Yes, ma'am.

23 Q So in your mind your testimony is that by the
24 time you walked to the weed man store, then walk
25 back to where the abandoned mobile home is, that's

DW - B. EPPS - CROSS

1 somewhere between 20 to 30 minutes, right? To get
2 there and get -- to get there and walk back?

3 A Should have been.

4 Q Okay. That would have given Mr. Joe and Jessica
5 plenty of time to do whatever they wanted to do,
6 right?

7 A Yes, ma'am.

8 Q All right. So at this point, 9:30, leaving the
9 house, 20 minutes at Bee's store, we're at
10 9:50 p.m., right?

11 A Yes, ma'am.

12 Q Right about that time, right?

13 A That's what your paper say, yes, ma'am.

14 Q 15 -- I'm gonna give you the benefit of every
15 doubt. 15 minutes for you to walk to get your weed,
16 right?

17 A If that's what you say, yes, ma'am.

18 Q All right. So that would put us about
19 10:05 p.m., right?

20 A Yes, ma'am, that's true.

21 Q Then it's gonna take you about another 15 minutes
22 to walk to the area on Kendell Park Road where the
23 trailer is, right?

24 A True, yes, ma'am.

25 Q Let's give you 15 minutes to go back. So that

DW - B. EPPS - CROSS

1 puts us at about 10:20 p.m., right?

2 A That's what your paper say, yes, ma'am.

3 Q So you testified that as you're walking back you
4 noticed that Jessica is panicking, screaming,
5 yelling or whatever, and she has an injury to her
6 hand, right?

7 A Yes, ma'am.

8 Q All right. And how long then does it take you to
9 say, listen, we need to go to Ms. Pearline's house
10 to go call 9-1-1 and go back get you some help?
11 You do that pretty quickly; don't you?

12 A I guess I didn't want -- yes, ma'am, I guess.

13 Q How long did it take you to get from where you
14 saw Jessica with the hurt hand to Ms. Pearline's
15 house? That was less than a ten minute walk; wasn't
16 it? I know it was.

17 A I don't know. I think so, yes, ma'am.

18 Q About a ten minute walk, it didn't take you any
19 time, right?

20 A I think so.

21 Q All right. And during this time of course, I'm
22 assuming you're gonna testify that you didn't help
23 anybody put Mr. Joe's body in the trunk, right?

24 A No, ma'am, I didn't.

25 Q You didn't help, you didn't shoot him, you didn't

DW - B. EPPS - CROSS

1 do any of this stuff, right?

2 A No, ma'am, I didn't.

3 Q All right. So you go and you call 9-1-1, right,
4 as soon as you get to Ms. Pearline's house?

5 A You said as soon as we get to Ms. Pearline ---

6 Q Well, let me rephrase it better. You then go to
7 Ms. Pearline's house, ask to use her phone to call
8 9-1-1, right?

9 A Me, Jessica, and Theo went, yes, ma'am.

10 Q Now Ms. Pearline says, I don't have a phone,
11 right?

12 A Yes, ma'am.

13 Q She tells you to go right across the street to I
14 believe it was Ms. Ethel's house to ask her to use
15 her phone, right?

16 A Yes, ma'am.

17 Q Now Ms. Ethel lived right across the street from
18 Ms. Pearline; doesn't she?

19 A Yes, ma'am.

20 Q You could walk from Ms. Pearline's house to Ms.
21 Ethel's house in less than a minute; couldn't you?

22 A You asking me or telling me?

23 Q I'm asking you. I said couldn't you.

24 A I don't know. Probably, yes, ma'am.

25 Q All right. You can see Ms. Ethel's house from

DW - B. EPPS - CROSS

1 Ms. Pearline's house; can't you?

2 A Yes, ma'am.

3 Q So you walk across the street, right?

4 A Uh-huh.

5 Q Yes?

6 A Yes, ma'am.

7 Q Ms. Ethel lets you use her phone, right?

8 A Yes, ma'am.

9 Q You then walk back across the street to
10 Ms. Pearline's house, right?

11 A Yes, ma'am.

12 Q And that's when you place the call to 9-1-1,
13 right?

14 A Yes, ma'am.

15 Q And so it would have taken you less than five
16 minutes to go from Ms. Pearline's house to Ms.
17 Ethel's house to get the phone, then come back to
18 Ms. Pearline's house to place that call, right?

19 A Yes, ma'am.

20 Q You know what, to give you the benefit of the
21 doubt let's say it took you 15 minutes to do all
22 that. Is it your testimony that you didn't have
23 anything to do with trying to get Mr. Joe's vehicle
24 from bogged out in the mud?

25 A No, ma'am, I didn't.

DW - B. EPPS - CROSS

1 Q You didn't have anything to do with his gun in
2 this shooting or anything like that?

3 A No, ma'am.

4 Q And nothing to do with putting the body in the
5 car, right?

6 A No, ma'am.

7 Q As soon as you saw that your love Jessica had
8 been shot you immediately sought to get her help,
9 right?

10 A As soon as I saw Jessica was shot, yeah.

11 Q And of course, you cannot account to this jury
12 then why the 9-1-1 call is placed an hour-and-a-half
13 later from that 10:35 time when you claim that you
14 went to Ms. Pearline's house, can you? You can't
15 explain that, can you?

16 A You calculated it; I don't know.

17 Q Well, you tell me. You were in court when the
18 9-1-1 dispatcher testified, right?

19 A Yes.

20 Q You were in court when Officer Staggers
21 testified, right?

22 A Yes, ma'am.

23 Q You heard that that 9-1-1 call was placed at
24 11:58 p.m., right?

25 A Yes, ma'am.

DW - B. EPPS - CROSS

1 Q You don't have any reason to dispute the records
2 or the testimony, do you?

3 A No, ma'am.

4 Q And you would agree with me that if we believe
5 your testimony on the stand, you would have got to
6 Ms. Pearline's house at about 10:30 that night,
7 right?

8 A That's according to you, yes, ma'am.

9 Q And you wouldn't have had anything to do with no
10 coverup, no shooting, or anything like that, right?

11 A I don't have anything to do with it.

12 Q Can we agree that if, in fact, that 9-1-1 call
13 was made 11:58 p.m., that's an hour-and-a-half
14 later?

15 A Yes, ma'am.

16 Q What were you doing in that hour-and-a-half?

17 A According to your calculation it was an
18 hour-and-a-half.

19 Q What were you doing?

20 A I don't know what I possibly could have been
21 doing.

22 Q Have no idea?

23 A I don't.

24 MS. BARR: Judge, can we take a recess
25 please?

DW - B. EPPS - CROSS

1 THE COURT: Yes, ma'am.

2 All right, ladies and gentlemen of the
3 jury, we'll -- you've been in the courtroom now for
4 an hour-and-a-half so it is appropriate we take our
5 afternoon recess at this time. I am going to allow
6 you to go to the jury please. I mean, go to your
7 jury room. Please do not discuss the case among
8 yourselves. It's still inappropriate for you to
9 begin any discussions of this case. We're gonna
10 take an afternoon recess at this time. We will be
11 ready to resume very shortly. Thank you. You may
12 go with the bailiff.

13 (WHEREUPON, the jury was removed from the
14 courtroom at 3:08 p.m.)

15 THE COURT: All right, Ms. Epps, during
16 the recess it would be inappropriate for you to
17 discuss this matter with your attorney or anyone
18 else while we are in this recess because Ms. Barr is
19 still in the middle of her cross-examination so you
20 cannot discuss the case with anyone or especially
21 not discuss it with your attorney. You understand?
22 All right, you may step down.

23 So that I'll be prepared at the time that
24 the issue comes up with regard to my prior rulings
25 with regard to Mr. McKnight, Mr. McCrea, do you have

DW - B. EPPS - CROSS

1 Mr. McCrae's NCIC?

2 MS. BARR: Yes, sir.

3 THE COURT: Can I have a copy?

4 MS. BARR: Yes, sir. Judge, can I just
5 make a copy ---

6 THE COURT: Yeah, make a copy of it and
7 give it to me. I don't need it right now. We'll be
8 in recess about 10, 15 minutes.

9 (WHEREUPON, a recess was taken from the
10 proceedings.)

11 THE COURT: We're back on the record with
12 regard to the matter of State versus Epps. Ms. Epps
13 is present with her counsel and the State is present
14 represented related by the Third Circuit Solicitor's
15 Office. Anything before we bring the jury in, Ms.
16 Barr?

17 MS. BARR: Nothing from the State, Your
18 Honor.

19 THE COURT: From the Defense, Ms. Butcher?

20 MS. BUTCHER: No, Your Honor.

21 THE COURT: All right, come around please.

22 (Witness resumes seat on the witness stand.)

23 THE COURT: All right, bring the jury in
24 please.

25 (WHEREUPON, the jury was returned to the

DW - B. EPPS - CROSS

1 courtroom at approximately 3:22 p.m., and
2 the following proceedings commenced in
3 open court.)

4 THE COURT: All right, thank you very
5 much, ladies and gentlemen. We are now ready to
6 resume. The State was in the process of
7 cross-examination of this witness, and she may
8 continue to do so.

9 Ms. Barr.

10 MS. BARR: Thank you, Your Honor.

11 BY MS. BARR:

12 Q Ms. Epps, when you say that you walked back or
13 you walked to the wooded area where the abandoned
14 mobile home was, you testified earlier that when you
15 walked up you saw Jessica, I believe you used the
16 word slumped down.

17 A Crying.

18 Q Crying or crouching down?

19 A Crouched, yes, ma'am.

20 Q Ma'am?

21 A Yes, ma'am.

22 Q Did you see Mr. Brown's vehicle at that point?

23 A Yes, ma'am.

24 Q You saw his vehicle.?

25 A Yes, ma'am.

DW - B. EPPS - CROSS

1 Q All right. What position was the vehicle when
2 you saw it?

3 A In the field.

4 Q In the field?

5 A Yes, ma'am.

6 Q All right. And the vehicle had been crashed at
7 that point, right?

8 A I don't, I didn't know until yesterday it was.

9 Q Say it again?

10 A I didn't know until yesterday it was, when we
11 heard yesterday that it was.

12 Q You didn't know until yesterday that Mr. Brown's
13 vehicle was crashed?

14 A Yes, ma'am.

15 Q Well, wait a minute now, didn't you have an
16 opportunity to review some of those pictures and
17 some of the incident reports in this case with your
18 lawyer way before trial?

19 A I reviewed the pictures last trial.

20 Q Now you don't, you're not telling me the first
21 time you ever heard that Mr. Brown's vehicle was
22 crashed in the woods was yesterday? You're not
23 saying that, are you?

24 A No, at my last trial I did.

25 Q Let me ask you this, so you go, Jessica's

DW - B. EPPS - CROSS

1 crouched down, you said she's panicking, right?

2 A Yes, ma'am.

3 Q And you say you're panicking, right?

4 A Yes, ma'am.

5 Q You said she's cussing, right?

6 A Yes, ma'am.

7 Q And you're cussing, right?

8 A Yes, ma'am.

9 Q All right. And as this is going on you don't see
10 Mr. Joe anymore, right?

11 A No, ma'am.

12 Q All right. And as this is going on while you're
13 cussing and you're fussing and she's cussing and
14 she's fussing, at some point later you all walked to
15 Ms. Pearline's house, right?

16 A Me, her, and Theo ---

17 Q You, her, and Theo walked to Ms. Pearline's
18 house, right?

19 A Yes, ma'am.

20 Q And as you're walking, your testimony is you have
21 no ideas what's happened to her hand at this point,
22 to Jessica's hand, right?

23 A No, ma'am, no.

24 Q All right. So y'all are walking. You told me it
25 took you five to ten, or ten to 15 minutes to get to

DW - B. EPPS - CROSS

1 Ms. Pearline's house from where Mr. Joe's vehicle
2 was by the abandoned mobile home?

3 A That's a true estimate, yes, ma'am.

4 Q So the whole time you're walking with Theo,
5 supposedly with Jessica, supposedly Jessica's got an
6 injury to her hand, you at no point said, what
7 happened to your hand sweetie?

8 A I was; nobody was answering me.

9 Q All right. And the entire time, of course,
10 you're not worried about where Mr. Joe is, are you?

11 A (There was no verbal response.)

12 Q Ma'am?

13 A No, ma'am.

14 Q It doesn't dawn on you to say well, hum, we got
15 here, Mr. Joe Brown is here, why isn't he taking us
16 home? That doesn't dawn on you, right?

17 A No, ma'am, I was concerned about her.

18 Q And you don't, you never seen Mr. Joe again,
19 right?

20 A No, ma'am.

21 Q Right. So your testimony is you go to
22 Ms. Pearline's house, right?

23 A Yes, ma'am.

24 Q And you've known her. You knew her before she
25 got on the witness stand yesterday; didn't you?

DW - B. EPPS - CROSS

1 A Yes, ma'am.

2 Q All right. You at one point used to live in that
3 community with your mom, right?

4 A Yes, ma'am.

5 Q And was Ms. Pearline right when she said that you
6 got a grandmother in Nesmith out in the country?

7 A Yes, ma'am.

8 Q All right. And she knows your grandmother or
9 knows of your family, right?

10 A She know both of them, yes, ma'am.

11 Q Now, and you acknowledge that you went to her
12 house that night with Jessica and you say with Theo,
13 right?

14 A Who, Ms. Pearline or my grandma?

15 Q Yes, ma'am.

16 A Yes, I went to aunt's Pearline house.

17 Q All right. And when you get to Ms. Pearline's
18 house you say your sole concern at that point is
19 just simply getting help for your girlfriend?

20 A Yes, ma'am.

21 Q Now didn't you ask Ms. Pearline if she knew
22 anybody that could help you all get bogged out, get
23 out of the -- after you got your car bogged in?

24 A I didn't ask her that.

25 Q You didn't ask her that?

DW - B. EPPS - CROSS

1 A No, ma'am.

2 Q You sure?

3 A Yes, ma'am, I believe so. I didn't ask. I don't
4 remember asking that.

5 Q She didn't tell y'all, I can't help y'all to go
6 across the street? She didn't tell you that?

7 A She told me to go across the street to use the
8 phone.

9 Q Okay, all right. After you all go across the
10 street, come back to Ms. Pearline's house, you
11 placed the 9-1-1 call, right?

12 A I was the only one who cross the street, yes,
13 ma'am, I called.

14 Q Okay. When you placed the 9-1-1 call, within
15 five minutes, ten minutes tops, the police is out
16 there, right?

17 A From your estimation that's what you say so.

18 Q I don't want it to be my estimation 'cause I'm
19 not on the witness stand; I can't give evidence.
20 You have to tell me. From the time you placed that
21 9-1-1 call it didn't take five, but five or ten
22 minutes for the police to get there, right?

23 A I guess, I'm not sure.

24 Q And you remember Officer Staggers being the one
25 that you were talking to ---

DW - B. EPPS - CROSS

1 A Yes, ma'am.

2 Q ---that night?

3 A Yes, ma'am.

4 Q And you were the one telling Officer Staggers
5 about the accidental shooting during an hunting
6 accident or playing with a gun or something at
7 Nesmith, right?

8 A Yes, ma'am.

9 Q And you told us you've got family in Nesmith,
10 right?

11 A Yes, ma'am.

12 Q Jessica doesn't have any family in Nesmith, does
13 she?

14 A No, ma'am.

15 Q Theo doesn't have any family in Nesmith, does he?

16 A I don't know.

17 Q But your testimony is that it was Theo's idea to
18 come up with the hunting accident in the country in
19 Nesmith. That was Theo's idea according to you?

20 A I don't know if those exactly. I think when I
21 was on the phone he was telling me to say it.

22 Q He was telling you to say it?

23 A Yes, ma'am.

24 Q Okay. Now where were you physically present?
25 Where were you when you placed that 9-1-1 call?

DW - B. EPPS - CROSS

1 When Theo was telling you what to say, where were
2 you?

3 A Beside Mr. Pearline's trampoline in Ms.
4 Pearline's yard?

5 Q In her front yard?

6 A Yes, ma'am.

7 Q All right. Jessica was there with you standing
8 by you?

9 A She was on the carport.

10 Q Okay. Theodore was there standing by you?

11 A Yes, ma'am.

12 Q Okay, all right. And of course you can't tell us
13 how it is that Ms. Pearline just didn't happen to
14 see Theo, can you?

15 A Ms. Pearline trampoline ---

16 Q Is in her front yard; isn't it? Right in her
17 front yard, right?

18 A Yes, ma'am.

19 Q Okay.

20 A And her carport is on the side of her house so.
21 She got a rocking chair.

22 Q I understand. You want us to believe that
23 Ms. Pearline saw you and Jessica come up and ask her
24 to use the phone, right?

25 A We went to her door and knocked on the door and

DW - B. EPPS - CROSS

1 she came out, yes, ma'am.

2 Q And Theo wasn't supposedly with you and Jessica
3 when y'all went and actually knocked on her door to
4 call 9-1-1 to begin with, was he?

5 A You mean under her carport.

6 Q Right.

7 A He wasn't under the carport.

8 Q He wasn't there, right?

9 A No, he wasn't under the carport.

10 Q He just happened to pop up when you were actually
11 placing the 9-1-1 call, right?

12 A No, ma'am, he always was beside the trampoline.
13 He never moved.

14 Q All right. So when Officer Staggers gets there
15 he arrived before the police, right?

16 A Say it again.

17 Q I'm sorry, Officer Staggers gets there before
18 EMS, right?

19 A Yes, ma'am.

20 Q So when Officer Staggers is out there talking to
21 you trying to figure out what happened, asking
22 Jessica what happened, how did you hurt your hand,
23 you were standing right by Jessica, right?

24 A Yes, ma'am.

25 Q And of course, Theo wasn't standing right by you

DW - B. EPPS - CROSS

1 and Jessica, was he?

2 A I think ---

3 Q Hold on. When Officer Staggers is there. He
4 wasn't standing there, was he?

5 A I think Theo had started walking back then.

6 Q He went ghost when the police got there, is that
7 your testimony?

8 A Yes, ma'am.

9 Q All right. So shortly after Officer Staggers
10 gets there, then EMS comes, right?

11 A Yes, ma'am.

12 Q When EMS comes you're standing right there right
13 by Jessica, right?

14 A I was standing next to the officer, yes.

15 Q But you and Jessica were in proximity of each
16 other such that you all were in arms reach of each
17 other, right, when EMS is there?

18 A When EMS was there she was in the, in the
19 ambulance.

20 Q Before she physically got her body inside the
21 ambulance, when they first came ---

22 A Uh-huh.

23 Q ---you and Jessica were standing right out there
24 with EMS and with Officer Staggers, right?

25 A I was, yes, ma'am.

DW - B. EPPS - CROSS

1 Q And Theo wasn't standing exactly with you or
2 Jessica at that time, right?

3 A By the time the police and everything came,
4 Theo -- I looked and Theo wasn't around.

5 Q Okay, so -- all right. You are the only person
6 who puts Theo at the scene of this crime; aren't
7 you? Nobody else says he's there but you, right?

8 A Yes.

9 Q All right. Ms. Pearline didn't say Theo was
10 there, does she?

11 A I don't think she did.

12 Q And you can't tell us how it is that Officer
13 Staggers saw you and saw Jessica but didn't see
14 Theodore McKnight, can you? You can't tell us how
15 that came to be, right?

16 A Theo wasn't in the yard when he was there but I
17 don't know, I don't know if he saw him walking down
18 the road or saw somebody walking down the road or
19 what.

20 Q And the EMS people who treated Jessica at the
21 scene and took her to Florence, you can't explain
22 how it is that they didn't see know Theo, right?
23 You the only one who saw Theo that night, right?

24 A In the yard at the time I told you that Theo was
25 already gone by the time they came so they probably

DW - B. EPPS - CROSS

1 saw somebody walking down the road.

2 Q They probably saw somebody walking down the road.

3 A Yes, ma'am.

4 Q Okay, okay. Now when Officer Staggers is there
5 he asked you, ma'am, where's the gun, right?

6 A Yes, ma'am.

7 Q And this is after you told him, my girlfriend
8 shot herself in a hunting accident in Nesmith,
9 right?

10 A Yes, ma'am.

11 Q And so you would expect him to say, okay, well,
12 she shot herself with a gun, where's the gun.
13 That's a reasonable question to ask, right?

14 A I suppose, yes, ma'am.

15 Q And you say in response to his question, it's my
16 uncle's gun, right?

17 A Yes, ma'am.

18 Q But your testimony to this jury you never had a
19 gun that night, never saw the victim's gun, don't
20 know anything about the victim being murdered at
21 that time you had the conversation with Officer
22 Staggers.

23 A Yes, ma'am, that's right.

24 Q And you've already told us at that point when
25 you're talking to Officer Staggers Theo was gone?

DW - B. EPPS - CROSS

1 A Yes, ma'am.

2 Q But you told, if we're to believe you now, to lie
3 to Officer Staggers about it being your uncle's gun?

4 A Yes, ma'am.

5 Q 'Cause you didn't have your uncle's gun that day,
6 right?

7 A No, ma'am.

8 Q That was just something you just made up, right?

9 A Yes, ma'am.

10 Q And when Officer Staggers asked you, ma'am -- you
11 admit that he told you that, okay, when the sheriff
12 office come out here they're gonna need the gun.

13 You admit that part, right?

14 A He said they was gonna need the gun.

15 Q All right.

16 A He didn't say who.

17 Q And when he said that to you, you just tell him
18 you're going to your aunt's house and you walk away,
19 right?

20 A Yes, ma'am.

21 Q And when you told him you were going to your
22 aunt's house you were talking about Ree's house,
23 right?

24 A Yes, ma'am.

25 Q All right. From the point where you leave

DW - B. EPPS - CROSS

1 Officer Staggers saying you're going to your aunt's
2 house, Ree's house, you go straight to your aunt's
3 house, right?

4 A Yes, ma'am.

5 Q And of course, you know, you didn't go back to
6 Mr. Joe's vehicle, right?

7 A No, ma'am.

8 Q All right. So as you're walking off you're not
9 allowed to go in the ambulance with Jessica, right?

10 A Say again.

11 Q You don't ride in the ambulance with Jessica,
12 right?

13 A No, ma'am.

14 Q But you wanted to, right?

15 A Yes, ma'am.

16 Q And they wouldn't let you, right?

17 A Yes, ma'am.

18 Q You then immediately, after they tell you you
19 can't ride with her you immediately walk to your
20 Aunt Ree's house, right?

21 A No, I told the police officer I'm going to my
22 aunt's house and then I went to Ree's house?

23 Q Right. So after you told him you were going to
24 your aunt's house you walked straight there, right?

25 A Yes, ma'am.

DW - B. EPPS - CROSS

1 Q And how long did it take you to get to Aunt Ree's
2 house?

3 A I imagine the same time it took me to get there
4 from -- well, I was walking so ---

5 Q Yeah, okay.

6 A From Ree's house to Ms Pearline's house walking?

7 Q Yeah.

8 A Probably like 20, 25, 30 minutes at the most, 25.

9 Q 30 minutes at the most?

10 A Maybe.

11 Q Okay, that's fine. And so you went straight
12 there, right?

13 A Yes, ma'am.

14 Q Didn't make any stops, right?

15 A No, ma'am.

16 Q Didn't see Theodore McKnight along the way,
17 right?

18 A No, ma'am.

19 Q You don't see Theo anymore after that, do you?

20 A No, ma'am.

21 Q So you go to Ree's house, right?

22 A Yes, ma'am.

23 Q You knock on the window to get Ree up, right?

24 A I knocked on the door, then I knocked on the --
25 oh, yes, ma'am.

DW - B. EPPS - CROSS

1 Q Say again?

2 A Yes, ma'am.

3 Q No, you tell me, I didn't mean to interrupt you.

4 You said you knocked on what first?

5 A The door first.

6 Q Okay, she didn't answer?

7 A No.

8 Q It was, it was, I mean, this is after midnight

9 1:00 in the morning, right?

10 A It's -- yes, ma'am.

11 Q Okay. All right, so you knock on the door to

12 wake her up, right?

13 A Uh-huh.

14 Q Yes.

15 A Sorry, yes, ma'am.

16 Q And she comes and she answers the door, right?

17 A Yes, ma'am.

18 Q And you tell her Jessica's been shot, right?

19 A Yes, ma'am.

20 Q And you tell her we need to go to the hospital so

21 I can check on Jessica, right?

22 A Yes, ma'am.

23 Q She gets out of her bed and she takes you to

24 Kingstree Hospital, right?

25 A Yes, ma'am.

DW - B. EPPS - CROSS

1 Q 'Cause at this point you're thinking Jessica is
2 actually, the ambulance actually took her to the
3 hospital in Kingstree, right?

4 A Yes, ma'am.

5 Q When you all got to the hospital in Kingstree
6 with your Aunt Ree, that's when you find out that,
7 no, Jessica's not admitted, wasn't admitted there,
8 right?

9 A Yes, ma'am.

10 Q All right. At some point you later realized that
11 Jessica is actually in Florence, right?

12 A Yes, when she was calling and we saw it on caller
13 I.D.

14 Q Ma'am?

15 A We saw it on caller I.D. at McLeod calling.

16 Q You saw on caller I.D. McLeod Hospital was
17 calling?

18 A Yes, ma'am.

19 Q She was calling to let you know she was there,
20 right?

21 A Yes, ma'am.

22 Q And you wanted your Aunt Ree to take you to
23 Florence so you can be with her, right?

24 A I asked her, yes, ma'am.

25 Q She said that, no, I'm not gonna drive all the

DW - B. EPPS - CROSS

1 way to Florence, right?

2 A Yes, ma'am.

3 Q So at that point then you just go to bed, go to
4 sleep?

5 A No. I don't remember if it was that morning or
6 that night that I called Jessica, but I know we did
7 talk on the phone.

8 Q All right. And when she was on the phone with
9 you she told you the police were there, right?

10 A Yes, ma'am.

11 Q And you just go to sleep?

12 A No, I asked her for ---

13 Q Yeah, you asked her why were the police there.

14 A For what, yeah. She said she couldn't tell me
15 right now.

16 Q Okay, all right. So when you tell your Aunt Ree
17 that Jessica's been shot, before you go to the
18 hospital Ree takes you to Theodore's house; doesn't
19 she?

20 A No, ma'am.

21 Q Doesn't your Aunt Ree take you to Theodore's
22 house and you tell Theodore that Jessica's been
23 shot?

24 A No, ma'am.

25 Q You deny that?

DW - B. EPPS - CROSS

1 A Yes, ma'am, I don't remember saying that.

2 Q You don't -- well, what'd you say when you got to
3 Theodore's house?

4 A I don't think we ever went to Theo's house.

5 Q You don't think you ever went to Theodore's
6 house?

7 A From then I don't ---

8 Q After the shooting?

9 A I don't think so, Ms. Barr.

10 Q You don't think you went to Theodore's house?

11 A No, ma'am.

12 Q It's possible?

13 A I honestly don't know. I don't remember going
14 back. I remember we went to Theo's house when we
15 was first leaving the cookout and then, I don't, I
16 don't think we went back.

17 Q Okay. You don't remember going to, Ree taking
18 you to Theodore's house and you telling him that
19 Jessica got shot, you don't remember that?

20 A I don't.

21 Q You don't remember going in your bedroom and
22 changing your clothes, right?

23 A No, ma'am, no.

24 Q You don't remember telling him that you were
25 going to the hospital?

DW - B. EPPS - CROSS

1 A No, ma'am.

2 Q Okay. Where is your Aunt Ree by the way?

3 A I think she out of state right now.

4 Q Ma'am?

5 A I don't think she's in South Carolina right now.

6 Q Where would she be?

7 A Probably living with one of my cousin's house up
8 north.

9 Q So you go back, you go to Ree's house, right,
10 after you leave the hospital, right?

11 A After we leave, yes, ma'am.

12 Q Now at this time you're not staying with your
13 Aunt Ree. You're actually staying at Mr. McKnight's
14 house, right?

15 A What you mean, like ---

16 Q Like the whole two weeks before the happened you
17 had been staying full-time with Jessica at
18 Mr. McKnight's house, right?

19 A We was back and forth -- well, yes, ma'am.

20 Q All right. So when you leave the hospital in
21 Kingstree and you realize Jessica's not at the
22 hospital in Kingstree, you don't go back to
23 Mr. McKnight's house that night where you were
24 staying, you go back to Ree's house, right?

25 A Yes, ma'am.

DW - B. EPPS - CROSS

1 Q Were you worried that the police would be looking
2 for you at Mr. McKnight's house?

3 A No, 'cause Ree had a car. Theo don't have a car
4 so she said she might take me in the morning or get
5 Jake, her friend, to take me.

6 Q Okay. Now so you go to bed at Ree's house?

7 A Yes, ma'am.

8 Q You're not telling this jury that you don't
9 change your clothes at all, you don't get in your
10 night clothes? You don't change clothes when you go
11 back to go to sleep at Ree's house?

12 A Not really. I don't have any clothes over there.

13 Q You didn't have your clothes at Ree's house?

14 A No, ma'am.

15 Q I thought you stayed back and forth at Ree's
16 house and Theodore McKnight's house.

17 A Yea, but I never brought clothes.

18 Q Never brought clothes there.

19 A Unless I was taking a shower, right. Usually I
20 take showers at my momma's house.

21 Q Oh, I see. All of your clothes were either at
22 your mom's house or Theodore McKnight's house,
23 right?

24 A I had a couple of outfits, I think, at Theo's
25 house; but the majority of my clothes was at my mom

DW - B. EPPS - CROSS

1 and dad's house.

2 Q All right. So your testimony is that you go to
3 Ree's house and you sleep in the same clothes that
4 you had been wearing all the previous day before,
5 right?

6 A Yes, ma'am.

7 Q You get up the next morning, right?

8 A Yes, ma'am.

9 Q And low and behold comes Williamsburg County
10 Sheriff's Office looking for you, right?

11 A We didn't know that at the time, but yes, ma'am.

12 Q All right. So they come to your Aunt Ree's
13 house, right?

14 A Uh-huh.

15 Q And your Aunt Ree answers the door, right?

16 A Yes, ma'am.

17 Q All right. And you know at this point now when
18 they're knocking on the door they're asking for you,
19 right?

20 A Uh-huh. Yeah, they're asking if I was there.

21 Q Yeah.. And you heard them, right?

22 A Um, I didn't actually hear him, but when Ree came
23 back out she told me. When Ree came back in the
24 house she told me.

25 Q Didn't you see Lieutenant Debra Collins, the lady

DW - B. EPPS - CROSS

1 sitting up there next to the gentleman with the suit
2 on, didn't she come up to your house early that
3 morning?

4 A Uh-huh, to Ree house, yes, ma'am.

5 Q Yeah. Or out to Ree's house, right?

6 A Yes, ma'am.

7 Q All right. And you didn't come to the door, did
8 you?

9 A I didn't.

10 Q All right. And of course, you didn't come to the
11 door because you didn't want them to arrest you,
12 right? You don't want them to know you were inside
13 that house, did you?

14 A No, ma'am, that's not the reason why I didn't
15 come to the door.

16 Q All right, okay. So they come looking for you.
17 You don't tell them that you're in the house, right?

18 A I didn't.

19 Q Okay. And certainly, if you didn't know anything
20 about Mr. Brown being murdered, if you didn't know
21 anything about Jessica and how she got shot, if the
22 police wanted to ask you some questions you could
23 have just said how can I help you, right?

24 A Not really. I mean, I don't really deal with the
25 police like that so.

DW - B. EPPS - CROSS

1 Q You don't deal police like that?

2 A No, ma'am.

3 Q You weren't worried about how your girlfriend got
4 shot?

5 A I didn't know she got shot until after I told the
6 police officer or 9-1-1 dispatch that she got shot.
7 She had told me. And I asked him shot and they
8 wouldn't tell me nothing else.

9 Q All right. Well, and I'm not talking about when
10 you called 9-1-1. I'm talking about when the police
11 are out there.

12 A What'd you say?

13 Q Yeah, you wasn't concerned then about how your
14 girlfriend got shot, when the police come looking
15 for you at your Aunt Ree's house?

16 A No, I was just worried about why the police
17 wanted me.

18 Q Okay. So from the time you walked to Ree's house
19 from Ms. Pearline's house until the time you leave
20 Ree's house the next morning, right, Theo McKnight
21 doesn't come to Ree's house, does he? You don't
22 ever see him at your Aunt Ree's house, right?

23 A No, ma'am.

24 Q After the shooting you never see Theodore
25 McKnight at your Aunt Ree's house, right?

DW - B. EPPS - CROSS

1 A No, ma'am.

2 Q And your Aunt Ree didn't -- she wasn't with you
3 and Jessica and Mr. Joe Brown at the cookout in
4 Greeleyville, right?

5 A She wasn't.

6 Q She wasn't. She didn't have anything to do with
7 being in the car when you supposedly went on your
8 weed run or whatever you call it, she was nowhere
9 present during any of this, right?

10 A When I got out she wasn't. She was nowhere
11 around.

12 Q I'm sorry?

13 A I said when I got out the car she was nowhere
14 around. She was never in the car.

15 Q When you got out she was never in the car?

16 A She was never in the car period, so when I got
17 out she wasn't in there.

18 Q And you don't have any reason to believe she's
19 involved with any of this stuff, do you?

20 A No, ma'am.

21 Q All right. And you certainly can't tell us how a
22 key chain, a Cadillac key chain specifically, and a
23 Cadillac key remote from a Kachina Cadillac, a
24 dealership in Phoenix, Arizona, ended up in your
25 aunt's yard that night? You couldn't possibly tell

DW - B. EPPS - CROSS

1 us how that happened, right?

2 A No, ma'am. I didn't put it there. I know that
3 for a fact.

4 Q I understand. Now you get out the car and you
5 say Jessica and Theodore and the victim are in the
6 car, where was Jessica?

7 A Talking about when I got out of Bee's store?

8 Q Yeah.

9 A In the back seat.

10 Q Behind Mr. Brown?

11 A Yes, ma'am.

12 Q And where was Theodore?

13 A Theo was behind me, but then I got out and he got
14 in the front.

15 Q Okay. When did that happen?

16 A When we was at Bee store.

17 Q Okay. All right now, and your understanding was
18 that they were gonna drop Theo off to go to Windy's
19 Club, get him something to drink, right?

20 A Yes, ma'am.

21 Q And Jessica and Mr. Brown were going to go and
22 have sex. That was your understanding when you were
23 supposedly dropped off, right?

24 A That I was dropped off and we were supposed to
25 meet up, yes, ma'am, that's what it was.

DW - B. EPPS - CROSS

1 Q And by the way, you were okay with your
2 girlfriend having sex with an 87 year old? You were
3 okay with that?

4 A Jessica wasn't my girlfriend, but we was friends
5 to mess around, I guess, and we both did whatever we
6 wanted to.

7 Q All right. That was just your friend?

8 A I cared about her if that's what you want.

9 Q Your testimony is you never saw Mr. Brown's
10 vehicle anymore after you were dropped off at Bee's
11 store, the inside of the vehicle, is that your
12 testimony?

13 A Repeat the question.

14 Q You never saw Mr. Brown's vehicle anymore after
15 you were dropped off at Bee's store; is that your
16 testimony?

17 A No, I saw his car when I went to meet Jessica
18 but, I didn't think twice of it before I went and
19 called the ambulance, 9-1-1.

20 Q You never saw the inside of the vehicle anymore
21 after that, after you dropped off at Bee's store?

22 A No, ma'am.

23 Q All right. You've acknowledged to us that the
24 camouflage hoodie that's in State's 33 is your
25 hoodie, right?

DW - B. EPPS - CROSS

1 A Yes, ma'am, that's mine.

2 Q And I'm gonna publish State's Exhibit Number 10.

3 At what point did that hoodie get on the floorboard
4 in the front passenger seat?

5 A I don't know.

6 Q You have no idea?

7 A No, ma'am.

8 Q All right. You were wearing it at the cookout?

9 A Yes, ma'am.

10 Q And what point do you take it off?

11 A I told you after Bee's store.

12 Q Say again.

13 A Ms. Bee's store.

14 Q All right. You take it off, and why you take it
15 off?

16 A Jessica asked for it.

17 Q Okay. And she asked for it why?

18 A I don't know.

19 Q All right. When she asked for it supposedly you
20 gave it to her?

21 A When she asked for it I gave it to her.

22 Q Did you see her put it on?

23 A I don't know.

24 Q All right. You didn't see her wearing it?

25 A No, they drove off, I got out.

DW - B. EPPS - CROSS

1 Q So she asked for it you told us because you said
2 she was cold, she said she was cold, right?

3 A When I say that?

4 Q Well, why did she ask for it?

5 A I don't know. I honestly I don't know.

6 Q I didn't understand your testimony earlier that
7 you gave the hoodie to Jessica because she said she
8 was cold.

9 A I didn't say that, Ms. Barr. I said she asked
10 for a hoodie, I gave it to her.

11 Q And you don't know why?

12 A I don't.

13 Q So she asked for this hoodie just as you're
14 getting out at Bee's store, right?

15 A Yes, ma'am.

16 Q Right before she's about to go have sex with this
17 man in the car, right?

18 A Yes, ma'am.

19 Q All right. So, we're all adults here, when
20 somebody his gonna have sex most times they're
21 taking off their clothes, right?

22 A I suppose, yes, ma'am.

23 Q You're giving her a hoodie and she's getting
24 ready to put on her clothes right before she's about
25 to have sex, right?

DW - B. EPPS - CROSS

1 A I guess that. I suppose, that's what she said.

2 Q And you got a grown man, Mr. Brown, right?

3 A Uh-huh.

4 Q Supposed to have sex with this girl, right?

5 A Yes, ma'am.

6 Q And he's gonna have another man in the car,
7 Mr. McKnight, with him while he's doing all this,
8 right?

9 A No, I told you, Theo said he was going to
10 Windy's. By the time everybody was supposed to go
11 where they went, by the time everybody was supposed
12 to come back, it was supposed to be done. That's...

13 Q It was supposed to be done?

14 A Yeah, like, they were supposed to have already
15 have sex, whatever, do they what they did.

16 Q And you would agree with me, would you not, that
17 if two people, they're adults, want to have
18 consensual sex, nothing wrong with that, right?

19 A Yes, ma'am.

20 Q Right? And so if that were, in fact, the case
21 wouldn't you agree it would be a little more
22 comfortable to accomplish that at somebody's house
23 as opposed to a car, right?

24 A I don't know.

25 Q Mr. Brown had the opportunity to go to his house

DW - B. EPPS - CROSS

- 1 if that's what he wanted do, right?
- 2 A I guess, yes, ma'am.
- 3 Q He had the option to go where you and Jessica
- 4 were staying with Mr. McKnight if that's what he
- 5 wanted to do, right?
- 6 A Yes, ma'am.
- 7 Q He had a car, right?
- 8 A Yes, ma'am.
- 9 Q It was running, right?
- 10 A Yes, ma'am.
- 11 Q All right. Now when you and Mr. McKnight
- 12 supposedly switched seats, when you get out from the
- 13 front passenger seat and he gets in, right, when
- 14 that happens -- you follow me?
- 15 A Well, he switched seats ---
- 16 Q With you, right?
- 17 A Uh-huh.
- 18 Q You follow me?
- 19 A When I got out, yes, ma'am.
- 20 Q All right. So you see your camouflage hoodie on
- 21 the front floorboard, right?
- 22 A Yes, ma'am.
- 23 Q And you see a plastic bag that contains food that
- 24 Mr. Brown got from the barbecue. We see that in
- 25 this picture, right?

DW - B. EPPS - CROSS

1 A Yes, ma'am.

2 Q So when Mr. McKnight, according to you, would
3 have gotten in the front seat his feet would have
4 been right where the plastic bag is in the picture
5 and right where your camouflage hoodie, right?

6 A Say again.

7 Q If Mr. McKnight had gotten into the front
8 passenger seat as you testified, his feet would be
9 right where what plastic container is and right
10 where the hoodie is in that picture?

11 A It should have been. That's the passenger
12 floorboard; isn't it?

13 Q That's right.

14 A Should be, it should have been.

15 Q So when Lieutenant Collins and other members of
16 the Sheriff's Office came to the abandoned house
17 looking for you, you testified that you didn't let
18 them know that you were there, right?

19 A I didn't tell them, no.

20 Q Instead, what you did was you called your mom,
21 right?

22 A Well, my aunt went with them. They wanted my
23 aunt to come down to stay with them, and then I
24 think she called my aunt's house. I think she
25 guessed I was in there or something, and she called

DW - B. EPPS - CROSS

1 my auntie's house.

2 Q Who called your aunt's house?

3 A The officer.

4 Q The officer called the house?

5 A Yes, ma'am.

6 Q Let me be clear what we're talking about. So
7 when Lieutenant Collins and deputies came out to
8 your Aunt Ree's house this morning looking for you,
9 you did not tell them that you were inside that
10 house, right? And you didn't let them know that you
11 were in there, right?

12 A I didn't.

13 Q And your Aunt Ree, Vanity Epps, answers the door
14 and talks with the police, right?

15 A Yes, ma'am.

16 Q And she knows that they're looking for you as
17 well, right?

18 A She didn't know, we didn't know they were looking
19 for me until she went to the door.

20 Q Well, you wouldn't obviously until she answered,
21 that's my point.

22 A Okay.

23 Q When she answers the door, you know that she
24 hears that they're looking for you 'cause you hear
25 it too, right?

DW - B. EPPS - CROSS

- 1 A I didn't hear it, but she came back and told me.
- 2 Q Okay. So she then leaves and goes to the
- 3 Sheriff's Department, right?
- 4 A Yes, ma'am.
- 5 Q You stay in the house, right?
- 6 A Yes, ma'am.
- 7 Q The Sheriff's Department is continuing to call
- 8 your aunt's house while you were there and she's at
- 9 the Sheriff's Office, right?
- 10 A They calling once.
- 11 Q And you don't answer the phone, right?
- 12 A I don't -- I didn't answer. I think I called
- 13 back though.
- 14 Q When your aunt leaves the Sheriff's Office she
- 15 comes back to the house, to her house with you, and
- 16 you're still there when she gets back, right?
- 17 A No, I don't know who she came back to. I left. I
- 18 called my momma and I told my mom the police were
- 19 looking for me and my momma came and pick me up,
- 20 took me to my grandma's house, Hazel, not the one in
- 21 Nesmith Hazel, the one who stays in Cedar Hill.
- 22 Q All right. So you call your mom and you start
- 23 crying; don't you?
- 24 A I don't -- I just said police looking for me.
- 25 She asked me why. I told her I didn't, I told her I

DW - B. EPPS - CROSS

1 didn't know.

2 Q You sure you don't call her crying saying that
3 police are looking for you? You want to think about
4 that for a moment?

5 A I don't remember crying or telling her the police
6 are looking for me.

7 Q All right. Page 204, line 17 through 19.

8 (Attorneys confer.)

9 MS. BARR: May I approach the witness.

10 BY MS. BARR:

11 Q Ms. Epps, I'm going to show you a transcript and
12 refer to page, my page 204 of that transcript,
13 specifically lines 17 through 19, and let you read
14 it yourself and ask if you that refreshes your
15 memory. Don't read it out loud. Just tell me if it
16 refreshes your memory.

17 (Pause.)

18 THE WITNESS: Yes, ma'am.

19 BY MS. BARR:

20 Q All right. Now having read that, didn't you call
21 your momma saying Jessica got shot, you were crying,
22 and you said the police were looking for you?

23 A And that I lied to the police, yes, ma'am.

24 Q All right. So according to what you would have
25 us believe today, you didn't have anything to do

DW - B. EPPS - CROSS

1 with this case, right? You didn't have anything to
2 do with a murder, you didn't have anything to do
3 with disposing of evidence, you didn't have anything
4 to do with that, right?

5 A I didn't.

6 Q You wasn't even in the car when all this stuff
7 happened, right?

8 A Yes, ma'am.

9 Q But the police come out looking for you, you
10 don't let them know you're in the house, right?

11 A I didn't tell them, no, ma'am.

12 Q Instead, you call your mom crying, right?

13 A 'Cause I lock -- yes, ma'am.

14 Q And saying that the police were looking for you,
15 right?

16 A Yes, ma'am.

17 Q All right, your mom picks you up?

18 A Yes, ma'am.

19 Q Takes you to your grandmother's house?

20 A Yes, ma'am.

21 Q And the family gets together. All these people
22 are together after you've let them that the police
23 looking for you?

24 A Yes, ma'am.

25 Q How many people come to the house at your

DW - B. EPPS - CROSS

1 grandmother's house?

2 A A couple.

3 Q You called a couple of people to come to your
4 grandmother's house?

5 A No, my grandma, she outdo stuff a lot of times.

6 Q And you let your grandmother know the police were
7 looking for you?

8 A My momma did.

9 Q And you stayed there for a while; didn't you?

10 A Not really, no, ma'am. It was just to see who is
11 coming down there with me.

12 Q All right. Let me ask you this, when Lieutenant
13 Collins, Dot Collins came out to Vanity's house
14 looking for you, that was shortly after the sun came
15 up; wasn't it?

16 A I don't know, I was asleep. They woke us up.

17 Q When they woke you up that was shortly after the
18 came up, right?

19 A I mean, it was morning time if that's ---

20 Q Yeah, and that was about 7 or 8:00 in the
21 morning; wasn't it?

22 A I wasn't, I didn't look at the clock, but I guess
23 it was morning time.

24 Q Would you dispute that it's about 7 or 8:00 in
25 the morning?

DW - B. EPPS - CROSS

1 A That's according to you.

2 Q All right. And you don't actually turn yourself
3 in to the police until about 2:00 that afternoon,
4 right?

5 A I don't think it was that late.

6 Q A few more questions and I'll be done. You said
7 you and Jessica were friends, you kind of cared
8 about her, it really wasn't all that serious 'cause
9 you did your own thing and she did her own thing,
10 right?

11 A I didn't say I kind of cared about her. I said I
12 cared about her, I did.

13 Q Okay. But you did your own thing; she did her
14 own thing.

15 A We did.

16 Q Okay.

17 A Well, I -- yeah, we did.

18 Q All right. And after you are arrested and she's
19 arrested, you all write each other back and forth;
20 don't you?

21 A Yes, ma'am, we did write letters.

22 Q All right. And in some of the letters that you
23 wrote to her you told her in those letters that you
24 loved her?

25 A I did I think.

DW - B. EPPS - CROSS

1 Q Okay. You told her that we've got to be careful
2 about what we write 'cause the Feds may be
3 intercepting our mail, right?

4 A Can I see that?

5 Q Sure. Keep it in order. I show you State's
6 Exhibit Number 41-A.

7 THE COURT: It's in evidence.

8 THE WITNESS: Can you point to where it
9 is.

10 BY MS. BARR:

11 Q Do you recognize that letter?

12 A Yes, I did write this.

13 Q You wrote that to Ms. Jackson, right?

14 A Yes, ma'am.

15 Q All right. And on that letter you acknowledge
16 that you tell her you will also be my love, right?

17 A Yes, ma'am, that's -- yes, ma'am.

18 Q All right. And you told her that you miss her
19 big beautiful smile, right?

20 A Yes, ma'am.

21 Q You tell her that you, that she's your soul mate,
22 right?

23 A Yes, ma'am, that's what I said.

24 Q And you told her that you miss holding her,
25 right?

DW - B. EPPS - REDIRECT

1 A Where you see that?

2 MS. BARR: May I approach the witness?

3 THE COURT: Yes, ma'am.

4 BY MS. BARR:

5 Q Right there.

6 A Yes, ma'am, that's what said.

7 Q All right. And you signed the letter "love, take
8 off" right?

9 A Yes, ma'am.

10 Q All right. Ms. Epps, you don't want to go to
11 prison, do you?

12 A I don't, especially for something I didn't do.

13 Q Your freedom is important to you, right?

14 A It is.

15 Q You will do things that you normally would not do
16 so that you can enjoy your freedom; wouldn't you?

17 A What you mean by that?

18 MS. BARR: Beg the Court's indulgence.

19 THE COURT: Yes, ma'am.

20 BY MS. BARR:

21 Q One more question. When you were talking to
22 Officer Staggers, didn't you tell him you had a car
23 bogged down at Windy's Club?

24 A I did. He asked me where the car was, I said
25 it's bogged down near Windy's Club. I don't think I

DW - B. EPPS, - REDIRECT

1 said at.

2 Q You told him that?

3 A I did.

4 Q I don't have any other questions.

5 THE COURT: Redirect, Ms. Butcher?

6 **REDIRECT EXAMINATION**

7 BY MS. BUTCHER:

8 Q Ms. Epps, you didn't write anything in the letter
9 about, be careful, the Feds may be intercepting our
10 mail, did you?

11 A Can I see it? No, ma'am, it doesn't say
12 anything.

13 Q Are you a bit stressed being here today?

14 A Yes, ma'am.

15 Q This whole situation?

16 A Yes, ma'am.

17 Q I'm sure you're tired?

18 A Yes, ma'am.

19 Q Now Ms. Barr on cross-examination basically has
20 told your story, correct?

21 A Yes, ma'am.

22 Q And you ---

23 THE COURT: Your witness now, you can't
24 lead her.

25

DW - B. EPPS - REDIRECT

1 BY MS. BUTCHER:

2 Q Okay. Have you agreed with parts of what she
3 said?

4 A Certain parts.

5 Q Have you disagreed with parts of what she said?

6 A Yes, ma'am.

7 Q Okay. Since you've been arrested, the second
8 time you've given testimony?

9 A Yes, ma'am.

10 Q Okay. Has your story changed since you've been
11 arrested?

12 MS. BARR: Objection.

13 THE COURT: Sustained.

14 MS. BARR: Improper.

15 BY MS. BUTCHER:

16 Q Ms. Barr was asking you if Theo worked. Do you
17 know if he worked?

18 A I think he was like a handy man whenever he was,
19 he would come.

20 Q Do you know if he received any kind of check in
21 the mail or anything?

22 A I think he got disability, something, something.

23 Q When you and Jessica were at Mr. Brown's
24 apartment, were other people there?

25 A It was a dude he took to the store. I don't know

DW - B. EPPS - REDIRECT

1 his name. The name was Freddie, name is Freddie.

2 Q Okay. Were you worried about Jessica when she
3 was shot?

4 THE COURT: I can't hear you.

5 BY MS. BUTCHER:

6 Q Were you worried about Jessica when she was hurt?

7 A I was.

8 Q Okay. And did you want to ride in the ambulance
9 with her?

10 A I did.

11 Q Okay. Did you talk to Officer Staggers farther,
12 further, after the ambulance left?

13 A No, I think I just told him I was going to my
14 aunt's house and that was it.

15 Q So your conversation with Staggers occurred while
16 Jessica was still around?

17 A Yes, ma'am, I believe so.

18 Q And then did she leave in the ambulance?

19 A She did.

20 Q And then you just told him you were going to your
21 aunt's house?

22 A To see if I can get a ride.

23 Q Okay. And you were honest with the officer?

24 A For the most part.

25 Q I'm sorry, about where you were going?

DW - B. EPPS - REDIRECT

1 A Yes, ma'am.

2 Q You weren't trying to hide?

3 A No, ma'am.

4 Q Okay. Ms. Barr led you through a time frame and
5 she asked you questions about how long it would take
6 you to get from one point to another, correct?

7 A She did.

8 Q What she didn't ask you was what, how long it
9 took you between every time that you left one place
10 to another destination. When you and Mr. Brown, and
11 Jessica went back to Theo's house, how long did
12 y'all talk in the car before you got out?

13 A I don't know.

14 Q Okay.

15 A I don't know the time, like...

16 Q Okay. After you changed your pad and you came
17 back out, how long did you and Theo, Jessica, and
18 Mr. Brown talk before y'all got back in the car?

19 A I remember we was just establishing what was
20 going to happen.

21 Q But y'all, did y'all talk for a while?

22 A It was probably for a little, yeah, for a minute.

23 Q Okay. Now after you left the store after you
24 were dropped off, you went to the weed man's house,
25 how long did you hang out there before you headed

DW - B. EPPS - REDIRECT

1 back?

2 A I don't know exactly, but I know we was talking,
3 me, and was talking.

4 Q Now, and Ms. Bar put that you went for about, it
5 was about 10 to 15 minutes from Bee's store to the
6 weed man store.

7 A To his house.

8 Q To his house?

9 A Where it was.

10 Q Thank you. And then she put down, remember she
11 said she was gonna give you the benefit of the doubt
12 and put down 15 minutes for you to get from the weed
13 man back to Bee's store, correct?

14 THE COURT: Your witness.

15 MS. BARR: Judge, we're gonna object to
16 the leading.

17 THE COURT: Yes, ma'am, you were leading.

18 MS. BUTCHER: Okay.

19 MS. BARR: And mischaracterization of the
20 testimony.

21 BY MS. BUTCHER:

22 Q Did you go straight back to Bee's store after you
23 left the weed man's house?

24 A Did I go straight back in there?

25 Q Did you go to Bee's store after you left the weed

DW - B. EPPS - REDIRECT

1 man's house?

2 A You have to pass, yes, ma'am.

3 Q Did you pass it or did you?

4 A I passed by it.

5 Q Where were you going?

6 A Back down the road to go in front of Windy's.

7 Q Okay. Was the time, that time accounted for?

8 A When?

9 Q When Ms. Barr was doing her time.

10 A I don't know if she, I don't remember, I don't
11 know.

12 Q Okay. But it's farther from the weed man to
13 Windy's than it is from the weed man to Bee's store?

14 A Say again.

15 Q It's farther, is it a farther distance from the
16 weed man to Bee's store -- I'm sorry, from the weed
17 man to Windy's Club than it is from the weed man to
18 Bee's store?

19 A Yeah, it's further.

20 Q Okay. Do you recall how long you and Jessica
21 talked before y'all walked to Ms. Pearly's [sic]
22 house?

23 A I don't. Everything happened so fast I don't.

24 Q Okay. Did you walk at a normal pace to
25 Ms. Pearly's house?

DW - B. EPPS - RECROSS

1 A I don't think I did.

2 Q How do you think you walked?

3 A I don't know; I honestly don't.

4 Q Okay. Fair to say it's just hard to remember.

5 A Yes, certain stuff like that.

6 Q When you found out law enforcement was looking
7 for you how old were you?

8 A 16.

9 Q Okay. Where did you go?

10 A Say again.

11 Q You found out law enforcement was looking for
12 you, where did you go?

13 A I went to my grandma's house and then we came up
14 here.

15 Q Where did you go first when you first found out,
16 who did you call?

17 A My momma.

18 Q Okay. Do you recall what Theo had on that night?

19 A I don't. I don't.

20 Q You don't remember? You don't?

21 A No, ma'am.

22 Q No further questions.

23 THE COURT: Redirect -- recross?

24 MS. BARR: Very briefly.

25 **RECROSS-EXAMINATION**

DW - B. EPPS - RECROSS

1 BY MS. BARR:

2 Q Ms. Epps, you said it all happened so fast,
3 right?

4 A From the point of me walking down from Ms. Bee's
5 store to me seeing Jessica and us arguing, yes,
6 ma'am.

7 Q That happened fast?

8 A Yes, ma'am.

9 Q The way you were describing it earlier that took
10 you about 15, 20 minutes to get from one point to
11 another.

12 A I'm saying when I met her there and we was
13 arguing, the time it took for me to get to
14 Ms. Pearline house.

15 Q What you really meant to say was, when you talk
16 about it all happened so fast, what you're talking
17 about is the murder of Mr. Brown. That all happened
18 so fast; didn't it?

19 A No, Ms. Barr, I wasn't talking about that.

20 Q Now Ms. Butcher asked you and showed you one of
21 the letters, and it was -- my apology, asked you
22 whether or not there was any mention about the Feds
23 intercepting your letters to Jessica. You remember
24 her asking you about that?

25 A Yes, ma'am.

1 (Attorneys confer.)

2 MS. BARR: May I approach the witness?

3 THE COURT: Yes, ma'am.

4 BY MS. BARR:

5 Q Ms. Epps, you recognize this document; don't you?

6 A Yes, ma'am.

7 Q That's your handwriting?

8 A Yes, ma'am.

9 Q That's your letter?

10 A Yes, ma'am.

11 Q You wrote that to Jessica Jackson?

12 A Yes, ma'am.

13 Q That's dated in November of 2014?

14 A Yes, ma'am.

15 Q All right. In that first paragraph of that
16 letter to her don't you tell her that the Feds must
17 be intercepting your letters?

18 A Yes, ma'am, that's what I said.

19 Q All right. That's all the questions I have.

20 THE COURT: All right. Thank you, you may
21 step down.

22 MS. BUTCHER: Your Honor, may I redirect?

23 THE COURT: I don't think so. Come up and
24 tell me why it's necessary.

25

J
DW - T. MCKNIGHT - PROFFER1 **THEODORE MCKNIGHT,**2 having been duly sworn by the Clerk, testified
3 as follows:4 THE CLERK OF COURT: Take your seat in the
5 witness box.

6 THE COURT: All right, Ms. Butcher.

7 MS. BUTCHER: Thank you, Your Honor.

8 **P R O F F E R E X A M I N A T I O N**

9 BY MS. BUTCHER:

10 Q Hey, Mr. McKnight, how are you?

11 A I'm well.

12 Q Do you know Brittany Epps?

13 A Yes, ma'am.

14 Q How do you know her?

15 A By her mother.

16 Q How long have you known her?

17 A I've known her for a while.

18 Q What's a while?

19 A Can't give you a ballpoint figure.

20 Q Years, months?

21 A Not really years, probably months.

22 Q You've only known her for a few months?

23 A Well, months like, well, years now, but yeah.

24 Q Prior to March of 2014 how long have you known
25 her?

DW - T. MCKNIGHT - PROFFER

1 A I probably known her probably like, probably like
2 2014, all of 2014.

3 Q Okay. How about Jessica Jackson?

4 A Yes, ma'am, I knew her too.

5 Q Okay. How long have you known her, as of
6 March 2014.

7 A I know her probably two, three, four months.

8 Q You've known her about two or three, four months?

9 A Yes, ma'am, not really sure.

10 Q Okay. Did Jessica and Brittany come to live with
11 you?

12 A Yes, ma'am.

13 Q Okay. Do you recall when they came to live with
14 you?

15 A I couldn't tell you exactly when, but I just know
16 they live with me. I can't exactly tell you when
17 they came to stay with me, but they stayed with me.

18 Q Was that in 2014?

19 A Yes, have to be 2014 'cause my mom died in 2013.

20 Q Okay. How old are you?

21 A 44.

22 Q You know how old Jessica was back in 2014?

23 A Probably about say, like, probably 17 I guess.
24 I'm not sure.

25 Q How about Brittany?

DW - T. MCKNIGHT - PROFFER

1 A Probably younger, probably like 15 or so.

2 Q Okay. You recall the conditions of your house at
3 that time?

4 A Yes, ma'am. It wasn't quite liveable but I
5 stayed there.

6 Q Okay. You recall giving a statement to law
7 enforcement in May of 2014?

8 A If I can remember I did.

9 Q Okay.

10 MS. BUTCHER: Your Honor, may I approach.

11 BY MS. BUTCHER:

12 Q Something to refresh your memory.

13 A It don't matter, I'm sure.

14 Q I just gave it to you to read statement?

15 THE COURT: All right, step back there and
16 ask him whatever questions you want to.

17 MS. BUTCHER: I don't think he read part
18 of it though.

19 THE COURT: He read what?

20 MS. BUTCHER: He only read this part, Your
21 Honor.

22 THE COURT: Where is that?

23 MS. BUTCHER: The rest of the second page.

24 THE COURT: You didn't give him the first
25 page first?

DW - T. MCKNIGHT - PROFFER

1 MS. BUTCHER: I did, Your Honor. I set it
2 up here and he started on the second page.

3 THE COURT: All right.

4 BY MS. BUTCHER:

5 Q Does this refresh your memory?

6 A Yes, ma'am.

7 Q Okay. Tell me what you told law enforcement back
8 in May of 2014.

9 A I told them that they left the house early that
10 morning and I haven't seen them, nor -- I haven't
11 seen any of them during that day, but she came home
12 that later that night, later that night, changed
13 clothes, said that Jessica got shot in the hand, she
14 was going to the hospital to check on her. And the
15 next thing I wake up the next morning Ree came and
16 told me that she was arrested for a capital murder
17 and she took her clothes from the residence and she
18 left and I haven't heard nothing else about it
19 since.

20 Q Now isn't it true ---

21 THE COURT: No, ma'am, your witness.

22 BY MS. BUTCHER:

23 Q Now did you attend, did you -- did Brittany Epps,
24 Jessica, and Joseph Brown come pick you up after
25 they attended the cookout?

DW - T. MCKNIGHT - PROFFER

- 1 A No, ma'am.
- 2 Q Did you ride with them and you were ---
- 3 A No, ma'am.
- 4 Q ---going to get some liquor?
- 5 A No, ma'am.
- 6 Q Did you want to go to Windy's Club that night?
- 7 A No, ma'am.
- 8 Q What type of liquor do you drink?
- 9 A I drink Ruby Martin.
- 10 Q Were you aware that Mr. Brown and Jessica were
- 11 planning to have sex?
- 12 A I had no idea; I wasn't there.
- 13 Q Did you and Jessica make a plan to rob Mr. Brown?
- 14 A No, ma'am.
- 15 Q When y'all, the four of y'all left your home, did
- 16 y'all drop Brittany off?
- 17 A Ma'am, I wasn't with them that day. They left my
- 18 left house by themselves, you know what I'm saying.
- 19 Her, Ree, and Jessica, they left. I haven't seen
- 20 them none, no more that day. I have someone that
- 21 can verify that.
- 22 Q After you dropped, after y'all dropped Brittany
- 23 off at Bee's club, did you drive away in the car
- 24 with Mr. Brown and Jessica?
- 25 A Ma'am, I was not there.

DW - T. MCKNIGHT - PROFFER

1 Q Okay. Did you plan to rob Mr. Brown?

2 A No, ma'am, I was not there.

3 Q And he got shot instead?

4 A I didn't, I didn't witness none of that. I was
5 not there.

6 Q Now Mr. Brown was found with his clothes halfway
7 off. Were you there when the two of them started
8 messing around?

9 A I was not there, ma'am.

10 Q Did you or Jessica grab a gun out of the glove
11 box?

12 A I was not there.

13 Q Did you make an anonymous tip to law enforcement
14 claiming that Mr. Samuel Barr or Monkey Joe gave
15 Brittany a ride and she had on bloody clothes?

16 A Ma'am, I was not there; I don't know about any of
17 this stuff.

18 Q Is it true you saw Mr. Samuel Barr in the field
19 that night when he discovered the car had been
20 bogged down at the edge of the woods?

21 A I don't even know who that is.

22 THE COURT: Just answer the question.

23 THE WITNESS: I don't know who that is,
24 Your Honor. No, I don't know who that is.

25 THE COURT: I understand. I understand.

DW - T. MCKNIGHT - PROFFER

1 You've answered that question.

2 BY MS. BUTCHER:

3 Q Did you place Mr. Brown's body in the trunk of
4 this car?

5 A No, ma'am. I was not there.

6 Q Did you and Jessica place Mr. Brown's body in the
7 trunk of that car?

8 A I was not there.

9 Q Did you live across the street or down the road
10 from Vanity Epps in March of 2014?

11 A She stayed, she stayed probably two football
12 fields away from my house. You know, like I said,
13 ma'am, that morning I got up. They left, they left
14 on their own. I haven't seen them no more that day.
15 That night, ---

16 Q I'm talking about ---

17 A That night she ---

18 Q ---the night before.

19 A That night she came back ---

20 THE COURT: Wait, let him answer. Go
21 ahead.

22 THE WITNESS: The night she came back she
23 changed clothes. She said the girl got shot in
24 hand. Then they left, right? The next morning her
25 aunt came by, got all her belongings and said that

DW - T. MCKNIGHT - PROFFER

1 they, they was accused of capitol murder. She took
2 the clothes and I ain't heard nothing else about it
3 since up until now.

4 BY MS. BUTCHER:

5 Q I'm talking about the night before.

6 A What about the night before?

7 Q That's the time I'm talking about.

8 THE COURT: Ask him the question. Ask him
9 the question.

10 BY MS. BUTCHER:

11 Q The evening of, the evening before you claim that
12 Vanity Epps came by your house with Brittany.

13 That's the evening I'm talking about. What were you
14 doing that evening?

15 A The evening of what? What you talking about? I
16 don't understand where you're coming from.

17 Q March 30th, that evening what were you doing?

18 A March 30th.

19 Q 2014?

20 A I cannot remember what I was doing back then.

21 Q Okay. That's the evening we're speaking of.

22 A I don't understand where you're coming from
23 still.

24 Q About that time do you remember, or that night,
25 do you remember riding with Mr. Brown and Jessica

DW - T. MCKNIGHT - PROFFER

1 and Brittany.

2 A I never rode in the man car, ma'am.

3 Q Did you follow Brittany from around the area of
4 Windy's Club home?

5 A No, ma'am, I was not there. I have no
6 involvement at all of any of this.

7 Q Did you throw Mr. Brown's keys ---

8 A Lord have mercy.

9 Q ---his remote to his vehicle in Vanity Epps'
10 yard?

11 A Ma'am, I never been by his car, I never was in
12 his car, I wasn't with them, I didn't bought then
13 liquor, I haven't done anything, you know what I'm
14 saying to even for me to even be involved in this.
15 The only thing is they stay with me, they left, you
16 know what I'm saying. I haven't seen, I haven't
17 seen her none that day. She came by and she changed
18 clothes. That's all I can tell you, ma'am. I won't
19 sit up and here testify and then purger myself. You
20 asked me a question, I tell you, I tell you the
21 answer.

22 Q You recall what Brittany Epps was wearing that
23 night?

24 A Ma'am, she was wearing some Levis and a coat, a
25 hoodie coat, a coat with a hood on it, a hoodie

DW - T. MCKNIGHT - PROFFER

1 coat, a camouflage hoodie.

2 Q A hoodie or a coat?

3 A Same thing.

4 Q Well, there's a difference. Was she wearing a
5 coat?

6 A It's a hoodie, it's a jacket, it's a hoodie coat
7 jacket.

8 Q Did it zip up or button up, what did it do?

9 A It zipped up, you know what I'm saying. She had
10 on, she had two of them. Jessica had a black one
11 too now, the one that didn't zip up; but the one I
12 remember she had on was camouflage.

13 Q Okay. Now you actually have made a statement
14 that you were involved in this crime; didn't you?

15 A I wasn't involved in any crime, ma'am. I ain't
16 made no statements like that, ma'am.

17 Q Do you recall being in the Williamsburg County
18 Detention Center?

19 A I'm still in the Williamsburg County Detention
20 Center.

21 Q In two thousand -- or around March of 2015 to
22 June of 2015?

23 A Ma'am, I ain't, I ain't left yet.

24 Q Do you recall being ---

25 A I'm still in there.

DW - T. MCKNIGHT - PROFFER

1 Q Were you in there at the detention center at that
2 time?

3 A I was, I got locked up March 3rd, 2015, and I
4 haven't came out there since.

5 Q Okay. You recall making a statement that you had
6 planned to rob Mr. Brown but he ended up getting
7 shot?

8 A Lord have mercy, ma'am. Ma'am, I ain't made no
9 statement about robbing nobody. I ain't try to rob
10 nobody. I was not there; I was not involved. I can
11 tell you where I was at that time. I was home, you
12 know what I'm saying, and if -- I mean, like, when
13 they leave I usually be either going somewhere
14 working in somebody's yard, you know what I'm
15 saying, like, that's all they knew me to do, working
16 in people yard.

17 Q Do you recall during that time at Williamsburg
18 County Detention Center saying that you were with
19 Brittany Epps, Jessica Jackson, and Mr. Brown, that
20 y'all dropped Brittany off at Bee's store or dropped
21 her off?

22 A I was not there. I didn't hang with them like
23 that. They only, the only time I with them when
24 they come home.

25 Q Do you recall stating that night you wanted to

DW - T. MCKNIGHT - PROFFER

1 buy some Bluetop?

2 A Bluetop? Oh, lord, ma'am.

3 Q Were you having sex with Jessica Brown, I mean,
4 Jessica ---

5 A No, ma'am.

6 Q Do you remember stating that you were having sex
7 with Jessica---

8 A I never had sex with her, never.

9 Q You weren't honest in your statement to law
10 enforcement, were you?

11 A Very honest.

12 Q No further questions.

13 THE COURT: All right. Ms. Barr -- it
14 would appear that you have no further questions of
15 this witness at this time; is that right?

16 MS. BUTCHER: No, Your Honor.

17 THE COURT: All right, Ms. Barr, the
18 content of his testimony is not really the issue
19 here. You'll have a chance to cross-examine him if
20 he's called before the jury. Do you need -- you
21 don't need to cross-examine him now on anything, do
22 you?

23 MS. BARR: Just two or three quick
24 questions, Judge.

25 THE COURT: You're welcome to but, okay.

DW - T. MCKNIGHT - PROFFER

CROSS-EXAMINATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BY MS. BARR:

Q Okay. Mr. McKnight, you know a fellow by the name of Schain McCrea?

A Schain McCrea, no, ma'am.

Q All right. You didn't at any point in time while you were in jail at the Williamsburg County Detention Center tell anybody, any other inmate or anybody else while you were there, that you were with Ms. Brown and Jessica Jackson and Brittany Epps before Joseph Brown was murdered, you never said that, did you?

A No, ma'am, I never did.

MS. BARR: Judge, that would essentially be it.

THE COURT: All right. Thank you, you can step down at this time.

MS. BARR: Your Honor, I'm sorry, while the witness is here, so that he understands the parameters of the Court's rulings with regards to what he testifies to, I think we've all agreed that we won't mention the fact that he has any pending charges or the fact that he's currently incarcerated.

THE COURT: Right. If you're called

1 there will be no questions about pending charges or
2 that you're currently incarcerated. You understand
3 that if you're called before the jury?

4 THE WITNESS: Yes, sir.

5 THE COURT: All right. Ms. Butcher, you
6 may call your next witness.

7 MS. BARR: Your Honor, Ms. Butcher
8 indicated to us earlier that she's gonna call Mr.
9 McKnight and Schain McCrea. What we tried to do in
10 anticipation of that is obviously keep these two
11 gentlemen separate and so we've had to bring
12 Ms. Epps back. We've had to bring Ms. Jackson back.
13 We've had to bring ---

14 THE COURT: So what you're telling me is
15 Mr. McCray's not here?

16 MS. BARR: He's at the county jail.
17 They're bringing him over, but it's going to take a
18 minute to ---

19 THE COURT: Okay, let's take a break. I do
20 want to hear the testimony. We'll take a break.

21 MS. BUTCHER: Your Honor, and I did not
22 mention to Mr. McKnight Mr. McCrae's name, and the
23 reason was I didn't think I had to with the rules or
24 anything.

25 THE COURT: Why do you think you didn't

1 have to?

2 MS. BUTCHER: Well, to him, I believed I
3 had to say the place and the time of his statement.
4 I don't think I had to mention who it was to.

5 THE COURT: All right, here's the rule.

6 MS. BUTCHER: I was trying to look up the
7 rule so.

8 THE COURT: No.

9 MS. BUTCHER: Not that it matters.

10 THE COURT: Extrinsic evidence of a prior
11 inconsistent statement by a witness is not
12 admissible unless the witness is advised of the
13 substance of the statement made and the person to
14 who it was made.

15 MS. BUTCHER: Okay, and I will do that
16 when we're here. I was gonna look up, it kind of
17 came across my mind, I couldn't remember, and but I
18 will make sure I do that.

19 THE COURT: I'm gonna rule on it based on
20 what's in the record right now.

21 MS. BUTCHER: Your Honor.

22 THE COURT: All right, we'll take a break.

23 (WHEREUPON, a recess was taken from the
24 proceedings.)

25 THE COURT: All right, Ms. Butcher, you

DW - S. MCCRAE - PROFFER

1 may call your next witness.

2 THE CLERK OF COURT: Place your left hand
3 on the Bible raise your right hand.

4 WHEREUPON,

5 **SCHAIN MCCRAE,**

6 having been duly sworn by the Clerk, testified
7 as follows:

8 THE CLERK OF COURT: Take your seat in the
9 witness box.

10 **PROFFER EXAMINATION**

11 BY MS. BUTCHER:

12 Q Good afternoon, Mr. McCrea. Would you please
13 state your full name for the record.

14 A Schain McCrea.

15 Q Okay. Mr. McCrea, you know a man named Theo
16 McKnight?

17 A Yes, ma'am.

18 Q How do you know him?

19 A I know Theo since I've been 12 years old.

20 Q Can you speak up please, I'm sorry.

21 A I know him since I was 12.

22 Q Since you were 12?

23 A Yes, ma'am.

24 Q Okay. Now was there a time that you were at the
25 Williamsburg County Detention Center from March of

DW - S. MCCRAE - PROFFER

1 2015 till June of 2015?

2 A Yes, ma'am.

3 Q During that time was Mr. McKnight also in jail
4 with you?

5 A Yes, ma'am.

6 Q Okay. Did you speak to him during that time?

7 A Yes, ma'am.

8 Q How did that come to be?

9 A When he first came in he had looked depressed and
10 whatnot so we was talking and I asked him what's
11 going on. He really didn't want to tell me what was
12 going on so we started talking.

13 Q Did y'all ever have a conversation that involved
14 a girl named Jessica Jackson and Brittany Epps?

15 A Yes, ma'am.

16 Q What did he tell you about those girls?

17 A He told me that he was going to get on the stand
18 and say what they did what they done.

19 Q What did he mean by did what they done? Did he
20 elaborate?

21 A He said that they allegedly killed Mr. -- I
22 forgot his name.

23 THE COURT: Speak up now, we're gonna have
24 to hear you.

25 BY MS. BUTCHER:

DW - S. MCCRAE - PROFFER

1 Q Can you speak up.

2 A I said he said that they allegedly killed Mr. --

3 I forgot the man name, I don't know him very well

4 so.

5 Q Joseph Brown?

6 A Yes, ma'am, Mr. Brown.

7 Q Okay. He said that they allegedly killed Joseph

8 Brown?

9 A Yes, ma'am.

10 Q Did he tell you that he had an involvement in

11 Mr. Brown's death?

12 A At first he didn't 'cause we started talking

13 about it, then we got into details and he said that

14 he was actually there and then drop one of the girls

15 off which would be Jessica at the store.

16 Q Had dropped Jessica off or Brittany off?

17 A Well, Brittany, what's her name, Brittany.

18 Q Do you know Jessica Jackson?

19 A I don't know, I don't know none of them.

20 Q You don't know none of them, okay. Did he ever

21 describe the two girls? Did you know what color the

22 girls were, what race?

23 A All I know he said one was white and one was

24 black.

25 Q Okay. Do you know which girl he referred to race

DW - S. MCCRAE - PROFFER

1 that he dropped off?

2 A It would be the black girl.

3 Q Okay. If I were to tell you that would be
4 Brittany Epps.

5 MS. BARR: Objection.

6 THE COURT: Your witness, your witness.

7 MS. BUTCHER: Okay, I apologize.

8 BY MS. BUTCHER:

9 Q Okay. And did he tell you how he came to be
10 riding with Jessica Brittany and Mr. Brown?

11 A Not exactly. All he said that, I guess, the
12 white girl had supposed to slept with Mr. Brown,
13 supposed to be like a robbery whatever, and guess it
14 went wrong and she killed him.

15 Q Okay. Did he tell you how Mr. Brown was killed?

16 A He said, I believe he said he was shot. I ain't
17 too sure but he said he was shot.

18 Q Okay. Did he say who shot Mr. Brown?

19 A No, ma'am.

20 Q But he did tell you he was present when Mr. Brown
21 was shot?

22 A Yes, ma'am.

23 Q Did he say if Jessica was still with, was with
24 him?

25 MS. BARR: Objection as to leading.

DW - S. MCCRAE - PROFFER

1 BY MS. BUTCHER:

2 Q Did he say who was with him when Mr. Brown was
3 shot?

4 A He said the white girl.

5 Q Okay. Did he say anything about what happened to
6 the body of Mr. Brown?

7 A I believe, I believe he said he put him in the
8 trunk of the car.

9 Q Did he tell you anything else about the incident?

10 A Just the statement I gave earlier.

11 Q When you say you gave a statement earlier, who
12 did you give a statement to?

13 A To the investigator.

14 Q Okay. Would that be law enforcement?

15 A Yes, ma'am.

16 Q Okay. Who did you first tell the story to?

17 A Who I first told it to?

18 Q I'm sorry, who did you tell the story to first,
19 me or law enforcement?

20 A You.

21 Q And when you were at the jail with Mr. McKnight,
22 how was it that y'all were able to talk?

23 A We work on the same rec.

24 Q On the same rec?

25 A Yes, ma'am.

DW - S. MCCRAE - PROFFER

1 Q Recreation?

2 A Yes, ma'am.

3 Q So y'all had recreation together?

4 A Yes, ma'am.

5 Q And that's when y'all talked?

6 A Yes, ma'am.

7 Q No further questions.

8 THE COURT: Ms. Barr.

9 MS. BARR: Judge, I don't have any
10 questions of this witness for purposes of proffer.

11 THE COURT: Ma'am?

12 MS. BARR: I don't have any questions of
13 this witness for purposes of the proffer.

14 THE COURT: I would like for you to ask
15 the questions that you would intend to ask him, if
16 he is allowed to testify, regarding his criminal
17 record.

18 MS. BARR: Yes.

19 **CROSS-EXAMINATION**

20 BY MS. BARR:

21 Q Mr. McCrea, you are currently incarcerated in the
22 Department of Corrections, right?

23 A Yes, ma'am.

24 Q You are serving a 15 year sentence for armed
25 robbery; aren't you?

DW - S. MCCRAE - PROFFER

1 A Yes, ma'am.

2 Q All right. And this is not the first armed
3 robbery conviction you have, is it?

4 A No, ma'am.

5 Q You were convicted in 1995 of armed robbery,
6 right?

7 A Correct, '94.

8 Q '94. And you were sentenced to 30 years for
9 armed robbery; weren't you?

10 A Yes, ma'am.

11 Q As a matter of fact, you had just recently got
12 out of prison for, and serving your 30 year sentence
13 when you had the most recent conviction for armed
14 robbery, right?

15 A Yes, ma'am.

16 Q All right. And you didn't happen to just share
17 this information with Ms. Butcher. you actually
18 talked to the defendant's mother first; didn't you?

19 A Yes, ma'am.

20 Q And you didn't supposedly tell us about this
21 statement that Theo McKnight allegedly made until a
22 couple of weeks ago, right?

23 A Yes, ma'am.

24 Q And you told it to the defendant's mother first,
25 right?

1 A Yes, ma'am.

2 Q All right. And after you told ---

3 THE COURT: That's as far as I'm requiring
4 you to go, but you can go further. I just wanted to
5 know about the -- you had indicated you did not wish
6 to cross-examine. You're certainly welcome to if
7 you want to. The matter I needed to know was the
8 criminal record so I could rule on that.

9 MS. BARR: Yes, sir, Judge, I got going
10 and didn't know to stop. Thank you.

11 THE COURT: Anything with regard to
12 criminal record, Ms. Butcher?

13 MS. BUTCHER: No, Your Honor.

14 THE COURT: All right, thank you, you may
15 step down.

16 All right. Obviously the Defense would
17 have the right to call Mr. McKnight and we already
18 know basically what his testimony is going to be.
19 And I take it from previous discussions both on and
20 off the record that Ms. Butcher wishes to impeach
21 his testimony by the testimony of this witness.

22 Ms. Barr, I'll be glad to hear from you.

23 MS. BARR: Your Honor, we reiterate our
24 arguments I made in chambers. Judge, we would
25 object to the admission of this evidence. The sole

1 purpose for calling Theodore McKnight in this case
2 to testify as a defense witness is to get in
3 otherwise what would be inadmissible hearsay.
4 Mr. McKnight's testimony is not being offered for
5 the truth of the matter asserted, it's not being
6 offered to corroborate the defendant's account of
7 this night; it's only being offered to suggest to
8 this jury that Mr. McKnight is lying and to impeach
9 him by testimony of Mr. McCrea, I'm sorry,
10 Mr. Schain McCrea. And so, Judge, we would just
11 take the position that it is a subterfuge for this
12 witness to testify regarding any alleged statements
13 made by Mr. McKnight. Judge, I do think that the
14 Court should take into consideration the timing of
15 this alleged statement in terms of when it was
16 disclosed to the Defense.

17 Your Honor, you had the privilege
18 obviously of trying this case the first time in
19 March this year. If Mr. McKnight's statement was
20 made to this witness as he would have us to believe,
21 it is just certainly surprising that this is the
22 first time we're hearing it in light of the fact
23 these charges have been pending against this
24 defendant for two years; and this is the second time
25 we're trying the case. So I just urge the Court to

1 consider not just this alleged hearsay statement,
2 but the circumstances surrounding its coming to
3 light; and we would ask that the Court exclude the
4 statement of Mr. Schain McCrea.

5 THE COURT: All right. Thank you. And
6 gonna call on you, Ms. Butcher, to respond to that;
7 but before that I need to ask you what your position
8 is if he's allowed to testify regarding the State's
9 right to bring out his prior convictions that she
10 brought out on cross-examination. What's your
11 position on that?

12 MS. BUTCHER: Your Honor, I don't believe
13 they're admissible, I would object. I think it
14 needs to only go toward moral turpitude which would
15 be propensity to lie. I don't think any of his
16 prior convictions fit into that. I do not believe
17 that ---

18 THE COURT: You keep referring to moral
19 turpitude. Moral turpitude has been left out of the
20 rules ever since the rules of evidence came into
21 being, and moral turpitude was an old rule.

22 MS. BUTCHER: Crimes of dishonesty, Your
23 Honor, and you're absolutely correct. Crimes of
24 dishonesty. Robbing someone is not a crime that
25 tends to indicate that you're a liar. If I come up

1 to you and I hold a gun and I ---

2 THE COURT: Well, I'll tell you right now
3 I agree with you that a prior conviction of armed
4 robbery without more is not a crime of dishonesty.
5 That's State versus Broadnax, a 2015 case. However,
6 under -- because you would be offering it under
7 609(a)(2), conviction of a crime involving
8 dishonesty or false statement regardless of the
9 punishment, dishonesty is defined as a disposition
10 lie, cheat, or steal. And under the Broadnax case
11 it would not be admissible under 609(a)(2).
12 However, how about it being admissible under
13 609(a)(1)?

14 MS. BARR: And Judge, we believe robbery
15 is a stealing. Robbery is when you take something
16 that doesn't belong to you so that's stealing so
17 that's a crime ---

18 THE COURT: The case actually says that
19 the prior conviction of armed robbery without more
20 is not a crime of dishonesty. That's what that case
21 stands for. I agree it's stealing but I think, you
22 know, that may be -- let's look at 609(a)(1).

23 MS. BARR: In excess of a year, Your
24 Honor?

25 THE COURT: 609(a)(1) very simply says,

1 convictions of any crime punishment by one year or
2 more regardless of time of crime involved, the
3 actual sentence imposed or the type of plea and if
4 there's a witness evidence of conviction must be
5 admitted probative value of admitting the evidence
6 substantially outweighs the danger of unfair
7 prejudice, confusing the issues, misleading the
8 jury. So 609(a)(2) requires balancing under
9 SCRE403.

10 MS. BUTCHER: And Your Honor, I think the
11 only reason the State would want admitted is for the
12 jury then to think Mr. McCrea is not being honest
13 when ---

14 THE COURT: Well, isn't that the central
15 issue here?

16 MS. BUTCHER: Excuse me?

17 THE COURT: Isn't that the central issue
18 here?

19 MS. BUTCHER: It is, Your Honor. And I
20 just think that the prejudice outweighs the value of
21 it. This is ---

22 THE COURT: Well, you ---

23 MS. BUTCHER: Our defendants have --
24 things lean towards the defendants in a criminal
25 case to make sure we don't convict someone that's

1 innocent.

2 THE COURT: Well, you want to use the
3 testimony of a convicted armed robbery to impeach
4 the testimony of another witness that you're
5 calling. It seems like to me that you want to have
6 it both ways. You want to be able to call, you want
7 to be able to call this witness to testify as to
8 what he said to this witness, what McKnight said to
9 this witness, but you want the jury to -- but you
10 don't want the Defense lawyers to be able to attack
11 this witness as to why he's saying Mr. McKnight said
12 that. I mean, it's ---

13 MS. BUTCHER: Your Honor, if my client
14 had -- I'm sorry, if Mr. McCrea had pending charges
15 or something that he could get a benefit of from
16 testifying I would understand that; but he's not
17 getting any benefit from this at all. He is a
18 witness that I found. I did not even know he
19 existed until about a week or so ago; and had I
20 certainly known this, I certainly would have brought
21 it into the first trial. But this is, was not known
22 at that time.

23 THE COURT: Okay. Here's what the
24 Broadnax case says and it's opinion 27545. I don't
25 have a citation on it, but it's opinion number 27545

1 decided July 29th, 2015, reversed Court of Appeals
2 opinion. It says, the State did not show how
3 defendant's prior armed robberies involved acts of
4 dishonesty, the trial judge should have conducted a
5 balancing test before admitting the evidence of
6 these prior convictions in armed robbery trial. The
7 error was harmless because of overwhelming evidence.
8 However, in that case Hearn and Pleicones concurred
9 result or believe armed robbery is a crime involving
10 dishonesty so you got a 3/2 split as to whether it
11 is or is not a crime involving dishonesty. But the
12 court, but the real test is the rule that was
13 formulated in State versus Bryant which is 369 South
14 Carolina 511 decided in 2006 which overruled State
15 versus Almean (ph), a 2003 case, and it noted that
16 factors to consider when determining whether to
17 admit prior convictions: One, the impeachment value
18 of the prior crime; two, the point in time of the
19 conviction and the witness subsequent history;
20 three, the similarity of the past crime and the
21 charged crime; and four, the importance of the
22 defendant's testimony; and five, the centrality,
23 centrality, C-E-N-T-R-A-L-I-T-Y of the credibility
24 issue. Here it seems to me that the witness is
25 clearly putting his credibility at issue by as far

1 as the first test of Bryant that the witness
2 Mr. McCrea is clearly putting his credibility at
3 issue by challenging the credibility of another
4 witness Mr. McKnight. As to the second factor, the
5 point in time of the conviction and the witness'
6 subsequent history, the point in time is that he had
7 that a conviction for armed robbery, was in prison
8 for a long time and then as soon as he got out he's
9 back in prison again, and that overlaps the time of
10 the crimes that are involved here. The sole purpose
11 of his testimony is to discredit the statements and
12 testimony of another witness. Now while the -- it's
13 not similarity between the past crime and the crime
14 charged, the witness' testimony and credibility as
15 well as the other witness is of essential
16 importance. But the main thing is that under the
17 fifth test of Bryant is the centrality of the
18 credibility issue and is the whole issue in this
19 thing is the importance or the credibility. So
20 conducting a balancing test I would find that, first
21 of all, the witness is putting his credibility at
22 issue by challenging the credibility of another
23 witness. The sole purpose of his testimony is to
24 discredit statements and testimony of another
25 witness. His credibility is essential and those

1 convictions reflects on that credibility and the
2 alleged statements were made while incarcerated with
3 the defendant and statements of a jailhouse snitch
4 have been held to be inherently questionable. So
5 those are the articulable reasons that I give that I
6 am putting in the record and ruling that the
7 probative value outweighs the prejudicial effect and
8 that the questions regarding his criminal record
9 would be admissible under SCRE 609(a)(1) where the
10 probative value does outweigh, substantially
11 outweighs the danger of unfair prejudice, confusion
12 of the issues and misleading of the jury, and I
13 would allow the questioning on those issues if it is
14 allowed to testify. Now I'll hear from you with
15 regard to -- wait just a moment.

16 (Pause.)

17 THE COURT: Going back again to the
18 weighting a little bit applying factors stated in
19 Bryant, the fact that it is a most serious offense
20 gives it substantial impeachment value. One
21 conviction in two thousand -- a second conviction in
22 2015 after a conviction in 2095 with a 30 year
23 sentence being incarcerated for a substantial
24 portion of those 20 years. And as I say, the
25 central issue here is credibility in this case and

1 that is the main thing of Bryant and I find that the
2 probative value does outweigh the prejudicial
3 effect, and so I would admit it under 601(a) --
4 609(a)(1).

5 Now let's talk about, I think Ms. Barr has
6 already articulated the reasons why she doesn't
7 think his testimony should be allowed, that is,
8 McCrae's testimony should be allowed under Morlange
9 which is the US Court of Appeals opinion in 521 F.2d
10 183. I had indicated in chamber that I was likely
11 going to allow it, but I'll be glad to hear from
12 you. I want to hear further. She's making the same
13 argument, but I want to hear from you. I hadn't
14 ruled on the record yet so my ruling is not
15 official, but I'll be glad to hear from you, Ms.
16 Butcher.

17 MS. BUTCHER: Your Honor, State versus
18 Morlange I believe was, had in mind mainly to
19 protect the defendant. I believe in this case that
20 Mr. McKnight is obviously not telling the truth. I
21 believe that the testimony of Mr. McCrea is
22 admissible for impeachment purposes, Your Honor. I
23 don't believe what the Morlange case accurately
24 reflects the situation here.

25 THE COURT: Well, it's exact reverse

1 situation of the one here. There you had the State
2 trying to impeach the testimony of a witness that
3 they called where here you got the Defense calling
4 trying to impeach the testimony of a witness that is
5 called.

6 MS. BUTCHER: And I think that goes back,
7 Your Honor, I believe we tried very hard criminal
8 cases to protect all the rights of the defendant
9 because we do not want to put an innocent person in
10 prison. Your Honor, I believe that his testimony is
11 admissible for impeachment purposes under 608(2).

12 THE COURT: All right. Ms. Barr, do you
13 -- let me find it in just a moment. Based on the
14 proffer that was presented to the Court do you
15 contest that the, that Defense counsel has properly
16 presented the proposed impeachment testimony to the
17 Court?

18 MS. BARR: Judge, one of the concerns that
19 I have, and I guess I'm trying to be careful 'cause
20 I don't necessarily want to play my hand, but I
21 suppose if I don't do it now, then it certainly
22 might be an issue later; but one of the questions
23 that I would have is whether or not -- I believe, my
24 position would be that the State would have to first
25 be presented to the witness, in this case

1 Mr. McKnight. In order for him to be properly
2 impeached by extrinsic of an inconsistent statement
3 and to the extent that Mr. McKnight was asked
4 specific questions about what he did or did not say
5 and who he did or did not talk to about this case, I
6 don't know that there's sufficient evidence in the
7 record to impeach his testimony with extrinsic
8 evidence in the form of the testimony by Mr. McCrea.

9 Judge, I also have a concern that I don't
10 believe the Morlange case is specifically limited to
11 cases just in which the State seeks to call its own
12 witness, impeach his own witness by another witness
13 simply to get in evidence that wouldn't otherwise be
14 admissible.

15 THE COURT: Oh, I agree, I don't think
16 that case specifically limits it to the
17 prosecution's side of it; but I've got two thoughts
18 on it. One is that you got a little bit different
19 situation where you've got the State presenting it
20 and a situation where the defendant has the right to
21 present -- the State has the burden of proof and
22 that's why I think it's a little bit different
23 situation there. But be that as it may, I'm still
24 thinking about that.

25 But I guess, Ms. Butcher, the question

1 that I have is that -- and this is why the purpose
2 of the proffer and I wanted you to present that so I
3 would be in a position to rule on it; but the
4 impeachment by extrinsic evidences under 613(b)
5 specifically says extrinsic evidence of a prior
6 inconsistent statement by a witness is not
7 admissible unless a witness is advised of the
8 substance of the statement, the time and place it
9 was made, and the person to whom it was made, and
10 given the opportunity to explain or deny the
11 statement. Now did you comply with that rule?

12 MS. BUTCHER: Your Honor, my understanding
13 of the proffer was for the purposes of the criminal
14 history of those individuals.

15 THE COURT: Of what?

16 MS. BUTCHER: Of the criminal history ---

17 THE COURT: No, no, no, I didn't ask -- I
18 did that on cross-examination. I'm talking about
19 you went into the whole part of his -- the proffer
20 obviously didn't have anything do with criminal
21 history. The proffer, the purpose of proffer was to
22 determine whether or not the prior statements were
23 admissible under 613.

24 MS. BUTCHER: Your Honor, and that's my
25 mistake, that was my understanding. And when I was

1 up there I read the rule. I'd also read the
2 Solicitor's handbook that I just happened to have
3 which doesn't -- and the Solicitor's book does not
4 state that -- it says that the witness is advised of
5 substance, time and place of statement. It does not
6 state that you have to say who actually he made the
7 statements to, which I understand that's in the
8 rule. And Your Honor, out of abundance of caution,
9 if I didn't have to say that I did not want to
10 because of the situation where these two may end up
11 snitches get stitched. It's not a good situation,
12 Your Honor. They don't have to know who told on
13 them and ---

14 THE COURT: And if I let it in it's
15 obviously gonna have to, you're gonna have to ask
16 them that question. I mean, you know, the proffer
17 is what you plan to ask in front of the jury.

18 MS. BUTCHER: Your Honor, and I
19 understand, and Your Honor, I, I thought you already
20 said it was coming in. I thought we were proffering
21 in relationship to their criminal convictions, Your
22 Honor.

23 THE COURT: In chambers I specifically
24 said -- I've got notes on it. In chambers I
25 specifically said that my thinking was that we were

1 gonna hear it, hear the proffer of the testimony;
2 but my thinking was that Morlange did not apply and
3 I'm probably going to allow the impeachment
4 testimony provided it's presented in accordance with
5 rule 613.

6 MS. BUTCHER: And Your Honor, I understood
7 that we would have to present it, but I didn't
8 realize that the proffer was based on that, Your
9 Honor, and I certainly would have done that.

10 THE COURT: Well, how do you try a case
11 without a rule book?

12 (Pause.)

13 THE COURT: All right. I've located my
14 note that we were talking about in chambers and this
15 is specifically -- after we came back after lunch.
16 I advised counsel that my preliminary thoughts on it
17 was the testimony from McKnight was obviously
18 admissible as to what he was gonna say. Testimony
19 of McCrea about statement made by McKnight is
20 admissible only to McKnight's credibility if done in
21 accordance with the rules and I will give a limited
22 instruction. The third thing, statement I made in
23 there at the time was I made these notes before
24 y'all came in, dealt with the question of criminal
25 record. I said I wanted to hear testimony on that

1 criminal record, I want to know what the criminal
2 record of McKnight was, and Ms. Barr indicated she
3 was not even gonna approach that criminal record of
4 McCrea and she gave me the criminal record of McCrea
5 and she put it in proffer what her, she intended to
6 offer on the criminal record. The last statement
7 that I wrote down or had written down that I
8 mentioned to both of you was that both of your
9 witnesses, Ms. Butcher, were both of these
10 individuals were your witnesses and you could not
11 lead, and again, reiterated that rule 612 must be
12 followed. All right, anything else, Ms. Barr?

13 MS. BARR: No, Your Honor.

14 THE COURT: Ms. Butcher?

15 MS. BUTCHER: Your Honor, I will just --
16 my misunderstanding, I thought you had said it would
17 come in and when we did this we needed to follow the
18 rule and ---

19 THE COURT: What'd you say?

20 MS. BUTCHER: That we make sure we
21 followed the rule when we did the testimony. I
22 understood that to be in front of the jury. I
23 understood that, I didn't realize we were proffering
24 anything until we were standing up here and we're
25 also talking about their criminal records, and it's

1 my problem. I thought that ---

2 THE COURT: How can I rule on something
3 that proffer if it's not, you know, what -- what
4 you're supposed to proffer is the same thing that
5 you're gonna proffer before the jury.

6 MS. BUTCHER: Your Honor, my
7 misunderstanding.

8 MS. BARR: Judge, I would just simply say
9 that I was under the impression as well that the
10 Court had indicated to us that you were gonna allow
11 the testimony.

12 THE COURT: I did indicate that if the
13 rule was followed, yeah.

14 What do you think the purpose of the
15 proffer was, Ms. Butcher, other than determining
16 admissibility?

17 MS. BUTCHER: Your Honor, I didn't
18 understand that there was going to be any proffer
19 until we were standing over here. When we were in
20 chambers I didn't have that understanding. I
21 thought you had already ruled that it would come in
22 and we just needed to follow the rule as we were
23 going through the testimony.

24 THE COURT: Right.

25 MS. BUTCHER: When you were over here you

1 mentioned the proffering you were also talking about
2 their criminal records and that's where I got the
3 impression that that's what about. Again, Your
4 Honor, it's my understanding and that was my
5 mistake.

6 THE COURT: All right.

7 MS. BUTCHER: Your Honor, if I may add,
8 when Ms. Barr did cross him she did bring up
9 Mr. McCrae's name and ---

10 THE COURT: She did and that surprised me
11 that she was going to ask anything.

12 MS. BUTCHER: And you know, Mr. McKnight
13 had the opportunity to say if he knew him or not,
14 and I believe he said he did not know him. I don't
15 think it would have been any different if I had
16 asked him, Your Honor.

17 THE COURT: All right. Ms. Barr has kind
18 of halfway conceded that maybe it was her
19 semi-understanding that I was going to let it in,
20 and at the end of the chambers discussion about this
21 matter. Maybe I should have had a discussion in
22 chambers. I thought I was trying to help counsel
23 out as to which way we were going with this, and I
24 thought I was very clear that the rule would have to
25 be followed before I would make a final ruling as to

1 its admissibility and that meant that I was going to
2 have a proffer of the testimony so we could decide
3 on the admissibility of it. I really don't know how
4 I could have been any clearer about that.

5 However, even though, and because it is a
6 criminal case and defendant's freedom is at stake
7 and I have basically discussed with counsel the
8 holding of the Moens case and I'm going to stick
9 with my original ruling and I am going to allow
10 McCrea to present testimony in impeachment of
11 McKnight's testimony if it is truly impeachment of
12 statements made by McKnight after McKnight has
13 testified. That's gonna be one thing.

14 Secondly, they're gonna have to be
15 questions asked by counsel that are not leading.
16 And third, I am going to give a limiting instruction
17 to the jury that the purpose of the testimony is for
18 the sake of determining credibility of McKnight's
19 testimony only, that the statements made by this
20 witness McCrea as to what McKnight said are not
21 being offered for the truth of the matter, and that
22 the jury is not to consider it for the truth of the
23 matter but only as it goes to the believability or
24 credibility of McKnight. That limiting instruction
25 will be given. That will start, we'll be ready to

1 start at 9:00 in the morning.

2 (WHEREUPON, the proceedings were concluded
3 for the day to be reconvened on
4 July 29, 2016.)

5 THE COURT: All right. Back on the record
6 with regard to the matter State versus Brittany
7 Epps. Ms. Epps is present in the courtroom
8 represented by Ms. Butcher. The State is present
9 represented by Third Circuit Solicitor's Office
10 Ms. Barr. Yesterday afternoon we had some testimony
11 outside the presence of the witness, proffered
12 testimony by the Defense as to what they wanted to
13 do, first calling Mr. McKnight, and of course his
14 testimony is admissible. He is testifying and being
15 asked to testify on what he knows about his
16 involvement, if any, in the events around the date
17 of this crime. Ms. Butcher also indicated that she
18 wished to call Mr. McCrea to attack Mr. -- or to
19 attack the credibility of Mr. McKnight's testimony
20 and I put on the record but I want to make sure that
21 I have the record covered in connection with this.
22 I have applied a balancing test required by the
23 rules and have concluded that the probative value of
24 his testimony outweighs the prejudicial effect. The
25 -- well, let me put it this way. Go back before we

1 get there. First of all the, I have decided that I
2 will allow him to testify about the statements made
3 by Mr., alleged statements made by Mr. McKnight, but
4 only as to the issue of the credibility of McKnight
5 and not the truth of the matter asserted and I will
6 give a limiting instruction to the jury to that
7 effect.

8 The other question that was dealt with
9 yesterday was whether or not the prior convictions
10 of Mr. McCrea are admissible and there I have
11 applied the balancing test required by the rules and
12 have concluded that the probative value
13 substantially outweighs the prejudicial effect and
14 will allow him to be cross-examined on his prior
15 convictions. Specifically he, the witness is
16 putting his credibility in issue by challenging the
17 credibility of another witness. The sole purpose
18 and only admissible purpose is to discredit the
19 statements and testimony of another witness;
20 otherwise, the testimony would be inadmissible
21 because it would be offered for the truth and that
22 would make it hearsay. His credibility is important
23 and those convictions reflect upon his credibility.
24 The alleged statements were made while both were
25 incarcerated and it has been said that statements

1 made to a jailhouse snitch are inherently
2 questionable. So I've applied the Bryant factors
3 and find that the fact that McCrea has two or more
4 convictions for the same offense gives the
5 conviction substantial impeachment value. One
6 conviction in 1995 for armed robbery and 30 years
7 sentence which is the maximum for armed robbery, and
8 he was incarcerated for a substantial period of time
9 and upon release committed the very same offense and
10 has been convicted of another armed robbery. The
11 two crimes are not only similar but are identical.
12 And that credibility is a central issue, both his
13 and the witness McKnight. And for those reasons I
14 find those factors, I am going to allow the
15 convictions, him to be cross-examined on his
16 previous convictions or his convictions can come
17 into evidence.

18 Having said that then, I guess the matters
19 now are to go forward with the testimony. I assume,
20 Ms. Butcher, you're going to call Mr. McKnight
21 first?

22 MS. BUTCHER: Yes, Your Honor, I am.
23 Additionally, the State has stipulated that
24 Mr. McKnight and Mr. McCrea were actually in the
25 jail at the same time. If Mr. McCrea, excuse me,

1 Mr. McKnight denies that I would like that
2 stipulation to be informed to the jury.

3 THE COURT: Well, the rule requires
4 stipulations to be in writing and signed by the
5 parties and if y'all want the stipulation, then do
6 it in accordance with the rules.

7 MS. BUTCHER: Your Honor, additionally, I
8 believe Mr. McKnight is a party who has previously
9 he's been identified as an adverse party. He gave a
10 statement to law enforcement and additionally
11 testified for the State in the previous trial.
12 Under 611(c), Your Honor, I believe ---

13 THE COURT: How does that make him a
14 party?

15 MS. BUTCHER: Your Honor, I believe that
16 makes him an adverse witness. He's been identified
17 with the adverse party, Your Honor. He's been
18 identified with the State and under 611(c) I
19 believe, Your Honor, I can appropriately ask him
20 leading questions.

21 THE COURT: Ms. Barr.

22 MS. BARR: Your Honor, of course, the
23 witness that the Defense wants to call is not a
24 party to this action. The mere assertion that a
25 witness might provide favorable testimony to the

1 opposing party doesn't implicate the rule that would
2 permit her to lead her own witness. Judge, we would
3 respectfully reject that notion.

4 THE COURT: All right. I'm not gonna
5 allow reading questions on 611(c). It seems to me
6 leading questions should not be used on direct
7 examination of witness except as where it may be
8 necessary to evoke witness' testimony. Ordinarily
9 leading questions should be permitted on
10 cross-examination when a party calls a hostile
11 witness. No indication that he's hostile. An
12 adverse party, he's definitely not an adverse party;
13 or a witness identified with an adverse party. I
14 don't know that he's anymore identified with the
15 State than he is identified with your client, Ms.
16 Butcher. Your client testified as to what her
17 relationship is with Mr. McKnight. I don't know
18 he's anymore identified with the State than he is
19 identified with your client.

20 The motion to be allowed to ask leading
21 questions is denied.

22 MS. BUTCHER: Thank you, Your Honor.

23 THE COURT: Anything before we bring the
24 jury in?

25 MS. BARR: Not from the State, Your Honor.

SW - T. MCKNIGHT - DIRECT

1 including but not limited to the parties, witnesses,
2 victims, law enforcement, and attorneys other than
3 what you have heard in this courtroom, if so, please
4 indicate by raising your hand.

5 (There was no response.)

6 THE COURT: Negative response, and that's
7 good. All right, we are prepared to go forward.
8 Ms. Butcher, you may call your next witness.

9 MS. BARR: I would call Mr. Theo McKnight.

10 THE COURT: All right.

11 THE CLERK OF COURT: Place your left hand
12 on the Bible, raise your right hand.

13 WHEREUPON,

14 **THEODORE MCKNIGHT,**
15 having been duly sworn by the Clerk, testified
16 as follows:

17 THE CLERK OF COURT: Have a seat up there
18 in the jury box.

19 **DIRECT EXAMINATION**

20 BY MS. BUTCHER:

21 Q Good morning, Mr. McKnight.

22 A Good morning. And you?

23 Q Do you know Brittany Epps over here?

24 A Yes, ma'am.

25 Q How do you know her?

SW - T. MCKNIGHT - DIRECT

- 1 A By her mother. By her mother.
- 2 Q You know her through her mother?
- 3 A Yes.
- 4 Q How long have you known her?
- 5 A I known her, I think, like since 2014.
- 6 Q How long have you known Ms. Epps' mother?
- 7 A I known Ms. Epps' mother like since 2012 up until
- 8 now.
- 9 Q Okay, do you know Jessica Jackson?
- 10 A Yes, ma'am.
- 11 Q How do you know her?
- 12 A I met her through Brittany.
- 13 Q Okay, how long have you known Jessica Jackson?
- 14 A Not that long, probably like a month or so.
- 15 Q You've only known her for about a month?
- 16 A I mean, back then, yes, ma'am.
- 17 Q Okay. When you say back then what do you mean?
- 18 A I mean, when at the time when they came to live
- 19 with me.
- 20 Q Okay. So these two girls lived with you at one
- 21 time?
- 22 A Yes, ma'am.
- 23 Q When was that?
- 24 A I think that was like 2014.
- 25 Q Do you remember roughly the month or anything?

SW - T. MCKNIGHT - DIRECT

1 A Not, it was so long ago, I don't really quite
2 remember.

3 Q Okay. How old are you?

4 A I'm 44.

5 Q You're 44 now?

6 A Yes, ma'am.

7 Q So you would have been 42 back in 2014?

8 A Pretty much.

9 Q Okay. How old was Jessica at that time?

10 A I believe Jessica was 17 or so.

11 Q About 17?

12 A Well, probably, I don't know. I really don't
13 know. I know ---

14 Q That's okay.

15 A I know she was like 18 when all of this happened.
16 She had just turned 18 when all this happened.

17 Q Okay. When you say this, what are you referring
18 to?

19 A To what they say that they was accused of.

20 Q Okay. And that would have been in March of 2014?

21 A I believe so.

22 Q Okay. And so you're saying Jessica was 17 at
23 that time?

24 A 17 turning 18.

25 Q Okay. How old was Brittany at that time?

SW - T. MCKNIGHT - DIRECT

1 A I think Brittany was either 15 or so; I'm not
2 sure.

3 Q Okay. And these two girls lived with you?

4 A Yes, ma'am.

5 Q What were the conditions of your house at that
6 time?

7 A It wasn't living. I had lights but I didn't have
8 water.

9 Q Okay. Do you have lights legally?

10 A Yes, ma'am.

11 Q You pay the bill?

12 A Yes, ma'am.

13 Q Did you hook your lights up to the neighbor's?

14 A Excuse me?

15 Q Did you hook your lights up to a neighbor's to
16 get electricity?

17 A No, ma'am.

18 Q Okay. Why did these two girls live with you?

19 A For the simple fact that Brittany's mom wouldn't
20 let her stay with her because of the relationship
21 her and Jessica had.

22 Q Okay. Did these two girls have a romantic
23 relationship?

24 A To me it seemed so.

25 Q At some point did you start having sex with

SW - T. MCKNIGHT - DIRECT

1 Jessica?

2 A No, ma'am, I never did.

3 Q Do you remember the evening of March 29th, 2014?

4 A I probably do; I'm not sure. You have to refresh
5 my memory.

6 Q Where were you?

7 A Probably at home.

8 Q Okay. Do you recall giving law enforcement a
9 statement ---

10 A Yes, ma'am.

11 Q ---concerning that night?

12 A Yes, ma'am.

13 Q Are you aware that that was the night Joseph
14 Brown was murdered?

15 A Yes, ma'am.

16 Q Okay. Do you recall that statement indicated
17 that you had nothing to do with the murder?

18 A I didn't have anything do with the murder.

19 Q Do you recall that statement indicated that you
20 ---

21 A Pretty much.

22 Q Okay.

23 A It should indicated I had nothing to do with the
24 murder.

25 Q Okay. Did you voluntarily give that statement to

SW - T. MCKNIGHT - DIRECT

- 1 law enforcement?
- 2 A Yes, ma'am.
- 3 Q Okay.
- 4 A They asked; I gave it to them.
- 5 Q Okay. Where were you that night?
- 6 A I was home.
- 7 Q Okay. Do you remember where the girls were?
- 8 A They left early that day, and I haven't seen them
- 9 no more until -- I haven't seen any of them until
- 10 she came and changed clothes.
- 11 Q And who is she?
- 12 A Brittany.
- 13 Q Okay. Is that the only person you saw that
- 14 night?
- 15 A Yes, ma'am.
- 16 Q Okay. Is it true that that night Brittany,
- 17 Jessica, and Joseph Brown picked you up after they
- 18 had attended a cookout?
- 19 A No, ma'am.
- 20 Q Okay. Did you ask them to take you to get some
- 21 liquor?
- 22 A No, ma'am.
- 23 Q What is Bluetop?
- 24 A It's called Burnett. It's vodka.
- 25 Q Okay. Is that what you like to drink?

SW - T. MCKNIGHT - DIRECT

1 A No, ma'am.

2 Q Okay. Were you aware that night that Mr. Brown
3 and Jessica were planning on having sex?

4 A I had no idea.

5 Q Did you make a plan with Jessica to rob
6 Mr. Brown?

7 A No, ma'am.

8 Q Is it true that night that you, Brittany, and
9 Joseph Brown got in the car together and ---

10 A No, ma'am.

11 Q ---when y'all drove, Jessica was let out of the
12 car at a store at some point?

13 A No, ma'am, I wasn't there.

14 Q Did you and Jessica plan to rob Mr. Brown?

15 A No, ma'am, I wasn't there.

16 Q Did he end up getting shot inside?

17 A I had -- well, he's dead but I wasn't there to
18 witness that.

19 Q Were you there when Jessica and Mr. Brown started
20 messing around?

21 A No, ma'am, I wasn't there.

22 Q Did you grab the gun out of Mr. Brown's glove
23 box?

24 A No, ma'am, I was not there.

25 Q Did Jessica?

SW - T. MCKNIGHT - DIRECT

1 A I couldn't tell you any of this; I was not there.

2 Q Did Jessica grab the gun out of Mr. Brown's glove
3 box?

4 A I have no idea; I was not there.

5 Q Did Jessica grab the gun when Mr. Brown started
6 taking his shirt off?

7 A I have no idea, ma'am, I wasn't there.

8 Q Did you make an anonymous tip to law enforcement
9 claiming that Mr. Samuel Barr or monkey Joe gave
10 Brittany a ride in bloody clothes?

11 A I -- no, ma'am.

12 Q Is it true that you saw Mr. Samuel Barr in the
13 field that night when he discovered that Mr. Joseph
14 Brown's car had bogged down at the edge of the
15 woods?

16 A No, ma'am.

17 MS. BARR: Judge, I'm sorry, I've got to
18 object.

19 THE WITNESS: No, ma'am.

20 THE COURT: Wait just a minute.

21 MS. BARR: I've got to object as to
22 leading. She can't lead her own witness.

23 THE COURT: All right. Yes, that is a
24 leading question, rephrase it.

25

SW - T. MCKNIGHT - DIRECT

1 BY MS. BUTCHER:

2 Q Did you speak to Mr. Samuel Barr that night?

3 A No, ma'am, I don't know who Samuel Barr is.

4 Q Do you live in the vicinity of Brittany's aunt
5 Vanity Epps at that time, or did you at that time?

6 A I live in Cedar Hill area, [REDACTED].

7 Q Is that the vicinity of where Vanity Epps lived
8 at that time?

9 A Yes, ma'am.

10 Q Okay. Did you follow Brittany to her aunt's that
11 night?

12 A No, ma'am.

13 Q Did you wipe Mr. Brown's remote and key chain
14 clean?

15 A No, ma'am, I wasn't there.

16 Q Did you throw Mr. Brown's remote into her aunt's
17 yard?

18 A No, ma'am.

19 Q What did you claim in your statement that
20 Brittany Epps was wearing that night?

21 A She was wearing a camouflage hoodie coat, some
22 Levy jeans rust color. She came, she changed, and
23 she left. She said that Jessica got shot in the
24 hand. She was going to the hospital to check on her
25 and her, her aunt left, and I shut my door and that

SW - T. MCKNIGHT - DIRECT

1 was it.

2 Q Was she wearing a hoodie or a coat?

3 A It's, a hoodie is a coat. It's the same as a
4 coat.

5 Q Did it zip or button up or?

6 A From my knowledge it zipped.

7 Q Okay. Are you aware that both you and Jessica
8 claim that Brittany was wearing the same thing?

9 THE COURT: Wait a minute, say that again.

10 MS. BUTCHER: I'm asking if he's aware
11 that both he and Jessica claim that Brittany Epps
12 was wearing the same thing that night.

13 THE COURT: All right, you're pitting
14 witnesses against each other. That's is not a
15 proper question.

16 MS. BUTCHER: Okay.

17 BY MS. BUTCHER:

18 Q Now Mr. Brown -- I mean Mr. McKnight, at one time
19 did you claim that you were actually involved in
20 this crime where Mr. Brown was murdered?

21 A I never wasn't, I wasn't involved, I wasn't
22 there. I didn't know anything about it except from
23 what I heard.

24 Q Were you incarcerated in Williamsburg County
25 Detention Center from March 2015 to June 2015?

SW - T. MCKNIGHT - DIRECT

1 A March 2015, yes, ma'am.

2 Q Until June 2015?

3 A I'm still in there.

4 Q Okay. Do you know who Shawn McCrea is?

5 A I didn't at the time.

6 Q Okay. And he may pronounce his name Schain
7 McCrea.

8 A I know who he is now.

9 Q How did you learn who he is?

10 A I was, I knew who he was because I remember that
11 he was the one that robbed the Sonoco gas station
12 and he had injured the clerk.

13 Q Do you recall him being there at the Detention
14 Center with you during March 2015 till ---

15 A Yes.

16 Q ---June 2015?

17 A Yes, ma'am.

18 Q Did y'all have the opportunity to speak to each
19 other?

20 A We never did spoke to each other.

21 Q Okay. Did you tell Mr. McCrea that you and
22 Jessica planned to rob Mr. Brown?

23 A No, ma'am.

24 Q Did you tell Mr. McCrea that Mr. Brown ended up
25 getting shot instead?

SW - T. MCKNIGHT - DIRECT

1 A No, ma'am, I didn't, I didn't even talk to him
2 about any of this.

3 Q Did you tell Mr. McCrea that you and Jessica and
4 Joseph Brown dropped Brittany off at a store prior
5 to the incident?

6 A No, ma'am.

7 Q Did you tell Mr. McCrea anything about you
8 wanting to go to the store that night to buy some
9 Bluetop and riding with Jessica, Brown, Brittany?

10 A No, ma'am.

11 Q Jessica ---

12 A No, ma'am.

13 Q ---Mr. Brown, Brittany?

14 A No, ma'am, I was not there.

15 Q Okay. Did you make any of those statements
16 during the time you were incarcerated at ---

17 A No, ma'am.

18 THE COURT: Wait a minute.

19 BY MS. BUTCHER:

20 Q ---Williamsburg County Detention Center to
21 Mr. McCrea?

22 A No, ma'am.

23 Q During the time you were incarcerated at
24 Williamsburg County Detention Center with Mr. McCrea
25 did you tell him that you were having sex with

SW - T. MCKNIGHT - CROSS

1 Jessica Brown?

2 A No, ma'am.

3 Q And you sure you're not going to change any of
4 your answers?

5 A I will not change any of my answers because I had
6 no involvement. I don't know anything about it
7 besides what I heard.

8 Q No further questions.

9 THE COURT: All right, Ms. Barr.

10 **CROSS-EXAMINATION**

11 BY MS. BARR:

12 Q Good morning, Mr. McKnight.

13 A Good morning, ma'am.

14 Q Do you recall Investigator Juan Ballard and Agent
15 Mark Creech from SLED talking to you about whether
16 or not Ms. Jackson and Ms. Epps were living with you
17 in March of 2014?

18 A Yes, ma'am.

19 Q They came and just kind of wanted to find out how
20 long they were staying with you and that sort of
21 thing and the activities that day, right?

22 A Yes, ma'am.

23 Q And you willingly talked to them, right?

24 A Yes, ma'am.

25 Q All right. And essentially Jessica and Brittany,

SW - T. MCKNIGHT - CROSS

1 they were thick as thieves; weren't they?

2 A Yes, ma'am.

3 Q You saw one, you saw the other?

4 A Yes, ma'am.

5 Q They came together, they left together?

6 A Yes, ma'am.

7 Q Now you have four bedrooms in that home on

8 Jerusalem Drive?

9 A Yes, ma'am.

10 Q All right. And you were staying in one bedroom

11 by yourself, right?

12 A Yes, ma'am.

13 Q And I'm talking specifically in March of 2014.

14 You follow me?

15 A Uh-huh.

16 Q Jessica and Brittany were staying in another

17 bedroom by themselves, together; is that right?

18 A Across the hall from me.

19 Q All right. And then you had a third bedroom that

20 no one was staying in, right?

21 A Yes, that's my aunt's bedroom. That's right down

22 the hall across from the bathroom.

23 Q And you had a fourth bedroom nobody was staying

24 in; is that right?

25 A Yes, ma'am, that was just a big room.

SW - T. MCKNIGHT - CROSS

1 Q All right. And so when you gave the statement to
2 SLED and to Williamsburg County, that was on
3 May 13th of 2014; wasn't it? I tell you what, I'll
4 show it to you, how about that?

5 A I don't remember actually the date because it was
6 so long, but then you would have to refresh my
7 memory.

8 Q Okay.

9 MS. BARR: May I approach the witness?

10 THE COURT: Yes, ma'am.

11 BY MS. BARR:

12 Q Does that, this document refresh your memory as
13 to when you would have talked to SLED and to
14 Williamsburg County?

15 A Uh-huh.

16 Q When did you talk with them?

17 A It says May 13th.

18 Q Of 2014?

19 A Yes, ma'am.

20 Q So about a month-and-a-half after Mr. Brown was
21 killed, right?

22 A Yeah.

23 Q Now initially when Ms. Butcher was asking you
24 questions, she asked you about your whereabouts on
25 March 29th, 2014. You remember her asking you that?

SW - T. MCKNIGHT - CROSS

1 A I believe so.

2 Q And what your response was, well, I probably was
3 home, right?

4 A Uh-huh.

5 Q Is that a yes?

6 A Yes.

7 Q All right. And in reality, you're talking about
8 typically what you would usually do because that
9 March 29th, 2014 date didn't stand out really for
10 you, did it?

11 A No, ma'am.

12 Q In terms of what you did on that particular day,
13 what you would normally do on any given Saturday or
14 Saturday night, right?

15 A Pretty much.

16 Q All right. The only thing that makes it now
17 stand out in your mind is 'cause you later learned
18 that somebody got killed that day, right?

19 A Yes, ma'am.

20 Q All right. Now you testified that Brittany and
21 Jessica had left earlier in the day together?

22 A Yes, ma'am.

23 Q All right. And the next time you saw either one
24 of them was later on that night after midnight?

25 A It was just one I saw, came back with her, she

SW - T. MCKNIGHT - CROSS

1 came back with her Aunt Ree.

2 Q When you say she came back with her Aunt Ree,
3 you're talking about Brittany Epps, right?

4 A Yes, ma'am.

5 Q All right. When Brittany Epps came back with
6 Aunt Ree, how did she get there to your house?

7 A She, her aunt had a burgundy Maxima.

8 Q Okay. Tell me about -- okay, you said her aunt
9 has a burgundy Maxima so Aunt Ree was driving a
10 burgundy Maxima that day?

11 A Yes, ma'am.

12 Q All right. So Brittany and Aunt Ree comes back
13 to your house. And is about what, 1 or 2:00 in the
14 morning; isn't it?

15 A Yeah, it was late. It was that night. It was at
16 night.

17 Q Okay. Now Brittany doesn't have a key to your
18 house, does she?

19 A No, ma'am, I had the only key.

20 Q And Brittany didn't have a vehicle of her own,
21 did she?

22 A No, ma'am.

23 Q I'm going to publish what's been previously
24 admitted as State's Exhibit Number 31. Do you
25 recognize that, what's in that photograph?

SW - T. MCKNIGHT - CROSS

1 A Yes, ma'am. That's Ree's car right there in the
2 back right there parked side of the trailer. That's
3 her boyfriend's, her husband's truck right there,
4 the Expedition.

5 Q And this is her house; isn't it?

6 A Yes, ma'am, that's her standing in the door.

7 Q That's her standing in the doorway.

8 A That's behind her son.

9 Q Right in here, right?

10 A Right behind her son, yes, ma'am.

11 Q All right. So Aunt Ree comes to the house
12 driving that same burgundy Maxima?

13 A Yes, ma'am.

14 Q And when Brittany comes with her, Brittany is
15 wearing a camouflage coat, right?

16 A Yes, ma'am.

17 Q Sort of like the camouflage coat that's right
18 here, right? Sort of like this?

19 A Yes, but I thought it had like a hood on it. It
20 had a hood, it had to have a hood on it 'cause they
21 had hood on it that night.

22 Q When she came in she was wearing a hood over her
23 head?

24 A She came in she had the coat on with the hood and
25 she had a pair of rust colored Levis that matched

SW - T. MCKNIGHT - CROSS

1 that with some Polo boots, green and brown Polo
2 boots.

3 Q And you said that the camouflage hood or
4 camouflage coat that she was wearing when she came
5 in the house it was zipped up kind of like this one
6 had a zipper on it?

7 A Yes, should have a zipper on it.

8 Q All right. Now when she came in the first thing
9 she said was Jessica got shot, right?

10 A She told me, she said -- she came to the door.
11 She said, I have to change 'cause I have to go to
12 the hospital because Jessica got shot in the hand.
13 And Ree was standing at the doorway with me, you
14 know what I'm saying. She went to change. When she
15 went to change, she left, and they left, and that's
16 when I find out the next morning that ---

17 Q Hold on, slow down. You said she went to change.
18 Who went to change?

19 A Brittany.

20 Q Brittany?

21 A Uh-huh.

22 Q Is that a yes?

23 A Yes, ma'am.

24 Q Did she take off the camouflage coat that she had
25 on?

SW - T. MCKNIGHT - CROSS

1 A Everything that she had on she took off and
2 changed into something else and left.

3 Q Okay. Where did she change at? Did you see
4 where she went to go change?

5 A I believe she went and changed in the bedroom
6 because their clothes was in their room.

7 Q Okay. When you say their clothes was in their
8 room, you're talking about Jessica and Brittany's
9 clothes were in Jessica and Brittany's room?

10 A Yes, ma'am.

11 Q So that night when Brittany comes to the house
12 and she tells she's got to go to the hospital
13 because Jessica was shot, she went into the bedroom
14 that she shared with Jessica, right?

15 A Yes, ma'am.

16 Q Is that a yes?

17 A Yes, ma'am.

18 Q All right. When she comes out she's not wearing
19 that camouflage coat anymore, is she?

20 A No, ma'am.

21 Q She's go on something completely different?

22 A Something different.

23 Q All right. And she and Brittany -- or I'm sorry,
24 Aunt Ree or Vanity Epps, they leave, right?

25 A Yes, ma'am.

SW - T. MCKNIGHT - CROSS

1 Q All right. You don't see Brittany anymore after
2 that?

3 A No, ma'am.

4 Q Okay. Now the following day, did you see
5 Brittany's Aunt Ree or Vanity Epps again, the
6 following day?

7 A She came by, she came by the next day.

8 Q All right. You can't tell me what she said, but
9 when she came by your house what did she do?

10 A She came and she got all her belongings. She
11 said she came to get their clothes and she ---

12 Q Whose clothes?

13 A Brittany and Jessica.

14 Q Okay.

15 A And she came and pack everything, her white
16 clothes basket. And she took it and put it in her
17 car in the back seat of her car and she left.

18 Q Okay. The same car that's depicted in that
19 particular exhibit?

20 A Yes, ma'am.

21 Q All right. So the camouflage jacket that had the
22 hood on it, where was the last time you saw that?
23 The same one that you said that Brittany was wearing
24 when she came that night with Ree tell you that
25 Jessica got shot.

SW - T. MCKNIGHT - CROSS

- 1 A Well, I haven't seen it anymore 'cause her aunt
2 came by and everything out the house the next day.
- 3 Q Okay. Have you ever been in Mr. Brown's car?
- 4 A No, ma'am.
- 5 Q Mr. Joe Brown?
- 6 A No, ma'am.
- 7 Q Now you know a lady named Ms. Pearline Pressley?
- 8 A Pearline Pressley, yes, ma'am.
- 9 Q Lives on Kendell Park Road?
- 10 A Not too far away from Windy's, like right around
11 the curve?
- 12 Q Yeah.
- 13 A Yes.
- 14 Q You know her?
- 15 A Yes, ma'am.
- 16 Q You'd know her if you saw her?
- 17 A Yes, ma'am.
- 18 Q All right, would she know you if she saw you?
- 19 A I wouldn't, I wouldn't think she would. Her son
20 know me.
- 21 Q Her son would know you?
- 22 A Her son would know me.
- 23 Q How do you know her son, or how does her son know
24 you? Y'all friends or?
- 25 A Yeah, we friends, we talk. We knew each other

SW - T. MCKNIGHT - REDIRECT

1 for a while.

2 Q Okay. Thank you, Mr. McKnight. That's all the
3 questions I have for you.

4 A Yes, ma'am.

5 THE COURT: Redirect?

6 MS. BUTCHER: Yes, Your Honor.

7 **REDIRECT EXAMINATION**

8 BY MS. BUTCHER:

9 Q Mr. McKnight, if you probably were home that
10 night how is it that you remember all of this in
11 such detail?

12 A Because it happened. I mean, you know, I ain't
13 got reason to lie to you about it. She came, she
14 changed her clothes, she left. You know, she told
15 me where she was going, and I just took it as it is.

16 Q You weren't sure if you were home that night?

17 A I was home. When she came by and changed clothes
18 I was home.

19 Q And you stated that Brittany's coat was like
20 this, but had a hood on it.

21 A Uh-huh.

22 Q Is that a hood that would attach these snaps back
23 here?

24 A That's what, I guess that's what that for.

25 Q Okay. That was two years ago?

SW - T. MCKNIGHT - REDIRECT

1 A Yes, ma'am.

2 Q No further questions.

3 THE COURT: Anything further, Ms. Barr, of
4 this witness?

5 MS. BARR: No, Your Honor.

6 THE COURT: All right. Thank you, sir.
7 You may step down. You are excused.

8 THE WITNESS: Yes, sir.

9 THE COURT: All right, counsel, come up
10 just a moment please.

11 (WHEREUPON, counsel approached the
12 Bench for an off-the-record discussion.)

13 THE COURT: All right. Ms. Butcher, you
14 may call your next witness.

15 MS. BUTCHER: Your Honor, we call
16 Mr. Shawn McCrea.

17 THE COURT: All right, have Mr. McCrea
18 come in please. Come around and be sworn please.

19 THE CLERK OF COURT: Place your left hand
20 on the Bible, raise your right hand.

21 WHEREUPON,

22 **SCHAIN MCCRAE,**
23 having been duly sworn by the Clerk, testified
24 as follows:

25 THE CLERK OF COURT: Take your seat in

SW - S. MCCRAE - DIRECT

1 the witness box.

2 **DIRECT EXAMINATION**

3 BY MS. BUTCHER:

4 Q Good morning, Mr. McCrea, how are you?

5 A Good morning. All right.

6 Q Mr. McCrea, how do you pronounce your first name?

7 A Schain.

8 Q Okay. Mr. McCrea, do you know Ms. Brittany Epps
9 sitting here?

10 A I know her personally, no, ma'am.

11 Q Have you ever met her personally?

12 A No, ma'am.

13 Q Okay. Do you know her mother Lonzetta Epps?

14 A Yes, ma'am, not personally.

15 Q How do you know her mother?

16 A I met her through Theodore and after that I
17 talked, I talked to Tasha.

18 Q When you say Theodore who are you talking about?

19 A Mr. McKnight.

20 Q When did you meet Ms. Epps through Theodore
21 McKnight?

22 A This was while we was incarcerated. We was
23 having conversation about her. I tell him I didn't
24 know her, tell him I didn't know her. Then when I
25 got, when I went to prison I got in contact with

SW - S. MCCRAE - DIRECT

1 Ms. Tasha. That's how we started communication.

2 Q Who is Ms. Tasha?

3 A I think last name is Harper I think.

4 Q Okay. What's the connection between Tasha and
5 Ms. Epps.

6 A What you mean by?

7 Q How did Tasha put you in contact with Ms. Epps?

8 A I asked her while I was incarcerated to share
9 friends, somebody to talk to, and she was like, yes.

10 Q Okay. Have you ever actually -- and when I say
11 Ms. Epps I'm speaking of Brittany's mother, okay.

12 Have you ever actually met Ms. Epps in person?

13 A No, ma'am.

14 Q Okay. Were you ever in the Williamsburg County
15 Detention Center?

16 A Yes, ma'am.

17 Q Were you there between March 2015 to June 2015?

18 A Yes, ma'am.

19 Q Okay. And you had stated you know Mr. Theo
20 McKnight. How do you know him?

21 A Well, I knew him, Theo, since I was 12 years old.

22 Q Where are you from?

23 A I'm from Kingstree.

24 Q Okay. You've known him since you were 12?

25 A Yes, ma'am.

SW - S. MCCRAE - DIRECT

1 Q Did y'all hang out together?

2 A As I got older, yes. I seen him from time to
3 time, we'd stop and talk.

4 Q Did y'all live in the same neighborhood or?

5 A I probably stay like at the time like two blocks
6 from him.

7 Q Okay. During your conversation at Williamsburg
8 County Detention Center was Theodore McKnight also
9 incarcerated there at that time?

10 A Yes, ma'am.

11 Q Okay. Did y'all have the opportunity to talk to
12 one another while y'all were there?

13 A Yes, ma'am, just about every morning.

14 Q Why was that?

15 A We were on the same recreation. We stay on the
16 bottom floor of the detention center.

17 Q And when you say you both had the same recreation
18 can you explain what that means.

19 A Being me and him would come out and use the
20 phone, take a shower or go on rec and play handball,
21 whatever we do at the same time.

22 Q Okay. And during that time you're saying you had
23 conversations with Mr. McKnight?

24 A Yes, ma'am.

25 THE COURT: All right, let's stop right

SW - S. MCCRAE - DIRECT

1 there just a minute. First of all, Ms. Barr,
2 previous matters which you have put on the record
3 are protected for future reference in this case if
4 necessary and it will not be necessary that you make
5 additional objections.

6 Ladies and gentlemen of the jury, let me
7 give you some instructions or some instructions
8 about this witness' testimony. And I will tell you
9 that the testimony of this witness is not to be
10 considered by you on whether the alleged statements
11 made by the previous witness to this witness are
12 true, but only to the credibility of the previous
13 witness. You must not consider the testimony of
14 this witness for any purpose other than the
15 credibility of the previous witness and not the
16 truth of the matters to which the witness will
17 testify. I cannot emphasize enough that you must
18 not consider the testimony of this witness as true
19 of the matters to which he is testifying, but only,
20 and I emphasize only, as to the credibility of the
21 previous witness.

22 All right, you may proceed.

23 MS. BUTCHER: Thank you, Your Honor.

24 BY MS. BUTCHER:

25 Q During that time did you have a conversation with

SW - S. MCCRAE - DIRECT

1 Theodore McKnight concerning an incident that
2 occurred around March 29th, 2014?

3 A Yes, ma'am.

4 Q What was the substance of that conversation?

5 A It was pertaining to Jessica and Brittany of the
6 case that they was being charged with.

7 Q Okay. Do you recall what case that was?

8 A When they had murdered Mr. Brown.

9 Q Okay. What did he tell you about that situation?

10 A Well, his exact words, he stated that he know
11 exactly what happened. And we was talking about, I
12 asked him how would you know, do you place yourself
13 at the scene of the crime. And then being that we
14 knew each other good he was like, well, truth be
15 told I was there and this is what happened. He
16 start telling me what happened. He said they
17 dropped Brittany off and Jessica and Mr. Brown, I
18 suppose they do whatever they were going to do, they
19 was gonna rob him, that would be the end of the
20 case, but somehow they end up killing him.

21 Q And to make sure I understood you, you stated
22 that he was, he said he was together with Brittany,
23 Jessica, and Mr. Brown?

24 A Yes, ma'am.

25 Q They dropped Brittany off?

SW - S. MCCRAE - DIRECT

1 A Yes, ma'am.

2 Q Mr. -- was it Mr. Brown and Jessica were gonna,
3 you said do what they were gonna do?

4 A Yes, ma'am.

5 Q What did you mean by that?

6 A I guess have sex for money, whatever.

7 Q I'm sorry?

8 A I guess they was gonna have sex for money,
9 whatever.

10 Q Have sex for money? And you stated that they ---

11 THE COURT: Your witness now.

12 BY MS. BUTCHER:

13 Q Okay. And what happened? What'd he say
14 happened?

15 A He said they was gonna rob him but somehow ---

16 Q Who is they?

17 A Him and Jessica.

18 Q Okay.

19 A And somehow they ended up killing him.

20 Q Okay. Did he tell you how they ended up killing
21 Mr. Brown?

22 A In so many words he said he got shot, but he
23 never said who shot him or whatever.

24 Q He did not say that he shot him?

25 A No, ma'am.

SW - S. MCCRAE - DIRECT

1 Q He did not say that Jessica shot him?

2 A No, ma'am.

3 Q Only that he got shot?

4 A Yes, ma'am.

5 Q Mr. McCrea, do you have any reason to lie here
6 today?

7 A No, ma'am.

8 Q Now do you have any axes to grind with Theodore
9 McKnight?

10 A Say again.

11 Q Do you have any axes to grind with Theodore
12 McKnight? Are you two on the outs or anything?

13 A No, ma'am.

14 Q Do you understand that I cannot help you out in
15 anyway with your prison sentence?

16 A Yes, ma'am.

17 Q You've already been sentenced; haven't you?

18 A Yes, ma'am.

19 Q Do you understand what the phrase snitches get
20 stitches means?

21 A Yes, ma'am.

22 Q Can you please explain that to the jury:

23 A Okay, it means a statement like which means
24 whoever is a prison snitch and the person you snitch
25 on, if they ever run into you, you know, they will

SW - S. MCCRAE - DIRECT

1 serve you the best way they can by busting your head
2 or something or when you're in prison, see, stab you
3 up or something like that. But once you snitch on a
4 person you always be a snitch forever to him anyway.

5 Q Why did you come testify today?

6 A Well, truth be told, I mean, for an innocent
7 person to go to jail for something that, you know, I
8 feel would be uncomfortable. And being that I know
9 what I know I felt that right that it be heard, you
10 know what I mean. Whether they believe it or not,
11 this is what he was told to me.

12 Q Now Ms. Epps, has she promised you anything to
13 come in here to testify?

14 A No, ma'am.

15 Q How did it come about that you realized that Ms.
16 Epps' daughter was actually involved in this
17 situation?

18 A Say that again.

19 Q How did it come about that you realized that Ms.
20 Epps's daughter was actually involved in this case?

21 A Actually, when me and Ms. Epps was talking I
22 didn't even know Brittany was her daughter so I was
23 telling her exactly what Mr. McKnight told me, and
24 that's when she said it was her daughter. And she
25 stated she was gonna tell her, tell her daughter

SW - S. MCCRAE - CROSS

1 lawyer about what said. And I was like at first I,
2 I don't think that'd be a good idea, I don't want
3 nothing to do with that. And as I thought about it
4 I was like, it's only right truth be told so I said,
5 okay, you can tell her.

6 Q So you did not come forward right away?

7 A No, ma'am.

8 Q Now Ms. Epps is not in a position to help you out
9 in anyway, is she?

10 A No, ma'am.

11 Q What you're telling the Court here today is the
12 truth?

13 A Yes, ma'am.

14 Q Thank you. No further questions.

15 THE COURT: Cross-examination, Ms. Barr.

16 **CROSS-EXAMINATION**

17 BY MS. BARR:

18 Q Mr. McKnight, you and I know each other; don't
19 we?

20 A Yes, ma'am.

21 Q We've previously been in this courtroom; haven't
22 we?

23 A Yes, ma'am.

24 Q And the big SCDC letters on your back stand for
25 South Carolina Department of Corrections, right?

SW - S. MCCRAE - CROSS

1 A Yes, ma'am.

2 Q That's a prison, right?

3 A Yes, ma'am.

4 Q And that where's you call home, right?

5 A Yes, ma'am.

6 Q And that's your home for the next 15 years,
7 right?

8 A Yeah, yes, ma'am.

9 Q All right. And one of the reasons why that is
10 your home for the next 15 years is because I was the
11 prosecutor on your case, right?

12 A Yes, ma'am.

13 Q And in June of 2015 you pled guilty to armed
14 robbery at a Sonoco gas station, right?

15 A Yes, ma'am.

16 Q All right. And you had actually priors to the
17 armed robbery, the most recent you committed, you
18 had actually just gotten out of prison for the armed
19 robbery; didn't you?

20 A Yes, ma'am.

21 Q 1994, '95 somewhere up in there you actually pled
22 guilty to an armed robbery and got a 30 year
23 sentence; didn't you?

24 A Yes, ma'am.

25 Q All right. Now let's talk about life for you

SW - S. MCCRAE - CROSS

1 since you've been in prison this time around. You
2 had reached out to some woman named Tasha I think
3 you said.

4 A Yes, ma'am.

5 Q All right. And you told Tasha you wanted a phone
6 buddy, right?

7 A Yes, ma'am.

8 Q All right. So the defendant's mother, Brittany's
9 momma, is your phone buddy, right?

10 A Yes, ma'am.

11 Q All right. And you told investigator Kennedy
12 about a week ago that you've been talking with the
13 defendant's mother three times a week for the last
14 year, right?

15 A Yes, ma'am.

16 Q Three times a week from June 2015 until
17 June 2016, right?

18 A Yes, ma'am.

19 Q And do the math for me. There's 52 in a year,
20 right? Right?

21 A Yes, ma'am.

22 Q You're talking to her three times a week for the
23 last year, right?

24 A Yes, ma'am.

25 Q So that's 156 times you've talked to her since

SW - S. MCCRAE - CROSS

1 June of 2015, right?

2 A Yes, ma'am.

3 Q And it didn't come up until last Sunday,
4 July 17th of 2016, that the defendant, your phone
5 buddy's daughter, was facing a murder wrap? Didn't
6 come up at all till then, right?

7 A No, ma'am, it didn't come up.

8 Q Okay, all right. And so one of the things that
9 Brittany's mother told you is that she loves her
10 daughter, didn't she?

11 A No, ma'am, she didn't tell me that.

12 Q You don't remember her telling you that? All
13 right, let me just ask you this. When you had this
14 conversation with Brittany's mother, the defendant's
15 mother, this would have been the weekend of the
16 16th, the 17th of July, right, like a
17 week-and-a-half ago, right?

18 A Something like that.

19 Q And this the first time it comes up, right?

20 A Yes, ma'am.

21 Q And you, of course, tell her that, yeah, I heard
22 this, you know, I heard something from Theo and,
23 yeah, Theo said this and Theo said that. That's the
24 first time you share this with her, right?

25 A Yes, ma'am.

SW - S. MCCRAE - CROSS

1 Q And you had this information you want us to
2 believe you, for a year at this point, right?

3 A Yes, ma'am.

4 Q And of course you want to do the right thing, you
5 want to make sure some innocent person isn't
6 convicted, right?

7 A Yes, ma'am.

8 Q And so your first thought is not, hum, let me go
9 talk to law enforcement, that's not your first
10 thought, right?

11 A I ain't got nobody to do nothing in prison.

12 Q Well, you managed to have a phone buddy in
13 prison. I mean, surely you can get a hold of the
14 police, right?

15 A I see your point.

16 Q Okay, all right. So you told the defendant's
17 mother that, yeah, you can go ahead, you can call
18 her lawyer, I'll talk to her lawyer, right?

19 A At first I said I wasn't up for that.

20 Q But you changed your mind, right?

21 A Yes, ma'am.

22 Q She didn't have to do too much convincing, right?

23 A What you mean convincing?

24 Q I mean, within a day or so you decided you would
25 talk to the defendant's mother, right? I mean, to

SW - S. MCCRAE - CROSS

1 her lawyer, right?

2 A Well, she didn't convince me, myself.

3 Q So Ms. Butcher then drives down to the prison to
4 meet with you, right?

5 A Yes, ma'am.

6 Q Now where were you housed? What prison are you
7 in?

8 A Lieber Correctional Institution.

9 Q Lee Correction Institution?

10 A Lieber.

11 Q Lieber. Where is Lieber?

12 A That's in Dorchester County.

13 Q Dorchester County going toward Charleston?

14 A Yes, ma'am.

15 Q So she meets with you last week, right?

16 A Yes, ma'am.

17 Q And you tell her this story, right?

18 A Yes, ma'am.

19 Q And then the next day or maybe even the same day
20 Investigator Kennedy comes all the way down to
21 Lieber to interview you; doesn't he?

22 A He came down there and got me?

23 Q He actually picked you up, right?

24 A Yes, ma'am.

25 Q And drove you all the way back to Williamsburg

SW - S. MCCRAE - CROSS

1 County, right?

2 A Yes, ma'am.

3 Q Took you to the Sheriff's Office or over at the
4 jail, right?

5 A Yes, ma'am.

6 Q And he interviewed you, right?

7 A Yes, ma'am.

8 Q And that interview was recorded, right?

9 A Yes, ma'am.

10 Q And of course Mr. Kennedy was nice to you, right?

11 A Yes, ma'am.

12 Q He read you your rights, right?

13 A Yes, ma'am.

14 Q Even gave you some coffee, right?

15 A Yes, ma'am.

16 Q All right. And when Investigator Kennedy asked
17 you to tell me, to tell him what Mr. McKnight said,
18 the first thing you told him was Theo told you --
19 and I quote, I ain't been there, right?

20 A Say what?

21 Q Didn't you tell Investigator Kennedy that Theo
22 told you at first, I ain't been there?

23 A Yes, ma'am.

24 Q All right. And then you're the one that said,
25 no, Theo, I know you were there, right?

SW - S. MCCRAE - CROSS

1 A In those words I said, no, Theo, I said I believe
2 you know what you know, you put yourself at the
3 scene of the crime.

4 Q Wait a minute now, I'm talking about when you all
5 had that first talk.

6 A Yeah, yeah.

7 Q You said, no, Theo, I know you were there.
8 That's what you told Theodore McKnight according to
9 your statement, right?

10 A Yes, ma'am.

11 Q All right. And you say, Theo, how'd y'all kill
12 the man. And you say, I know y'all shot the man.
13 You tell Mr. McKnight that, right?

14 A Yeah -- no, I didn't tell him nothing.

15 MS. BARR: May I approach the witness?

16 THE COURT: Yes, ma'am.

17 (Court's Exhibit Number 1 was marked
18 and made a part of the record.)

19 BY MS. BARR:

20 Q Sir, I'm gonna hand you what's been marked as
21 Court's Exhibit Number 1. That's a transcribed copy
22 of your audio statement to Investigator Kennedy;
23 isn't it?

24 A Yes, ma'am.

25 Q Turn to page 7 for me and tell me when you get

SW - S. MCCRAE - CROSS

1 there. First of all, what's the date on that
2 statement on the first page?

3 A July 20th, 27th.

4 Q July the 20th?

5 A Yes, ma'am.

6 Q So that was what, last Wednesday, right?

7 A Yes, ma'am.

8 Q Okay, all right. So if you will read to
9 yourself, not aloud, lines 9, 10, 11.

10 THE COURT: On page?

11 BY MS. BARR:

12 Q On page 7, and let me know when you finish.

13 A 9, 10, and 11?

14 Q Yeah, just those lines on page 7.

15 A I'm done.

16 Q Now, sir, when you were talking with Investigator
17 Kennedy you told him that you asked Mr. McKnight
18 how'd y'all kill the man, I know y'all shot the man,
19 right? Isn't that what you said?

20 A Yes, ma'am.

21 Q All right. And he followed, Investigator Kennedy
22 followed up on that line of questioning and asked
23 you did Theo ever tell you the details of how it
24 happened, right? He asked you that question, right?

25 A Yes, ma'am.

SW - S. MCCRAE - CROSS

1 Q And he asked you did Theo ever say who shot Mr.
2 Brown, right?

3 A Yes, ma'am.

4 Q And your response to him just last Wednesday was,
5 no, he didn't say anything about any details of who
6 shot Mr. Brown, right?

7 A Yes, ma'am.

8 Q And Investigator Kennedy again asked you some
9 followup questions, he said, did Theo ever tell you
10 how he and Jessica and Brittany ever got up with Mr.
11 Brown that night, right? You remember him asking
12 you that?

13 A I believe I do.

14 Q And your response was, no, he didn't say anything
15 about that, right?

16 A Yes, ma'am.

17 Q Investigator Kennedy also asked you, well, did he
18 ever say what went wrong or how the man end up
19 dying. You remember he asked you that question,
20 right?

21 A Yes, ma'am.

22 Q And what you told Investigator Kennedy last
23 Wednesday was, no, he didn't give any details, he
24 didn't say anything else, and if I told you he said
25 anything else I'd be lying, right?

SW - S. MCCRAE - CROSS

1 A Yes, ma'am.

2 Q So all of this detail you're giving us today,
3 based on what you told Investigator Kennedy last
4 Wednesday, you're lieing up here, right?

5 A No, ma'am.

6 Q Well, you told him last Wednesday if you told him
7 any other details you'd have to be lieing because
8 Theo didn't say that, right?

9 A I'm saying I told ---

10 Q Turn to page 13 of your statement for me. Look
11 at lines 18 through 19. And let me -- read it to
12 yourself and let me know when you're furnished.

13 A 18 through what?

14 Q 18 and 19. You finished?

15 A Yes, ma'am.

16 Q All right.. Didn't you tell Investigator Kennedy
17 that Brittany's momma told you she loves her
18 daughter? You remember that now?

19 A Yes, ma'am.

20 Q All right. Now one of the things that the
21 investigator was curious about was how often you
22 talked to the defendant's mother, right?

23 A Yes, ma'am.

24 Q All right. And so he asked you, you know, how
25 often you all talked with each other, how often you

SW - S. MCCRAE - CROSS

1 all communicate, he asked you all those questions,
2 right?

3 A Yes, ma'am.

4 Q And you said we talk about three times a week but
5 it's hard to call people, right?

6 A Yes, ma'am.

7 Q Because with, when you're in prison and if you're
8 calling an individual on the official prison phone
9 system, when you're making that call, whoever you're
10 calling will have a prompt that you're receiving
11 this call from the South Carolina Department of
12 prisons, right?

13 A Yes, ma'am.

14 Q It'll have that little voice mail letting the
15 person know that you're trying to dial, that you're
16 trying, that you're calling from jail, from prison,
17 right?

18 A Yes, ma'am.

19 Q And so it's hard, like you said, when you told
20 Investigator Kennedy last Wednesday it's hard to
21 call people when you're in jail, when you're in
22 prison, right?

23 A Yes, ma'am.

24 Q All right. And you couldn't have possibly have
25 been talking to the defendant's mother three times a

SW - S. MCCRAE - CROSS

1 week on the official prison line, could you? Since
2 we're telling the truth.

3 A (No response.)

4 THE COURT: Answer the question.

5 THE WITNESS: Yes, ma'am.

6 BY MS. BARR:

7 Q Sir?

8 A You're right.

9 Q You wasn't calling her on official prison line,
10 were you?

11 A No, ma'am.

12 Q You had an illegal cell phone in prison; didn't
13 you?

14 A Yeah, I had access to a illegal cell phone.

15 Q You had access to a illegal cell phone in prison,
16 right?

17 A Yes, ma'am.

18 Q That's how you're able to maintain this phone
19 buddy relationship that you got going on with the
20 defendant's momma, right?

21 A Yes, ma'am.

22 Q And it's against prison regulations, isn't it
23 not, for you to have an illegal cell phone while
24 you're in prison, right?

25 A Yes, ma'am.

SW - S. MCCRAE - CROSS

1 Q Investigator Kennedy asked you whether or not
2 Theodore said anything about putting a body in the
3 trunk. Do you remember him asking you that?

4 A Yes, ma'am.

5 Q You said, no, Theo didn't say anything like that,
6 right?

7 A Yes, ma'am.

8 Q And you told Investigator Kennedy that really you
9 had already put two and two together and you knew
10 Theo had something to do with it, right?

11 A Say what?

12 Q Didn't you tell Investigator Kennedy that you
13 really didn't need any details from Theo 'cause you
14 had already put two and two together, right?

15 A Yeah, previous to our conversation, yes, ma'am.

16 Q So you said that Theo didn't give you any
17 details, you put two and two together, and you
18 already knew how it happened?

19 A No, no, I say ---

20 Q Turn to page 19 for me.

21 MS. BUTCHER: Your Honor, I'd ask he be
22 allowed to finish his answer.

23 THE COURT: All right, he can answer, then
24 she can also refer to the transcript.

25 BY MS. BARR:

SW - S. MCCRAE - CROSS

1 Q Go ahead, sir.

2 A This is what I said. We was talking and he
3 stated what he stated, and I knew right then there
4 he did what he did, what he did by what he say what
5 he was going to do, what he was going to do to get
6 these girls to murder.

7 Q All right, turn to page 19.

8 A I'm on 19.

9 Q Read lines 1 through 4 to yourself and let me
10 know when you're done.

11 A I'm done.

12 Q All right. Didn't you tell Investigator Kennedy
13 that you don't recall him saying anything about the
14 details but you're the one who put two and two
15 together, right?

16 A No, this is what I stated. Like I told you, I
17 didn't recall him saying that.

18 Q Yeah, and you go on to say if he did I can't ---

19 A If he did I didn't remember saying when he was
20 saying it. I remember saying I put two and two
21 together. I already knew he had something to do
22 with it.

23 Q You already knew he had something to do with it.
24 And the two, and two you put together was Brittany .
25 Epps two, and Lonzetta Epps, her momma, two, that's

SW - S. MCCRAE - CROSS

1 the two and two you put together?

2 A No, ma'am.

3 Q And that's how you were able to have it all
4 figured out?

5 A No, ma'am.

6 Q It was them two that you put together, right?

7 A No, it was.

8 Q And Investigator Kennedy gives you a final chance
9 even after all this talk to say, listen, anything
10 else Theo supposedly said to you, give me any other
11 details. He gave you all the chance the world;
12 didn't he?

13 A Yes, ma'am.

14 Q And the last thing that you tell him at the
15 bottom of page 19 when he asked you, okay -- I'm at
16 line 22. "Okay, did he tell any of the details of
17 how it went down. You say, it was so long ago I
18 can't think of it, it's just what I told you."
19 Right?

20 A Yes, ma'am.

21 Q That's all the questions I have. Well, I'm
22 sorry, one more question. Now sir, you've been in
23 prison for a year, right?

24 A (No response.)

25 Q Right?

SW - S. MCCRAE - CROSS

1 A Over a year.

2 Q Okay. You know what, and you're nice to educate
3 us about snitches getting stitches. You can educate
4 us too about downward departure, right? You know
5 about that, right?

6 A No, ma'am.

7 Q Sir?

8 A Say what?

9 Q You know about downward departure, right?

10 A Down -- no, I don't know what you're talking
11 about.

12 Q You don't know what I'm talking about? So you've
13 never heard of people who are in prison, inmates,
14 telling on somebody else and then asking the Court
15 to come back and reduce their sentence? You hadn't
16 ever heard of that before?

17 A No, ma'am.

18 Q So when you're talking to Ms. Butcher last week
19 and you're telling Ms. Butcher all this stuff that
20 you say you know about, you at that time had never
21 heard of somebody being in prison, later testifying
22 in a case and then asking to have their sentence
23 reduced? That's completely foreign to you?

24 A At no time did that even come up.

25 Q I didn't ask you did it come up.

SW - S. MCCRAE - REDIRECT

1 A No ---

2 Q I asked you were you aware that that's a
3 possibility?

4 A No, ma'am.

5 Q You never heard of that before?

6 A No, ma'am.

7 Q All right.

8 MS. BARR: Judge, that's all the questions
9 I have.

10 THE COURT: Redirect?

11 MS. BUTCHER: Thank you Your Honor.

12 **REDIRECT EXAMINATION**

13 BY MS. BUTCHER:

14 Q Mr. McCrea, you did not want to tell this story
15 at first, did you?

16 A No, ma'am.

17 THE COURT: Your witness now.

18 BY MS. BUTCHER:

19 Q Did you agree to tell me and law enforcement?

20 A Say again.

21 Q Did you agree to tell me and law enforcement?

22 A Yes, ma'am.

23 Q Did anyone promise you anything?

24 A No, ma'am.

25 Q Did you know that you could get possibly hurt by

SW - S. MCCRAE - REDIRECT

1 testifying?

2 A Yes, ma'am.

3 Q Did you know that you could possibly get in
4 trouble for having to testify ---

5 MS. BARR: Judge, I'm gonna object to this
6 line of questioning.

7 THE COURT: All right, why is that in
8 response to cross-examination?

9 MS. BUTCHER: Your Honor, she brought up
10 downward departure and all of that relates to ---

11 THE COURT: That doesn't have anything to
12 do with getting hurt.

13 MS. BUTCHER: Okay.

14 BY MS. BUTCHER:

15 Q Did you know that you might get in trouble for
16 having a illegal phone?

17 A Yes, ma'am.

18 Q Is it true that you did testify today that Theo
19 said he put the body in the trunk, correct?

20 A Say that again.

21 Q You did not testify today that Theo told you he
22 put the body in the trunk, correct?

23 A No, ma'am.

24 Q And when you gave a statement to law enforcement
25 did you say that he did?

SW - S. MCCRAE - REDIRECT

1 A No, ma'am.

2 Q Now Ms. Barr gave you a portion of your statement
3 to read to yourself. She stated that it said ---

4 THE COURT: No, no, no, she never said,
5 she never said that it said. She asked him to read
6 the statement, then she asked him about it.

7 MS. BUTCHER: May I approach the witness,
8 Your Honor?

9 THE COURT: Yes, ma'am. You can only use
10 it to refresh his memory. The statement is not in
11 evidence.

12 THE WITNESS: All right.

13 THE COURT: No. Tell him what to read and
14 let him read it and tell you when it's finished.

15 MS. BUTCHER: Front page.

16 THE COURT: Don't point it out to him, let
17 him do it. On what page?

18 MS. BUTCHER: Page 7.

19 THE COURT: All right, just read it to
20 yourself.

21 BY MS. BUTCHER:

22 Q Did you say that you knew he shot this man?

23 THE COURT: Now if he's got his statement
24 he's -- he needs to say based upon refreshment of
25 the recollection, not using the statement. He seems

SW - S. MCCRAE - REDIRECT

1 to have the statement in front of him so

2 Ms. Butcher, he should not have it, he should read
3 it.

4 MS. BUTCHER: I didn't realize he had it,
5 Your Honor.

6 BY MS. BUTCHER:

7 Q Do you recall saying that you knew Theos hot that
8 man?

9 A That's the same question Ms. Barr, the Solicitor
10 asked me which I stated that I said that y'all shot
11 this man.

12 Q When you said, as you said, I said y'all shot
13 this man, was that a question or what was that?

14 A She asked me was that a question to him?

15 Q Yes.

16 A Yes, ma'am.

17 Q Now in your statement to law enforcement did you
18 state that Theo McKnight said he was sleeping with a
19 white girl?

20 MS. BARR: Objection.

21 THE WITNESS: Yes, ma'am.

22 MS. BARR: Outside the scope of redirect.

23 THE COURT: Okay, not responsive,
24 objection sustained.

25 MS. BUTCHER: Your Honor, I believe

1 Ms. Barr said he didn't give any other details in
2 his statement to law enforcement.

3 MS. BARR: About the alleged crime, Judge,
4 not about anything else. That's it.

5 THE COURT: Not responsive, objection
6 sustained.

7 MS. BUTCHER: No further questions. Thank
8 you.

9 THE COURT: Recross, Ms. Barr.

10 MS. BARR: Very briefly.

11 **RECROSSEXAMINATION**

12 BY MS. BARR:

13 Q Mr. McCrea, Ms. Butcher asked you if anybody
14 promised you anything to get you to testify. You
15 remember her asking you that?

16 A Yes, ma'am.

17 Q All right. And your answer was no?

18 A Yes, ma'am.

19 Q One of the things that someone can do for inmates
20 though when they're in prison is put some money on
21 the books, right?

22 A Yes, ma'am.

23 Q And that allow you to get some canteen and go to
24 the commissary and get some other little personal
25 items for you, right?

1 A Yes, ma'am.

2 Q That's all the questions I have.

3 THE COURT: Thank you. Step down please.

4 All right, Ms. Butcher, you may call your
5 next witness.

6 MS. BUTCHER: That's our case, Your Honor.

7 THE COURT: All right, Defense rests?

8 MS. BUTCHER: Yes, Your Honor.

9 THE COURT: All right. Anything in reply?

10 MS. BARR: No, Your Honor.

11 THE COURT: All right. All right, ladies
12 and gentlemen, you have heard all of the testimony
13 that you will hear in connection with this matter,
14 and there are only two things that remain to be
15 done. Those are the arguments of counsel and the
16 instructions on the law by the Court. However,
17 before we get to those two things there are certain
18 matters of law which I now need to take up with the
19 attorneys involved, and I need to do that on the
20 record and outside of your presence so I am going to
21 send you to your jury room, allow you to relax a few
22 minutes, and then we will bring you back in the
23 courtroom for arguments and change. After that has
24 been completed you will be allowed to retire to your
25 jury room to deliberate your verdict. So I would

1 ask that you go to your jury room now. Please do
2 not discuss the case among yourselves. It is
3 premature still for you to begin any discussion of
4 the case, but we'll be ready to go forward very
5 quick. Thank you, you may go with the bailiff.

6 (WHEREUPON, the jury was removed from the
7 courtroom at 10:25 a.m.)

8 THE COURT: Ms. Butcher, any motions on
9 behalf of the Defense?

10 MS. BUTCHER: Your Honor, I would renew
11 all previous motions especially my motion under 403
12 that Mr. McCrae's record, that Mr. McCrae's record
13 not be published to the jury. I believe that was
14 more prejudicial than anything, especially armed
15 robbery not being a crime indicative of someone not
16 knowing the truth. Your Honor ---

17 THE COURT: Hadn't we already ruled on
18 that? Hadn't that already been ---

19 MS. BUTCHER: Yes, Your Honor.

20 THE COURT: I'm not going to change my
21 ruling on that; it's in. You can't un-ring that
22 bell. I've already ruled.

23 MS. BUTCHER: Correct, Your Honor, was
24 just renewing the motion and asked for jury
25 instruction. Your Honor, I would also make a

1 directed verdict motion. I do not believe the State
2 has met their burden with any competent evidence
3 that Ms. Epps was present at the time of the murder.

4 THE COURT: Okay. Tell me why the proof
5 has failed.

6 MS. BUTCHER: Your Honor, I believe their
7 witness Jessica Jackson, she's given five different
8 stories. I do not believe it is reliable testimony.
9 They have not connected her with this crime in any
10 way, Your Honor.

11 THE COURT: Well, if you'll admit whether
12 you believe Ms. Jackson or not, that she has
13 connected your client with the crime, whether you
14 believe it or not is another question; isn't that
15 right?

16 MS. BUTCHER: Yes, sir.

17 THE COURT: Okay. All right, the Court
18 would respectfully deny the motion. Again, on a
19 motion for directed verdict the Court's role is only
20 to determine the existence or nonexistence of the
21 evidence and not its weight. There is direct
22 testimony in the record from Ms. Jackson that Ms.
23 Epps was the participant in this crime and that she
24 actually committed the murder. There's also
25 circumstantial evidence that would place Ms. Epps in

1 the car and at the scene, and so I think that the
2 determination is to the credibility or believability
3 of that testimony is for the jury and it would be
4 improper for me to substitute my judgment for that
5 of the jury and I cannot do that so I would
6 respectfully deny the motion.

7 All right, let's talk a minute, counsel,
8 about -- we talked yesterday just briefly about
9 charges. My general felony charge includes
10 reasonable doubt, presumption, and burden of proof.
11 I will also charge the substantive charge of murder
12 and the substantive charge on possession of a weapon
13 during the commission of a violent crime. I will
14 also instruct the jury again on the testimony
15 regarding Mr. McCrae's testimony as going not to the
16 truth of the matter asserted, but only as to the
17 credibility of another witness in this case and it
18 is not the truth of the matter asserted.

19 And in that regard, Ms. Butcher, I will
20 caution you that you can only argue that McKnight
21 told McCrea something different from what he
22 testified to in court and that that makes his
23 testimony not credible. You cannot argue that the
24 alleged statements made by McKnight to McCrea are
25 true or admissions by, or admissions by McKnight;

1 but, or that they were offered for the truth of the
2 matter to which Mr. McCrea testified, only that the
3 statements made by McKnight were not true based upon
4 McCray's testimony.

5 I will also -- part of my charge will also
6 be the Logan circumstantial evidence charge and
7 also, I will gave a charge on expert witnesses
8 'cause there are expert witnesses in this case.

9 Anything further, Ms. Barr, that you can
10 think of?

11 MS. BARR: No, Your Honor.

12 THE COURT: All right, Ms. Butcher, you
13 have any special requests?

14 MS. BUTCHER: No, Your Honor.

15 THE COURT: All right. Ms. Barr, are you
16 gonna waive opening?

17 MS. BARR: Yes.

18 THE COURT: All right. How much time you
19 need for argument, Ms. Butcher?

20 MS. BUTCHER: I'm not sure I'll go 30
21 minutes, Your Honor.

22 THE COURT: All right. I have told
23 lawyers this a lot of times in the past that I never
24 likes arguments a lot when I was practicing law; but
25 early on in my judicial career I was hearing a

1 MS. BUTCHER: Thank you. May it please
2 the Court.

3 THE COURT: Yes, ma'am.

4 MS. BUTCHER: Ms. Barr. Good morning,
5 ladies and gentlemen. When I first spoke to you on
6 Tuesday I said make the State prove their case.
7 This is so important, I told you, 'cause anyone can
8 point to a citizen and say you robbed me, you broke
9 into my house, I saw you do it. The only defense is
10 I didn't do it, I wasn't there. In this case
11 Jessica Jackson was pointing to Brittany Epps and
12 said, you murdered Mr. Brown. And she's here today
13 saying, I do it, didn't do it. She's been here this
14 entire trial saying I didn't do it, I wasn't there.

15 Now Ms. Barr told you on Tuesday that this
16 trial is about justice, justice for Mr. Brown, and
17 also justice for Ms. Epps. Archie Kennedy, the lead
18 investigator in this state, in this case, he told
19 you that when he conducts an investigation it's just
20 as much about finding out who's guilty as it is
21 who's innocent. I believe the State has failed both
22 Mr. Brown and Ms. Epps by not conducting a thorough
23 investigation in this matter. Now Ms. Barr has
24 presented several days worth of testimony in this
25 case about what went on that evening, condition of

1 the car, the autopsy, and so on, but none of that
2 has proven who shot Mr. Brown or who was present
3 when he was murdered. It's only proven sadly enough
4 that Mr. Brown was indeed murdered. You haven't
5 heard me make a lot of objections to the evidence
6 that's come into this case. We agree very sadly
7 Mr. Brown was shot and murdered that night.

8 Ms. Barr's done a very good job. She was
9 questioning Brittany talking real fast and trying to
10 confuse her, but Brittany had only one story to
11 tell. It's easy to tell one story when you tell the
12 truth. When you lie you have a lot of lies you have
13 to remember; it's hard to keep them straight.

14 Ms. Barr even set out a timeline if you recall. On
15 that timeline she only included the time it took to
16 travel distances from place to place.. She didn't
17 include the time it took for Jessica, Brittany, Theo
18 and Mr. Brown to chat on the porch, didn't include
19 any time it took for Brittany to go see her weed
20 man.

21 Now Ms. Epps did not come into this
22 courtroom trying to pretend she was prim and proper
23 and something that she was not. She was upfront
24 with you. You saw who she was. She told you right
25 up front she smoked weed. She wasn't trying to hide

1 that. She was trying to be herself. The State
2 tried to make something out of the fact that over
3 two years ago when she was 16 she dressed more
4 athletically. When you have teenagers, that's
5 pretty common. Girls grow up. The reason the State
6 tried to put that in your mind is because in the
7 field that night when Mr. Samuel Barr saw what he
8 perceived to be a male -- remember the baseball bat
9 pulled down over his head -- they wanted you to
10 think that was Brittany. I believe his first
11 perception was correct, it was a male. And
12 remember, nobody mentioned Brittany even wearing a
13 baseball hat in this case. And let me tell you
14 this, I asked Brittany what Theo was wearing that
15 night. She sat here this whole week. She heard
16 every bit of the testimony. She easily could have
17 said a baseball hat, but she didn't. She was
18 honest; she said I don't know. She's testified
19 truthfully.

20 Let's go over the evidence that has been
21 presented to you in this case. You heard from
22 Jessica. She had about five different stories to
23 tell. The more with each additional story, the more
24 and more she blamed Brittany for this crime. First
25 she blamed it all on herself, remember? Then she

1 realized that there was no way she could have gotten
2 that body in the trunk by herself so then she
3 brought in Brittany so Brittany was there, that's
4 how we got the body in the trunk. But Brittany
5 didn't have anything to do with it; I was the
6 shooter. She started putting more and more blame on
7 Brittany as the stories went along.

8 Now Jessica told you the plan was to have
9 sex with Mr. Brown. You have to consider Jessica
10 was found no shirt on. The hoodie she borrowed was
11 on the floorboard of the front seat, and Mr. Brown
12 was found halfway undressed. Now one thing I do
13 want to show you, I want you to look when you go
14 back, Defense Exhibit Number 1. This is how
15 Mr. Brown was found. His pants are halfway down;
16 and his shirt is not just up, it's over his head.
17 When you drag somebody, say you're pulling them from
18 the legs, the shirt might go up. It's not going to
19 go over his head. Or let's say you drag them the
20 other way, the shirt's not gonna go up. The pants
21 may go down a little bit. You can't have it both
22 ways. I believe the perfect time to shoot somebody
23 would be after you've taken your shirt off. Helping
24 him take his shirt off, the shirt's over his head,
25 reach in that glove box, grab a gun and shoot.

1 Now you heard a lot of testimony in this
2 case about what Jessica was wearing -- I'm sorry,
3 what Brittany was wearing that night. You heard
4 Joseph Brown's nephew testify that Brittany had on,
5 I'm sorry, yeah, Brittany, had on camouflage
6 sweatpants. He was a little confused with the
7 grayish and the colors, it's been a while, but he
8 definitely knew they were sweatpants. He saw
9 Brittany prior to the murder. You also heard from
10 Officer Staggers. He was the one who came and was
11 the first one on the scene. He said Brittany had on
12 sweatpants. That was written in his report. It was
13 written in his statement he testified to on the
14 stand. Those, those were the people who saw
15 Brittany before, right after Mr. Brown was murdered.
16 You heard Jessica say what Brittany was wearing.
17 You heard Theo say was Brittany was wearing. They
18 were the only people that said Brittany was wearing
19 Levis, rust colored Levis. You judge who is more
20 credible, who may have a reason not to tell the
21 truth. And again, there's no testimony that
22 Brittany ever had on a baseball hat.

23 Now you heard from the DNA analysis. The
24 DNA analysis was conducted. Theo's name was on the
25 report that Theo had no DNA to test against in that.

1 Jessica, her DNA was on several items; Brittany's
2 was not. The analyst also admitted that nothing she
3 found gave an indication beyond any reasonable doubt
4 who was there that night or who shot Mr. Brown. You
5 heard from Ms. Pearly, the sweet lady that was there
6 on the stand. She didn't really contribute anything
7 to this. Her own testimony, she said she stayed up
8 on the porch. I did have to ask why we did not hear
9 from Ms. Ethel I believe it was, the person that the
10 girls borrowed the phone from in the first place.

11 There was a fingerprint analysis done on
12 the outside of the car. Now as you recall, none of
13 Brittany's prints were found on this car, but there
14 was a print, the back rear window near the trunk, of
15 Jessica. The inside of that car was never tested
16 for prints. I think that was a shame, a shame for
17 Mr. Brown and a shame for Ms. Epps. 'Cause had it
18 been, it's possible that we would know whose prints
19 are on that glove compartment. And you heard expert
20 in that case, they didn't test it because law
21 enforcement had compromised the inside of that car.
22 However, I asked her, could y'all still possibly
23 find prints? Yes, she said. Could y'all still go
24 back and test that car today? Yes, she said. It's
25 been over two years. I believe whose prints are on

1 that glove compartment box would be one of the most
2 important pieces of evidence in this case has yet to
3 be done.

4 You heard the expert on the gunshot
5 residue, the GSR. Now I think it's an utter shame
6 that Brittany's clothes were never tested in this
7 matter. She was there at law enforcement. Did
8 anyone bother to take her clothes? Did anyone
9 bother to say, hey, is that the same thing you had
10 on? They didn't even bother. That is a shame for
11 Mr. Brown and for Brittany Epps. You heard the
12 gunshot residue expert. He said we don't test for
13 gunshot residue after six hours on human skin.
14 Continue to test, remember, for clothes; there's no
15 time limit on that. But on human skin, after six
16 hours it's, you might not get anything. It
17 dissipates over time, it comes off, it soaks into
18 the skin, various factors. Nine hours later, not
19 just six, but nine hours later there was still
20 gunshot residue on Jessica's right hand. You
21 remember she testified she was right handed, nine
22 hours later. You heard the expert also say that the
23 person who shoots the gun typically has the most
24 residue. There's a lot of residue on that hand.
25 Nine hours later it still can be detected.

1 You also heard from the lady who did the
2 autopsy on Mr. Brown. Now all she could really tell
3 us was that Mr. Brown had passed away from a gunshot
4 wound to the head. She stated that she could not
5 tell beyond any reasonable doubt who shot Mr. Brown
6 or who was present. The one thing I did find very
7 interesting, remember, Jessica testified that she
8 held those straps, those purse straps, on Mr.
9 Brown's neck for ten seconds. One one thousand, two
10 one thousand, three one thousand, four one thousand,
11 five one thousand, six one thousand, seven one
12 thousand, eight one thousand, nine one thousand, ten
13 one thousand. That's a good while; yet there was
14 not a mark on Mr. Brown's neck, that autopsy report.
15 Again, I believe that Jessica's first story was the
16 most accurate when she said she shot Mr. Joseph
17 Brown.

18 You heard from the ballistics expert
19 talking about the bullets. Again, he stated that it
20 provided no evidence of who shot Mr. Brown or who
21 was present. You heard from Ms. Quam, the SLED
22 crime scene investigator. She collected this, the
23 evidence from the scene. She collected a lot of
24 evidence. You've got a lot of pictures here, a lot
25 of different things, cell phone; but again, she said

1 she collected no evidence that showed who shot Mr.
2 Brown or who was present. You heard from Archie
3 Kennedy, lead investigator in this case. He sat up
4 there. He had a notebook this thick. He'd only
5 been the investigator in this case for what, three
6 months? This is an over two year old case. He'd
7 only been on it three months. He was there when it
8 first occurred but he wasn't the investigator. He
9 didn't know enough to answer my questions when I
10 tried to question him. I got to ask how much did he
11 care about this case? Again, both Mr. Brown has
12 failed and Ms. Brittany Epps. Did you notice
13 Officer Ballard? We didn't hear from him. He'd
14 been the one that was the lead investigator up until
15 about three months ago, never heard from him, wasn't
16 on the stand.

17 Now Mr. Archie Kennedy, he did two very
18 important things I have got to give him credit for.
19 One, he tracked down the person who sold the remote
20 or sold the Cadillac to Mr. Brown and could identify
21 the remote. That was good investigating. Secondly,
22 he tracked down Samuel Barr, Monkey Joe. Remember,
23 I asked him how he did that. He said it was through
24 an anonymous tip that he received, or that law
25 enforcement had received, stating that Samuel Barr

1 had given Brittany Epps a ride that night in bloody
2 clothes. These are two things that should have been
3 done two years ago so I will give him credit for
4 that. The problem is that the remote, it had no DNA
5 of prints on it, and you heard the expert in that.
6 That was indicative indicating that it could have
7 been wiped clean. And if you'll look at State's
8 Exhibit 32 when you're back in your jury room, you
9 recall the keys were found approximately right here.
10 Now you can compare this photograph to this
11 photograph, which was State's Exhibit 31, and you
12 recall this is the front of Ms. Vanity Epps' house.
13 There's the stairs, here are the stairs. You also
14 recall Theo McKnight lived in the vicinity of Vanity
15 Epps. How easy would it be to walk home and toss
16 those keys in Vanity Epps' yard.

17 The problem with Samuel Barr is very good
18 to track him down, but he just simply did not give
19 Brittany Epps a ride home in bloody clothes. Now
20 you got to think who would it have been that would
21 eventually to call in that anonymous tip. That'd
22 been Theo McKnight. I believe Theo McKnight was who
23 Mr. Barr ran into in the field that night. You
24 heard Samuel Barr testify. You heard the scanner.
25 He went down and he happened to come see the car

1 there and up pops this male in a baseball hat kind
2 of pulled down he said. That was his first
3 impression. Remember, he changed his story and
4 decided it was a girl simply because he heard it was
5 two girls that committed the crime. Then he also
6 said when I asked him the height, he said, oh, 5'2"
7 like a child. Remember, Brittany was 16 at the time
8 so I believe that was just him going along with what
9 he heard. His first impression was that was a male.
10 Now as you recall, I measured Ms. Epps. She's
11 around 5'8"; she's a little tall. Jessica even
12 testified that Brittany was about the same height
13 two years ago. She hadn't grown much. And did you
14 notice the height of Theo, Mr. McKnight, when he was
15 here? He's not a tall man. I mean, I think 5'8" is
16 rather tall because I'm shorter than that. But
17 they're about the same height, Brittany Epps and
18 Theodore McKnight.

19 Now as I said, who else would have called
20 in an anonymous tip, or known to, but Samuel Barr
21 gave Brittany Epps ride, she had on bloody clothes.
22 Samuel Barr also stated that the ambulance was still
23 there when he was talking to this person in the
24 field, this male with the baseball bat pulled down.
25 You heard Officer Staggers Brittany wanted to ride

1 in the ambulance; she couldn't go. The ambulance
2 left. She tells Officer Staggers, I'm going to my
3 aunt's. She can't be two places at once.
4 Additionally, if Jessica [sic] had anything to do
5 with this crime, she knew what had happened, why
6 would she tell the law officer she was going to her
7 aunt's, right where she was going. She didn't know,
8 she didn't know there was a body in the trunk of
9 that car that was across the street.

10 Going back to the idea of her telling law
11 enforcement that she was going to her aunt's, well I
12 guarantee you, if I committed a crime and told law
13 enforcement I was going to my aunt's, the next
14 morning law enforcement shows up at aunt's house,
15 I'd put a remote control that went to the victim's
16 car in the yard, I'd sure gotten it and hidden it;
17 but no, it was right there in that yard in the front
18 yard.

19 Ladies and gentlemen, you also heard from
20 Theodore McKnight and Mr. Schain McCrea. The judge
21 has instructed you, you're the judge of the
22 credibility of Mr. McKnight's statement to the
23 police. Mr. McKnight came voluntarily to law
24 enforcement. He gave a statement that indicated he
25 had nothing to do with this crime. You heard

1 officer testify that they spoke to Mr. McKnight
2 'cause the girls lived there. He came down
3 voluntarily gave a statement, he had nothing to do
4 with this crime. You heard Mr. McCrea testify that
5 Mr. McKnight told him he was having sex with
6 Jessica. Mr. McKnight told him that he and Jessica
7 were planning on robbing Mr. Brown. You heard
8 Mr. McKnight testify that Theodore had told him that
9 they ended up shooting Mr. Brown. Now he did not
10 get up here and say that Mr. McKnight said he put
11 the body in the trunk or that Mr. McKnight was the
12 shooter. He only gave the details he knew.
13 Mr. McKnight had told him. And Mr. McCrea let you
14 know snitches get stitches. He wasn't willing to
15 testify at first, but he did. He let you know that
16 he knew Brittany's mother; he didn't try to hide
17 that. He could have up with some other way, you
18 know, but he didn't, he was truthful. He'll
19 probably get in trouble for having an illegal phone.
20 You can tell he did not want that to come out, but
21 he knew it probably would. Mr. McCrea has nothing
22 to gain. He's already been sentenced; I can't get
23 anything for him. He certainly didn't testify on
24 the State's behalf. Ms. Epps is not a wealthy
25 woman, put money on his account. And he's going to

1 be in prison for a long time. I think it was what,
2 about 15 more years.

3 You heard the 9-1-1 call when Brittany
4 called about Jessica having shot her finger, hurt
5 her finger; she didn't know at the time, but she
6 just said shot. Go back and listen to it. At the
7 beginning she's talking to law enforcement. You'll
8 hear a voice. It's not easy to hear, but you'll
9 hear a voice in the background; it's a deep voice.
10 It's Theo McKnight. Theo was there just like
11 Brittany said. He was there.

12 Now I want y'all to consider, you recall
13 the woman who did the autopsy. She said Mr. Joseph
14 Brown was about 176-pounds. I don't think it's
15 possible for a 16 year old girl at the time -- now
16 two years later she's 18 -- 16 year old girl to pick
17 up 176 pounds of dead weight and put that in the
18 trunk. She couldn't have gotten help with Jessica,
19 with Jessica's hurt hand. Theo could have put that
20 body in the trunk, not Brittany. The evidence in
21 this case points to Jessica and Theodore McKnight.
22 There's just simply no other evidence, especially
23 beyond any reasonable doubt, that Brittany had
24 anything to do with this murder, and that is why the
25 State has the complete burden of proof whenever they

1 accuse a citizen of a crime. That burden is beyond
2 any reasonable doubt. It's just so easy to point a
3 finger when you stole my purse. You came into my
4 house last night, I saw you, and all you can do is
5 say it wasn't me, I was not there.

6 Ladies and gentlemen, I submit Brittany
7 Epps was not there that night. She was with Jessica
8 and Theodore and Mr. Brown up to a point. But the
9 point when this became a crime, Mr. Brown was
10 murdered, she was simply not there. Ladies and
11 gentlemen, I thank you for your time and your
12 service on this jury.

13 THE COURT: Ms. Barr.

14 MS. BARR: May it please the Court.

15 THE COURT: Yes, ma'am.

16 MS. BARR: Mr. Foreman, ladies and
17 gentlemen, good morning. I want to start my closing
18 how I began my opening, and that's by thanking you
19 all for your service this week. We know that we
20 have imposed on your time. We know that there's
21 probably a whole lot of things you all would rather
22 be doing than serving on a jury in a murder case.
23 But when I told you all on Tuesday morning that jury
24 service is the one of the most important things a
25 citizen can do to serve his community, I meant that

1 most sincerely. And for the family of Joseph Brown
2 and for the defendant Brittany Epps, you guys are
3 who we're looking to to give justice and so we thank
4 you for the time and the attention and the
5 sacrifices that you've made to be there in this
6 case. Ms. Epps as you know is charged with murder
7 and possession of a weapon during the commission of
8 a violent crime. With a charge of murder the State
9 has to prove that the defendant unlawfully took
10 another with what we call malice aforethought,
11 essentially meaning a premeditated murder, an
12 intentional murder. If you find that the defendant
13 fired the fatal shots into the head of the victim
14 and that caused his death that you agree at the end
15 of the case that we have proved that then you should
16 also find her guilty of the weapons charge as well.

17 One of the things that is really, really
18 important for you all to know, is what actually your
19 job is in this case, what it means, and how
20 important it is and I think y'all have a sense of
21 that; but let me just share something with you if I
22 can. The judge, once I sit down and he gives you
23 the law on this case, he's gonna give you a verdict
24 as well and essentially you will have two options on
25 that verdict list. You can find after you

1 deliberate that the defendant is guilty, that the
2 State proved her guilt beyond a reasonable doubt, or
3 you can find her not guilty. And at the end of the
4 deliberations, Mr. Foreman, you're gonna have to
5 sign your name on that verdict form; but the verdict
6 will reflect the decision of all of you. And the
7 reason why that verdict form is so important because
8 the word verdict quite literally comes from a Latin
9 phrase that literally means to speak the truth. So
10 essentially, when Mr. Foreman signs his name to the
11 verdict based upon the unanimous vote of all of you,
12 you will be putting down on that piece of paper that
13 this trial and the results of this trial is the
14 truth of what happened in this case.

15 In addition to the law and the evidence,
16 you all have a very fundamental tool to assist you
17 in this case. Again, in addition to the law, in
18 addition to the evidence, you all have a fundamental
19 tool to help you when you deliberate, and that's
20 your good old fashioned common sense, your good old
21 fashioned common sense. Because, folks, for what
22 Ms. Epps purports to have you believe, it would
23 require you to check your common sense at the front
24 house door and leave it there, and quite literally
25 leave it there. You have to consider what witnesses

1 say, obviously. That's a huge issue in this case.
2 You got evidence before you that a lot of these
3 witnesses said different things to different people
4 at different times. So what you to all have to do
5 when you're deliberating, did you have to say, okay,
6 wait a minute, let me consider witness A and if I
7 want, if I believe that witness A is credible and
8 worthy of belief, then how can I know that to be the
9 case. And how you know is you compare what a
10 witness says to other evidence in the case. If a
11 witness tells you a story, does other witness
12 corroborate? Does another witness corroborate that
13 story? Does other physical evidence corroborate
14 that story? If a witness tells you story B, is that
15 story corroborated by other evidence in the case or
16 if is it contradicted by other evidence in the case.

17 One of the most important witnesses that
18 you heard from in the trial of this case is Jessica
19 Jackson who obviously was charged in this crime.
20 Let me tell you about little Miss Jessica. I do not
21 want you all to believe that I have been fooled by
22 her, that I have been bamboozled by her, that I by
23 the little miss innocent act by any means; I am not.
24 I believe, and I would submit to you, that she was
25 just as invested in this crime as Brittany Epps. I

1 have no confusion about that at all. I think as my
2 niece would say, she was down for whatever, that she
3 was ride or die with this defendant, and her hands
4 are just as guilty as Brittany Epps. But folks, one
5 of the things that I want you all to remember, if
6 there's a part of any of you that is just
7 uncomfortable with the notion that, well, Ms. Barr,
8 she pled guilty to attempted murder and if they're
9 thick as thieves and if they're in this together,
10 you know, some of you may say, well, you know what,
11 they should be charged, both of them should be stand
12 trial for murder. I understand that. I understand
13 that feeling if you all have that. But folks, what
14 I would ask you to do, if you believe that the State
15 has proved beyond a reasonable doubt that the
16 defendant was the one fired the fatal shots but you
17 don't like the fact that Jessica Jackson pled to
18 attempted murder, blame me for that, take that out
19 on me. Don't sacrifice justice. Don't deprive this
20 man's family of justice for that reason because
21 ultimately, ultimately, at the end of the day it
22 wasn't the purse straps and the strangling that
23 killed Joseph Brown. It was the three gunshot
24 wounds to the head that took the life of Joseph
25 Brown. And I just, you know, just as ordinary human

1 being just believe that people should stand account,
2 they should stand to account for what they actually
3 did. Jessica Jackson tried to kill the victim by
4 strangling him with her purse straps. Guess what?
5 She pled guilty to that; she'll be punished for
6 that. Brittany Epps put three bullets in that man's
7 skull. She should stand to account for that. She
8 should be punished for that. Now you all ask me, I
9 know you're wondering, well wait a minute now,
10 little Miss Jessica come in here and she's telling
11 four and five statements? I get it, I get it. But
12 you know what, there's a reason that Jessica Jackson
13 told four or five statements. You want to know what
14 that reason? 'Cause the first four were lies. They
15 were lies. And they were lies that were very easily
16 discredited, very easily discredited. The first lie
17 was she said she was hurt in a hunting accident in
18 Nesmith. Well, we know that wasn't true. And she
19 soon learned the police wasn't buying that story.
20 The second story, well, I shot the victim, I mean,
21 the victim Mr. Brown, in self-defense as he was
22 trying to rape me. No one else was there, it was
23 just me; that's her second story. She actually
24 tells that second story for the first time at about
25 7:00 in the morning that Saturday morning when

1 Officer Ballard went and gave her a nice little
2 escort from the Florence hospital. The timing of
3 all these statements are important. So she gives
4 that statement to the police about 7:00 in the
5 morning down at the Sheriff's Office. Well, again,
6 there's a reason why that story did not work because
7 it was not true. So they start pushing and said,
8 wait a minute now, you, we know the man's body is in
9 the trunk and you couldn't have done it by yourself.
10 So then she's processing it. It dawns on her, well,
11 okay, no, that's not gonna fly. So she says, okay,
12 well yeah, Brittany was there but Brittany didn't do
13 anything, she was just simply happened to be there.
14 The second statement to the police is given at about
15 10:00 Sunday morning so about two or three hours
16 after she gave the first statement about being by
17 herself; that's important. Now during this time
18 Brittany is, I don't know where she is. She's left
19 her Aunt Ree's house. I don't know where she is.
20 Jessica, of course, doesn't get to leave the
21 Sheriff's Office, she's arrested, she's charged. So
22 she spins the night in jail on Sunday night,
23 March 30th, 2014. And the next morning at about
24 11:00 in the morning she gives another statement to
25 the police. And in that statement she says, okay, I

1 wasn't the one who did the shooting, Brittany did
2 the shooting, and she kind of tells what happened.
3 The timing of that statement is important.

4 Now three months later in July, I believe
5 it was July 28th of 2014, she says she comes clean
6 and she tells it all this time. And she says not
7 only did Brittany shoot Mr. Joseph Brown, but we
8 planned it, the two of us together, we planned not
9 just to rob him, but we planned to kill him. We not
10 only just planned to kill him, I cut my purse straps
11 off my purse and I strangled him from behind and
12 somewhere during that process I get shot in the
13 hand. Brittany shoots Mr. Brown a second time, we
14 lose control of the car, the car wrecked, I jump out
15 I'm panicking, I'm screaming. Brittany then says
16 he's still moving and she fires a third shot into
17 the victim's brain. That's her story in July of
18 2014 so that's three or four months after the
19 murder. Here's what's important about that
20 statement. In July of 2014 Jessica Jackson had no
21 way of knowing what was still in that car and what
22 would be found in that car, in the victim's car,
23 'cause remember, she leaves Ms. Pearline's house by
24 ambulance. She's taken to Florence by ambulance.
25 Investigator Ballard picks her up from the hospital,

1 takes her directly to the Sheriff's Office, and from
2 that point she's still in custody so she doesn't
3 have an opportunity to go back to the car. She
4 doesn't have an opportunity to find anything, move
5 anything, plant anything, destroy anything,
6 absolutely nothing. And the reason why that's
7 important, folks, is because the DNA evidence and
8 the forensic evidence in this case, it wasn't tested
9 until this year, until March of this year. So she
10 couldn't know how the forensic evidence and the DNA
11 evidence found in that car, how that would affect
12 her story. She didn't know if it would prove if
13 she's telling the truth and she didn't know if it
14 would prove if she was telling a lie. Guess what,
15 folks? Guess what? That forensic evidence
16 establishes with beyond a reasonable doubt that the
17 story that she told in July of 2014 four months
18 after this murder was one hundred percent true. How
19 do we know that? How do we know that? I publish
20 State's Exhibit Number 8. That's the front
21 passenger seat of the victim's vehicle, okay. She
22 described the hoodie that Jessica was wearing at the
23 cookout. When the police come out there tow the
24 vehicle, seize this hoodie, take it into evidence,
25 guess what? DNA confirms that the defendant's DNA

1 is on that hoodie. Now what's really more important
2 on that issue is what's in the back seat. State's
3 Exhibit Number 30, that's the rear seat of the
4 victim's vehicle. Now when Jessica Jackson tells
5 law enforcement the next morning that Sunday morning
6 that she didn't shoot Mr. Brown, she was in the back
7 seat, she had no way of knowing that there was going
8 to be a picture of her cut purse straps in the rear
9 seat of the victim's vehicle. She had no way of
10 knowing that. She had no way of knowing that those
11 cut purse straps will later be tested by SLED and
12 have her DNA on it and Mr. Joe Brown's DNA on it.
13 And that's important because remember when she
14 testified she said how her hands were sweating and
15 she was getting nervous. Well, when you sweat and
16 you got your hands on purse straps you're gonna get
17 your DNA on it. And when you take a purse strap and
18 you pull it around somebody's neck to choke him, the
19 victim's DNA is going to be on the purse straps.
20 She told you that she had stole some shirts out of
21 the victim's house or his apartment when he left to
22 go to the gas station. At this point she has no way
23 of knowing that those same T-shirts that she stole
24 would still be the back seat for law enforcement to
25 find and that they would be tested, and guess what,

1 whose DNA is on them? Jessica Jackson. Pair of
2 blue jeans she didn't even own that were in the back
3 seat were tested. Whose DNA is on it? Jessica
4 Jackson. There was a black camisole in the back
5 seat of the victim's vehicle. She would have no way
6 of knowing that once it's tested whose DNA was on
7 that black camisole? Jessica Jackson. There was a
8 swab taken from the rear seat of the victim's
9 vehicle in what Agent Quam describes it looked like
10 bloodstains on State Exhibit Number 106, right in
11 there. Whose DNA is on that back seat? Whose blood
12 is that? Jessica Jackson. And you know what's
13 really ironic? It's interesting that after she's in
14 the ambulance on the way to Florence, the gun, the
15 victim's gun is never recovered; it's not in the
16 car. The keys that he actually uses to start the
17 ignition, it's not in the car. Guess what's in her
18 car -- in his car? Jessica Jackson's purse and her
19 I.D. right in the back seat. Remember? That's how
20 law enforcement knew that, wait a minute now, we
21 found a body and we found I.D. of this girl that
22 said she got shot. Brittany managed to get the keys
23 out the car; she didn't leave that in the car. She
24 managed to get the gun from the car from the glove
25 box, didn't leave that there. Didn't leave the

1 remote or the chain to the victim's vehicle in the
2 car, took all that stuff out of there. Anything
3 that might incriminate her she took that out the
4 car. But she leaves her co-defendant's calling
5 card, her picture I.D. in the car; I don't think
6 that was a coincidence. I really don't.

7 So let's talk about what can we agree on,
8 the State and the Defense in this case, and I think
9 up until the point in time where Mr. Brown gets back
10 to Kingstree, I think for the most part the State
11 can agree on things that happened. Let me just say
12 this while it's on my mind, in this case -- I'll
13 admit I'm biased; but I have to disagree with
14 respectfully with my colleague Ms. Butcher about law
15 enforcement and what they did. In this case the
16 police did exactly what we want our officers to do;
17 and not just getting the evidence that helps the
18 State but to collect and try to pursue all evidence
19 and all leads. You know, Archie Kennedy didn't have
20 to go get 16 people from about four different law
21 enforcement agencies to go out there and try to find
22 that gun two years later. He didn't have to do that
23 in the middle of the summer, in the middle of July,
24 or the end of June. He's following up on the case.
25 You know, when he got wind from Ms. Butcher that

1 this Schain McCrea fella was in prison and trying to
2 say he heard this and heard that, he could have said
3 you know what, I'm not gonna buy that, I mean, I'm
4 not going down to interview that guy. He drove all
5 the way to Charleston with a matter of an hour or so
6 notice, picked the guy up, interviewed him, made
7 sure he was here in court today so you could hear
8 it, for you to decide whether or not he's worthy of
9 belief. They did exactly what we want our police
10 officers to do. And you know what? Yeah, I didn't
11 call Juan Ballard. Guess what? I didn't call about
12 10, 15 different people that I could. I guess I
13 could have called, had every EMS worker who came out
14 there, could have had the fire fighter come out
15 here, put Ballard up, could have put all the SLED
16 agents who were involved. Now we'd be here till
17 next month or the month after; but yeah, I could
18 have done that. And guess what, folks, you wouldn't
19 know no more a month down the road than you know
20 right now. You'd just have 10, 15 different people
21 saying the same thing. So I don't want you to buy
22 that whole notion 'cause it's easy to just try to,
23 you know, throw stuff out there. It's a trick that
24 we like to do with folks. We don't want you focused
25 right here on the truth so we tell you, oh, we throw

1 a little rock over there, look over there, look over
2 there. That's what the Defense is doing to you
3 today. Now.

4 Here's what we know, and this is what
5 surprisingly Jessica and Brittany now in court can
6 agree on. They go to the cookout between 6 and
7 6:30. They stay there for a few hours and leave
8 about 9, about 9. 30 both of those girls told you
9 about that timing. They arrive back in Kingstree,
10 if we give a little leeway in time, somewhere
11 between 9:20 p.m. that night and 9:50 p.m. So by
12 quarter to 10 that night they're in Kingstree, okay.
13 And what I wanted to do when I was cross-examining
14 Ms. Epps is like, wait a minute now, you tell me how
15 long it took you to do all this so we could have an
16 idea of how this crime came about. And she went
17 through the timelines. I said, okay, and she was,
18 she was careful. I don't remember, I wasn't a
19 watch, I don't have any idea of time. I said, okay,
20 that's fine, tell me how long it took you to do
21 certain things so we can try to figure out 'cause
22 she wants you to know the truth, I want you to know
23 the truth. So I question her. And one of the
24 things that I do in addition to being a solicitor is
25 I practice law with Ronnie Sabb who has guided my

1 legal career and is a great mentor to me. One of
2 the things he always tells me, listen, Kim, if you
3 want to find out if somebody is telling the truth
4 you press them for details. And he likes to use the
5 phrase the devil is in the details. He said most
6 people if they're telling a lie, unless they're just
7 simply pathological, they're not gonna think the lie
8 all the way through and so when you press them for
9 details, if it would stand scrutiny, you can feel
10 pretty comfortable they're telling the truth. If
11 they're lying, if they're lying, a little bit of the
12 truth can't help but come out because, see, truth
13 doesn't change, it doesn't change. So the reason
14 why that's important and the reason why it took so
15 long talking to Ms. Epps, I wanted to press her for
16 details. You know what I found out -- Mr. Sabb,
17 what he told me; he gave me some good advice, real
18 good advice -- because when I pressed Ms. Epps for
19 details a little bit of the truth couldn't help but
20 weed itself out. And when I say a little bit of the
21 truth Ms. Epps is talking about and it was a little
22 nugget that she gather me, she said, it all happened
23 so fast. Y'all remember her saying that? I said,
24 well, wait a minute, what do you mean, what happened
25 so fast, what exactly happened so fast? Because the

1 way what she tells it on the stand this all took a
2 long time. She says that the victim and Theodore
3 McKnight and Jessica dropped her off at Bee's store
4 and she's taking her time walking to get some
5 marijuana, she purchases the marijuana and has a
6 conversation with the marijuana guy, then she
7 strolls back to B store, passes B store and walks up
8 on Jessica crouching down with her hand hurt. So
9 what about that went so fast? Then she goes on to
10 say -- she gave me another nugget I wasn't expecting
11 it -- but she says Jessica's panicking, I'm
12 panicking, I'm cussing, fussing, Jessica's cussing,
13 fussing. Well, wait a minute now, if you're coming
14 back and you see your girlfriend with a hurt hand
15 why would you be cussing and fussing at her. And
16 then it dawned on me. I said, wait a minute, I
17 heard that before. And y'all remember where y'all
18 heard that from? When Jessica gets shot she jumps
19 out the car and she's panicking and she's saying how
20 Brittany just fussing at her and calling her the P
21 word and said that's why I can't do this stuff with
22 you and you need to help me. And you know what,
23 that corroborates what Jessica said. And the whole
24 notion about this happening so fast, it did happen
25 fast; she's absolutely right about that. Because

1 what happens, Jessica strangles the man from behind.
2 Of course, he's driving at the time. They're not
3 thinking. He loses control of the vehicle, she's
4 shot, he's shot, and the vehicle crashes into the
5 woods. That's what happened so fast. See, Jessica
6 wasn't supposed to get shot in the hand; that wasn't
7 part of the plan. They weren't supposed to end up
8 in the woods, bogged down in the woods; that wasn't
9 part of the plan. But you know what, I pressed her
10 for some more details.

11 What was so interesting, when she's
12 describing how she comes back supposedly and she
13 sees Brittany crouched down with her hand hurting
14 when she's talking about how I'm fussing and how I'm
15 cussing and Jessica's panicking and fussing and
16 cussing, she never mentions Theo, never mentions
17 Theo. So if she's cussing and fussing and Jessica's
18 cussing and fussing, what's Theo doing? What's
19 really funny about this whole notion of putting Theo
20 in there is because, you know, he's a convenient
21 scapegoat. Now when she's talking to Ms. Pearline
22 she doesn't mention anything about Theo. Of course,
23 Ms. Pearline doesn't see anybody other than these
24 two girls. And when Brittany is talking to the
25 dispatcher, doesn't mention anything about Theo.

1 When she's talking to Officer Staggers doesn't
2 mention anything about Theo. When she's writing all
3 these letters back and forth to her Boo while
4 they're both looked up, guess what, no mention of
5 Theo. Now surely -- and y'all will have the letter
6 back there with you, State Exhibit Number 41-A. In
7 all the letters she's writing back to Jessica, you
8 think if Theo was there she wouldn't mention that
9 something about that in that letter. Jessica, you
10 need to come clean, you need to tell them that we
11 need just let everybody know that Theo was there.
12 She saved that, the whole notion about putting
13 Theodore McKnight in, she saved that, not for the
14 police, not for EMS, but for you. That was just for
15 your purpose.

16 And folks, you know, the -- if this
17 weren't such a serious case it would be funny, how
18 they went and got that guy to come up here to
19 testify about that foolishness, Mr. Schain McCrea
20 you. Mister convicted felon come up here and create
21 this story after he and the defendant's mother are
22 chatting and pillow talking all year long, and that
23 just come up just out the blue ten days before her
24 trial, ten days before her trial; how convenient is
25 that. You know, if he can help his phone buddy's

1 daughter out and he can get back at the prosecutor
2 for putting him back in prison, why not kill two
3 birds with one stone. He's not worthy of your
4 belief.

5 So when I gave and asked Ms. Epps about
6 the timeline it was about an hour-and-a-half that
7 she couldn't account for. What we know that's
8 undisputed in this case is Mr. Brown, the defendant,
9 and Ms. Jackson get back to Kingstree by about ten
10 minutes to 10 that night. What we know is
11 undisputed that 9-1-1 call isn't placed until
12 11:58 p.m. So what happens during this two hour
13 period? What is Ms. Epps doing for two hours? How
14 does she account for her whereabouts for two hours?
15 She can't. But you know what accounts for her
16 whereabouts for two hours? All that trying to get
17 the car from unbogged in the mud, all that going
18 around in the woods and trying to find a piece of
19 wood to put under the tire so they can back the car
20 out, all of that going to somebody's house and
21 seeing if somebody can tow them out, all of that
22 running back and forth, all of that panicking and
23 looking and seeing if cars are coming. Yeah, that
24 would have took about 90 minutes, two hours to do
25 all of that, absolutely, absolutely. So they go to

1 Ms. Pearline's house. Ms. Pearline tells them, I
2 don't have phone, go across the street. Brittany
3 goes across the street, brings the phone back, calls
4 9-1-1. And it is this time that the whole story for
5 her to explain how Jessica gets shot, that's when we
6 hear that story for the first time. Brittany
7 leaves, tells Officer Staggers that it's my uncle's
8 gun. And you know, what's really important about
9 that exchange, that conversation with Officer
10 Staggers? Theodore even according to her wasn't
11 nowhere around. So why would she tell Officer
12 Staggers that it was my uncle's gun and I'm going
13 back to my aunt's house? For the reason why she
14 told Officer Staggers that she was going to her
15 aunt's house 'cause that was the truth. And it just
16 so happens that right after EMS is there and they're
17 getting ready to take Jessica to the hospital,
18 Brittany walks back to the car, to the victim's car.
19 And you know what, folks, you remember when
20 Ms. Jackson testified that after Brittany shot the
21 victim that she put the gun back in the glove box.
22 Mind now, Jessica doesn't go back to the car. That
23 picture, glove box wide open. Why is the glove box
24 that important? 'Cause you remember Mr. Samuel
25 Barr, the nosey neighbor, who not only goes out his

1 house and hears about the shooting on the radio but
2 actually goes out and sees the car? He's curious.
3 So he gets out and he sees the Cadillac that's been
4 wrecked. And folks, we know who walked up there to
5 him. You know why she was going back there? 'Cause
6 she wanted to get the gun. That's exactly -- and
7 that's the only reason why she went back to that
8 car, to get the gun. And folks, when you look at
9 how she had entered this whole thing, even took the
10 time to take the arm rest cover where all Mr. Joe's
11 blood was, ripped it from the front of the car, took
12 the time to hide it under the floor mat in the rear
13 of the car. Took enough time to do all that. So
14 when she says she then leaves and then she goes to
15 Aunt Ree's house, I asked her, ma'am, Mr. McKnight
16 wasn't with you then? No, ma'am. I said, okay, I
17 said but you went to Theo's house that night and
18 told him that Jessica got shot. Y'all saw how she
19 shy answered my question on that? She said, hum, I
20 don't think I did that, Ms. Barr, I don't remember
21 doing that. We're talking about what you believe in
22 this case? That's pretty important. That's a
23 pretty important detail. You don't remember going
24 back to Theodore McKnight's house to tell him that
25 Jessica was shot? And y'all, they can parade a

1 hundred camo hoodies in the courtroom, as many as
2 they want, she had on a camo coat that night that
3 she shot the victim in, but this ain't it. You can
4 look at this and tell this thing is almost brand
5 spanking new. The first time this ever popped up,
6 kind of like Mr. McKnight's name, was right here in
7 this courtroom for y'all's benefit.

8 It is so easy with all the gory details of
9 this case and sensational details of this case, it's
10 easy to forget what we really are here about. You
11 all have heard evidence that the victim was
12 supposedly trying to have sex with Jessica Jackson.
13 You know the sad part about that? They can say all
14 they want about him. You know what, he can't, he's
15 not here to defend himself, he's not here. Because
16 of her he can't come up here and say, folk; you
17 know, I didn't do that. But you know, it's a good
18 thing that there is something called truth. Even
19 though he can't speak for himself right now; the
20 evidence can. A man is supposed to be going to have
21 sex with somebody, y'all tell my why his belt is
22 still buckled. If the reason why his clothes are
23 pulled over his head was 'cause he was about to have
24 sex, how come he doesn't have bullet any holes in
25 his shirt. Somebody tell me that, please. If he's

1 going to have sex with this girl why wouldn't he do
2 it at his house. Why is he gonna go, an 887 year
3 old man gonna go in the woods in his car. And if he
4 is supposed to be having sex with Jessica Jackson,
5 mind you, this defendant says that Jessica is in the
6 rear seat when she's supposedly dropped off, when
7 the defendant is supposedly dropped off at Bee's
8 store. if Jessica is supposed to have sex with the
9 victim, why is the divider still up in the back
10 seat? And presumably the man and woman gonna have
11 sex in the back seat of a car you're gonna have it
12 laid out. Why is the divider seat up there? If
13 Theodore McKnight was actually there and was
14 actually in the front seat as this defendant needs
15 him to be so she can walk, why the clothes and food,
16 all that stuff down in the floorboard. Please don't
17 check your common sense at the front door. When a
18 man gets in a car, y'all know a man is gonna be just
19 sitting down like this, you're gonna pick-- if stuff
20 is on the floor in your way what you gonna do?
21 You're gonna pick it up, move it out the way.

22 Let me submit to you how this shooting
23 happened. I'm gonna use Investigator Kennedy and
24 Ms. Swilley. Brittany Epps is in the front
25 passenger seat just as Jessica Jackson testified.

1 Mr. Joe Brown is driving his vehicle just as Jessica
2 Jackson testified about. Jessica Jackson is in the
3 rear passenger seat right behind Mr. Joe. She cuts
4 her purse straps from the purse, and she uses, just
5 like she testified about, the world take off. That
6 was the clue to Brittany to let her know it's on.
7 She puts the straps around the victim's neck. The
8 victim realizes, well, oh, wait a minute, wait,
9 wait, wait, so he goes in the glove compartment and
10 reached for his gun. Brittany, huh-uh, she goes in
11 the glove compartment reaching. Well, she's about
12 70 years younger and a whole lot faster than the
13 victim so she gets it first. She pulls the gun,
14 shoots one time, what happens? Boom. That first
15 gun, that first shot enters the victim's left
16 temple, exited behind his left ear. Guess what's
17 behind that left ear. Jessica Jackson's left thumb.
18 That bullet is shot, goes through her thumb, out the
19 driver's window. How do we know that's true? SLED
20 agent testified bullet holes through the driver's
21 window. Jessica Jackson's hands go back, purse
22 straps go back. How do we know that's true. Purse
23 straps in the rear passenger floor board. Brittany
24 shoots a second time. Second bullet enters the
25 victim's right temple, lodges in his body. Victim's

1 driving, loses control of the vehicle, crashes.
2 Jessica jumps out of the car and panics. Victim at
3 this point sustained two gunshot wounds to the head
4 causing his body to tilt down on his arm rest.
5 Brittany jumps out of the car and says whatever she
6 says to Jessica, then says he's still moving. From
7 the front passenger seat outside the vehicle right
8 at the front passenger door, she fires a third shot,
9 boom, hits the victim right in the top of his head.
10 That bullet goes into his body. That's simply how
11 it happened. And you know what, that happened a
12 whole lot faster than how I just recounted it. That
13 happened seconds so she's right. It happened real
14 fast.

15 Now folks, let me just tell you this part
16 and I'll be done. I had a friend of mine who is a
17 former prosecutor who tried a case and he felt
18 pretty good in terms of how he thought he presented
19 the case, thought he would get a conviction. And
20 the jury deliberated for a while and came back and
21 they found the person, whatever the charge was, they
22 found the person not guilty. And so he did as I
23 often do in cases where the juries are willing to
24 talk to me. He went and he asked, he said, well, do
25 you mind if I talk to some of you all to see if I

1 can, there's something that I could have done better
2 or if something about the evidence that wasn't
3 there, you can kind of tell me why you all voted to
4 find the person not guilty. And he said he talked
5 with about three or four jurors. And they told him,
6 oh, we knew the guy did it, it's just that the State
7 didn't prove it. And so he said, okay, and he went
8 on about his day. He said, you know, I started
9 thinking about it, wait a minute now, how did they
10 know the guy did it? You know how they knew the guy
11 did it? 'Cause that's what the evidence
12 established. That was the evidence. As jurors you
13 cannot know that the person did it and not at the
14 same time determine that the State has proved the
15 case beyond a reasonable doubt. Folks, Brittany
16 Epps murdered, in cold blood I mind you, even at the
17 age of 16, murdered Joseph Brown back on the night
18 of March 29th, 2014. And you know, I know it's hard
19 to believe that two females would be involved in
20 this, particularly two female teenagers. But the
21 level of planning and premeditation and the
22 cunningness of this and the calculating manner, cold
23 blooded manner in which this man was executed with
24 his own gun in his own car makes her very efficient
25 and sophisticated killer at 16. And either 16

1 that's a long time to be on this earth People
2 should stand to account for what they did. Brittany
3 Epps in this case committed the offense of murder.
4 We submit that the only just verdict and just
5 finding in this case is that of guilty, and we ask
6 you to do just that. Thank you all.

7 THE COURT: Ladies and gentlemen, the only
8 thing remaining to be done are instructions on the
9 law by the Court. You've been in the courtroom now
10 for about an hour-and-a-half, and these instructions
11 will take about 20 or 30 minutes. Would y'all like
12 to take a quick break before I give you
13 instructions, then bring you back in, or is
14 everybody comfortable?

15 (No response.)

16 THE COURT: All right, good. Mr. Foreman,
17 ladies and gentlemen of the jury, if you would give
18 me your attention. You have followed very patiently
19 and listened very attentively to the presentation of
20 the evidence and also to the able arguments in this
21 case and the able arguments of the Solicitor and
22 Ms. Barr on behalf of the State and Ms. Butcher on
23 behalf of the Defendant, and I thank you for that.

24 It now becomes the duty of the trial judge
25 under the constitution of this state to charge and

1 instruct you in the law applicable to this case.
2 And it is your duty as jurors to accept and apply
3 the law as the Court will now state it to you. And
4 as jurors it is your exclusive duty to evaluate all
5 the issues of fact in this case and for that purpose
6 to determine the value, the weight, and the truth of
7 the evidence. Both the State of South Carolina and
8 the Defendant have a right to expect that you will
9 conscientiously consider and evaluate the evidence
10 and apply the law of the case thereto to the end
11 that both the State of South Carolina and the
12 Defendant will receive and obtain a fair and
13 impartial trial.

14 Now when I use the word defendant I refer
15 of course to Ms. Brittany Epps. The State of South
16 Carolina by the bill of indictment in this case
17 charges the defendant Brittany Epps with two
18 offenses. The first is count one is for murder, and
19 the indictment provides in part that the defendants
20 Brittany Epps and Jessica Barr [sic] did in
21 Williamsburg County on or about March 29th, 2014,
22 willfully, feloniously and intentionally kill the
23 victim Joseph Brown with malice aforethought by
24 means of shooting and the victim did die as a
25 proximate result thereof. Count two is a separate

1 crime of what we call possession of a firearm during
2 the commission of a violent crime and alleges that
3 the defendant did in Williamsburg County on or about
4 March 29th 2014 possess a firearm or visibly
5 displayed what appeared to be a firearm during the
6 commission or attempted commission of a violent
7 crime. To these charges and to this indictment the
8 defendant has entered a plea of not guilty. This
9 plea of not guilty by the defendant places the
10 burden of proof on the State to prove by evidence
11 the guilt of the defendant beyond a reasonable
12 doubt. Before you can -- the jury can find the
13 defendant guilty.

14 The defendant Ms. Epps is presumed in the
15 law innocent of the charge contained in the
16 indictment. It is a cardinal and fundamental rule
17 of the law of evidence that a defendant,
18 irrespective of the enormity of the charges against
19 him or her, will always be presumed innocent of the
20 crime for which she is indicted unless and until the
21 guilt of the defendant has been proven by evidence
22 which satisfies you, the jury, of her guilt beyond a
23 reasonable doubt. The presumption of innocence is
24 not just a mere legal theory. It is not just a
25 legal phrase. The presumption of innocence is a

1 substantial right to which every accused is
2 entitled. Our supreme court has declared that the
3 presumption is like a robe of righteousness placed
4 about the shoulders of this defendant and it stays
5 with her and assigns to her that class, the
6 innocent, until that presumptive robe of
7 righteousness has been stripped from her person by
8 evidence satisfying you, the jury, of her guilt
9 beyond a reasonable doubt.

10 The presumption of innocence accompanies
11 the defendant from the time of her appearance and
12 arraignment in this court and continues with the
13 defendant after you retire to the jury room to
14 deliberate your verdict. The presumption of
15 innocence stays with the defendant and continues in
16 existence to her benefit until you, the jury, reach
17 the conclusion that the defendant [sic] has proven
18 the guilt of the defendant beyond a reasonable
19 doubt. Now the State is not required to prove the
20 guilt of the defendant beyond all doubt or beyond
21 every doubt, but beyond a reasonable doubt. What is
22 a reasonable doubt? It is not an imaginary or
23 fanciful doubt or weak doubt. It is a substantial
24 doubt. It is a doubt which the words imply, a doubt
25 for which you can give or assign a reason based on

1 the testimony in evidence in this case. A
2 reasonable doubt is not any sort of a duty. You and
3 I know from everyday life experiences that you may
4 have a sort of a doubt about any matter that arises
5 no matter how serious it may be or how trivial it
6 may be. A reasonable doubt is a doubt that makes an
7 honest, sincere, conscientious juror in search of
8 the truth hesitate to act.

9 Proof beyond a reasonable doubt is proof
10 which leaves you firmly convinced of the defendant's
11 guilt. If you have a doubt for which you can give
12 or assign a reason to the guilt of the defendant,
13 then she is entitled to a verdict of not guilty.
14 Reasonable doubt may arise from evidence which is in
15 the case or from the lack of evidence in the case.
16 You, the jury, must make the determination of
17 whether or not reasonable doubt exists as to the
18 guilt of the defendant. The very fact, however,
19 that the jury engages in a full and free decision of
20 issues of guilt or non-guilt in this case with a
21 normal conversational ebb and flow on these issues,
22 does not automatically mean that reasonable doubt
23 exists in this case or in any other case. I charge
24 you that the defendant is entitled to every
25 reasonable doubt arising from the whole case or upon

1 any issue of fact essential to conviction and a
2 verdict of guilty. If you have a reasonable doubt
3 as to how that issue should be resolved it would be
4 your duty to resolve that doubt in favor of the
5 defendant. A defendant, ladies and gentlemen, is
6 not required to prove her innocence, but the State
7 is required by law to charge, to prove every
8 essential element of the offense charged against the
9 defendant by evidence which satisfies you, the jury,
10 of the guilt of the defendant beyond a reasonable
11 doubt.

12 If upon the whole case you have a
13 reasonable doubt as to guilt or innocence of the
14 defendant she is entitled to that reasonable doubt
15 and would be entitled to an acquittal and a verdict
16 of not guilty. But on the other hand, if upon the
17 whole case you find the State has proven by the
18 evidence which satisfies you, the jury, of the guilt
19 of the defendant beyond a reasonable doubt, then in
20 such circumstances it would equally be your duty to
21 convict a defendant and find her guilty. Now I
22 instruct you that the indictment in this case which
23 I have in my hand is not evidence of anything. It
24 cannot be considered by the jury as evidence in this
25 case. The indictment is simply the formal written

1 instrument which contains the charges against a
2 defendant and it serves as the document by which
3 this case is brought to trial.

4 During this trial each of us, you and I,
5 have certain duties to perform. As the trial judge
6 it is my responsibility to preside over the trial of
7 this case, and I also have the duty to rule upon or
8 pass upon the admissibility of evidence offered
9 during the course of the trial. You are to consider
10 only the competent evidence before you; that is, the
11 evidence that has been admitted into the record.
12 And you are to disregard and disabuse from your mind
13 testimony ordered stricken from the record in this
14 case during the progress of the trial, if there be
15 any. And you're to consider only the testimony
16 which has been presented from the witness stand
17 together with any exhibits admitted into the record
18 of this case and any stipulations of counsel made in
19 the record, if there are any. I have the additional
20 duty to charge you the applicable law in this case.
21 As the presiding judge I am the sole judge of the
22 law, and it is your duty to accept and apply the law
23 as I now state it to you. If you have a
24 preconceived idea on what the law is or what the law
25 ought to be and it does not agree with what I tell

1 you the law is, you are obligated under your oath to
2 abandon this preconception on your part because you
3 are sworn to accept the law precisely as I state it
4 to you.

5 In every case tried in this court before a
6 jury the jury becomes the sole and exclusive judge
7 of the facts in this case. You, the jury, are the
8 judge of the facts in this case. The court is the
9 judge of the law. The constitution of this state
10 has declared that the trial judge shall not
11 intimate, state, comment upon, or make any statement
12 to a trial jury about the facts of a case. Since
13 you are the sole judges of the facts you're not to
14 infer from anything that I have said during the
15 progress of this trial in ruling upon the
16 admissibility of evidence or otherwise, or anything
17 that I say to you know during the course of this
18 charge to you that I have an opinion about the facts
19 in the case; I do not. The law does not permit me
20 to have an opinion about the facts of the case.
21 That is a matter solely for you, the jury, to
22 determine.

23 As jurors then it is your duty to
24 determine as I have stated to you, the effect, the
25 value, the weight, and the truth of the evidence

1 presented during the course of this trial.
2 Necessarily then you must assess the credibility of
3 the witnesses who have testified in this case.
4 Credibility is simply a legalistic term which means
5 believability. It becomes your duty then to analyze
6 and evaluate the evidence and to determine that
7 evidence which convinces you of its truth. I charge
8 you that in determining the question of credibility
9 or believability of the witnesses, you may believe
10 one witness as against several witnesses or several
11 witnesses against one witness. You may believe a
12 part of the testimony of a witness and reject the
13 remaining part of the testimony of that same
14 witness. You may believe the testimony of a witness
15 in its entirety or reject the testimony of a witness
16 in its entirety. You may consider whether any
17 witness has exhibited any interest, any bias, or any
18 prejudice in the case. You may consider the
19 demeanor of the witness; that is, the appearance of
20 the witness from the witness stand. And you may
21 consider the opportunity for knowledge concerning
22 those things about which a witness testified. These
23 considerations you do not exercise arbitrarily, but
24 if in your good judgment there is sound reason in
25 the record for so doing. Because your objection,

1 ladies and gentlemen, is to find the truth whether
2 it comes from a witness or witnesses for the State
3 of South Carolina or a witness or witnesses for the
4 defendant. And in doing so, in exercising your
5 mental processes and in determining what you
6 consider to be true, the law simply requires that
7 you exercise your good judgment, your common sense,
8 your sense of logic and reason, and your experiences
9 in life. You then apply these attributes of ability
10 to the evidence and determine what you consider to
11 be the truthful evidence. And to these true state
12 of facts as determined by you, the jury, you take
13 and apply the law as I now state it to you and,
14 thus, arrive at a verdict in this case.

15 Now as I said, the defendant in this case
16 is charged with the offense of murder. What is
17 murder? Murder is defined as the willful, felonious
18 killing of a human being by a human being with
19 malice aforethought, that malice being either
20 expressed malice or implied malice. Section 16-3-10
21 of the Code of Laws of South Carolina provides that
22 murder is the killing of a person with malice
23 aforethought either expressed or implied. The State
24 must prove beyond a reasonable doubt that the
25 defendant killed another person with malice

1 aforethought. The presence of malice is a required
2 element of murder. Malice is defined as being
3 hatred or ill will. Malice in a legal sense does
4 not necessarily import ill will toward the
5 individual injured, but signifies rather a general,
6 malignant recklessness of the lives and safety of
7 others or a condition of the mind which shows a
8 heart regardless of social duty and fatally bent on
9 mischief. Malice is the wrongful intent to injure
10 another person. It indicates a wicked or depraved
11 spirit intent on doing wrong. Malice is a legal
12 term implying wickedness and excluding a just cause
13 or excuse. It is the doing of a wrongful act
14 intentionally and without just cause or excuse. The
15 term malice indicates a formed purpose designed to
16 do a wrongful act under the circumstances that
17 exclude any legal right to do so.

18 Malice may be either expressed or implied.
19 The words expressed or implied add nothing to the
20 meaning of the word malice. They do not imply
21 different kinds of malice but merely the manner in
22 which the only kind known to the law may be shown to
23 exist; that is, either by positive evidence or by
24 inference. Expressed malice is when there is a
25 deliberate intention to unlawfully take the life of

1 another. Implied malice is when circumstances
2 demonstrate a wanton or reckless disregard for human
3 life or a reasonably prudent man would have known
4 that according to common experience there was a
5 plain and strong likelihood that death would follow
6 the contemplated act. The law says that if one
7 intentionally kills another with a deadly weapon the
8 implication of malice may arise. If facts are
9 proven beyond reasonable doubt sufficient to raise
10 an inference of malice to your satisfaction, this
11 inference would be simply an evidentiary fact to be
12 taken into consideration by you, the jury, along
13 with other evidence in this case and you may give it
14 such weight as you should determine.

15 A deadly weapon is any article,
16 instrument, or substance which is likely to cause
17 death or great bodily harm. Whether an instrument
18 or object has been used as a deadly weapon depends
19 upon the facts and circumstances of the case.
20 Although malice must be aforethought, there is no
21 requirement that it must exist for any appreciable
22 length of time before the commission of the act. It
23 may be conceived at the very moment the act occurs.
24 There must be a combination of evil intent and the
25 act producing the result.

1 Now there is another crime charged in this
2 case, second count, and that is the possession of a
3 weapon during the commission or attempted commission
4 to commit a violent crime. Section 16-23-490 of the
5 Code of Laws of South Carolina provides that if a
6 person is in possession of a firearm or visibly
7 displays what appears to be a firearm during the
8 commission of a violent crime and is convicted of
9 committing or attempting to commit a violent crime,
10 that person is guilty of this separate offense of
11 possession of a firearm during the commission of a
12 violent crime. A firearm is defined as any machine
13 gun, automatic rifle, revolver, pistol, or any
14 weapon which will or is designed to or may readily
15 be converted to expel a projectile. Section 16-1-60
16 of the Code of Laws of South Carolina gives the
17 definition of the crimes that are considered violent
18 crimes in South Carolina, and I will tell you that
19 murder is considered a violent crime. For you to
20 find the defendant guilty of the separate offense of
21 possession of a firearm during the commission of a
22 violent crime you must first find the defendant
23 guilty of either committing a violent crime or
24 attempting to commit a violent crime, in this case
25 the crime of murder. If you find the defendant

1 guilty you would then determine whether the State
2 has proven beyond a reasonable doubt that the
3 defendant was in possession of a firearm or visibly
4 displayed what appeared to be a firearm during the
5 commission of a violent crime. Possession means
6 more than simply having an object in one's
7 possession. Conviction of possession requires proof
8 of possession either actual or constructive coupled
9 with knowledge of the firearm's presence.

10 Possession can be shown by either actual or
11 constructive possession.

12 Now ladies and gentlemen, those are the
13 two crimes that are charged and there are several
14 other principles that I want to charge you with.
15 First of all, there are generally two types of
16 evidences which are presented in a case, direct and
17 circumstance. Direct evidence directly proves the
18 existence of a fact. It does not require deduction.
19 Circumstantial evidence is proof of a chain of facts
20 and circumstances indicating the existence of a
21 fact. Crimes may be proven by circumstantial
22 evidence. The law makes no distinction between the
23 weight or value to be given to either direct or
24 circumstantial evidence. However, to the extent
25 that the State relies on circumstantial evidence all

1 of the circumstances must be consistent with each
2 other; and when taken together, point conclusively
3 the guilt of the accused beyond a reasonable doubt.
4 If these circumstances merely portray the
5 defendant's behavior as suspicious the proof has
6 failed. The State has the burden of proving the
7 defendant beyond a reasonable, guilty beyond a
8 reasonable doubt and this burden rests with the
9 State regardless of whether the State relies on
10 direct evidence, circumstantial evidence, or some
11 combination of the two.

12 Now ladies and gentlemen, I would tell you
13 there has been testimony in this case about what one
14 witness told another witness. I charge you that the
15 testimony of this witness does not go to the truth
16 of the alleged statements or statements, but only to
17 the credibility or believability of the person who
18 is supposed to have made them. You must not
19 consider these alleged statements as true, but only
20 whether they reflect or impeach the credibility of
21 the witness who is supposed to have made the
22 statement. Now there have also been testimony in
23 this case about that you have heard from witnesses
24 that have been qualified as experts. I will tell
25 you this, that lay witnesses are limited to

1 testifying about facts within their knowledge and
2 are not allowed to give opinions; but certain
3 witnesses who by their education, training, and
4 experience are considered experts in a particular
5 field may give their opinions in that field based on
6 the facts of the matter and their conclusions.

7 These opinions constitute evidences to be considered
8 by you in connection with all the other testimony
9 and evidence in this case. You may consider the
10 expert's opinion just as you do all of the other
11 evidence in this case, and it is for you, the jury,
12 to decide how much weight to give to the testimony
13 of the expert. You must weigh such evidence and
14 accept or reject it in the same manner that you
15 treat all other evidence in this case.

16 Now I've about finished my instructions to
17 you and let me just make sure I've covered
18 everything. Oh, there have been some exhibits that
19 have been introduced into evidence that are
20 electronic exhibits. And all exhibits that have
21 been introduced will go with you to your jury room,
22 and you'll have the opportunity to look at them, see
23 those exhibits as long as you would like. If there
24 are any electronic evidence such as recordings or
25 videos of things of that nature, you won't have the

1 equipment in the jury to play those; but Mr.
2 Foreman, if you do want to hear som of those just
3 give me a signed note and we will bring you back in
4 the courtroom or we can make arrangements for you to
5 view those or to listen to those exhibits.

6 Now, ladies and gentlemen, you are not
7 partisans or advocates for the State of South
8 Carolina or for this defendant. You have no -- you
9 do not serve on a jury to reward your friends or
10 punish your enemies. Obviously such a perverted
11 system of justice would be intolerable. You have
12 been selected by both the State and the Defendant as
13 fair and impartial jurors. It is your duty then by
14 your joint deliberations to determine the truth in
15 this case giving to the defendant the benefit of
16 every reasonable doubt on each if and every issue.
17 And then to the facts which you determine to be
18 true, you then take and apply the law which has been
19 given to you by this Court and arrive at a verdict
20 which does speak the truth. For the word verdict
21 has a Latin derivative and it comes from the Latin
22 phrase veredicto meaning to speak the truth or truth
23 saying. And when you have accomplished these
24 responsibilities you will have satisfied your oath
25 as jurors and you will have discharged your duty to

1 this court.

2 Now I want to instruct you on the forms of
3 verdict in this case. If the State has failed to
4 prove the guilt of the defendant beyond a reasonable
5 doubt your verdict would be two words, not guilty.
6 If the State has proven the guilt of the defendant
7 beyond a reasonable doubt your verdict would be one
8 word, guilty. The verdict which you render in this
9 case must be the verdict of each and every juror.
10 It must be your unanimous verdict. All twelve of
11 you must agree on the verdict that you authorize the
12 foreman to write.

13 Now, Mr. Foreman, I have prepared a
14 verdict form on a sheet of paper on which I have
15 written the word verdict form, and I will tell you
16 initially that the sequence in which I have stated
17 the possible forms on, possible verdicts on this
18 form have absolutely no significance whatsoever and
19 are not suggestive of anything verdict on the part
20 of the Court. But I obviously had to put something
21 first and something secondly, but you should not
22 infer from the order which the verdicts are on this
23 form that I have any opinion as to what your verdict
24 should be. That is a matter totally up to you. But
25 across the top here we have State of South Carolina,

1 County of Williamsburg County, Court of General
2 Sessions and the indictment number. State of South
3 Carolina versus Brittany Epps, and verdict. We, the
4 jury, by unanimous consent -- this is on the first
5 -- find the defendant Brittany Epps, count one on
6 the charge of murder, guilty or not guilty. Just
7 simply put a check or X on whichever is the verdict
8 of the entire jury. If you find the defendant not
9 guilty you would stop and sign the verdict form.
10 That would be the end of your deliberations. If you
11 find the defendant guilty you would consider count
12 two, which is on the charge of possession of a
13 firearm during the commission of a violent crime
14 either guilty or not guilty, and then you would sign
15 your name and date it and we will return you to the
16 courtroom as quick as we can.

17 Now ladies and gentlemen, I'm going to
18 send you to your jury room. I'm gonna ask you that
19 you not begin your deliberations just yet. There
20 are some certain matters of law which I now need to
21 take up with the attorneys; and if it is not
22 necessary that I bring you back into the courtroom
23 the bailiffs will bring you the verdict form. They
24 will also bring you the exhibits and tell you to
25 begin your deliberation. When you have reached a

1 verdict simply notify the bailiffs and we will
2 return you to the courtroom as soon as possible. If
3 you need to communicate with me you'll have the
4 foreman give me a signed, give the foreman, have the
5 foreman write out a signed note, give it to the
6 bailiff, he will give it to me and I will try to
7 resolve any questions that you might have from the
8 standpoint of questions of law or instructions to
9 you. You, keeping in mind that I cannot help you
10 with the facts; but if there's anything I can help
11 you with on the law, I will be glad to do so. I
12 believe that covers all of the matters that I need
13 to talk with you about by way of charge. I'm
14 gonna -- oh, one other thing, we have arranged for
15 lunch. It is being brought in and you can go ahead
16 and eat your lunch and then start deliberations, or
17 you can have a working lunch, eat, deliberate as you
18 go along, but don't begin your deliberations just
19 yet till we tell you to do so and then we will also
20 bring lunch. With those instructions I'm gonna ask
21 you go to your jury room, but wait just a few
22 minutes before you begin any deliberations. Thank
23 you very much. Oh, the alternates, I'm gonna ask
24 the two alternates to stay in the courtroom please.
25 Thank you. The twelve present jurors may retire to

1 the jury room. thank you.

2 (WHEREUPON, the jury was removed from the
3 courtroom at 12:43 p.m.)

4 THE COURT: Any additions or exemptions on
5 behalf of the State, Ms. Barr?

6 MS. BARR: No, Your Honor.

7 THE COURT: On behalf of Defense?

8 MS. BUTCHER: None, Your Honor.

9 THE COURT: All right. If y'all will get
10 the exhibits together, make sure they're
11 appropriate, there's not anything that they're not
12 supposed, is not supposed to go to the jury room,
13 and get those to the bailiff. I need to address the
14 alternate in just a minute.

15 The law does not allow me to have more
16 than twelve jurors. The purpose of selecting two
17 alternates is in the event that something happens, a
18 jury gets ill or somebody is unable to serve. You
19 heard all the testimony in this case, but you are
20 not going to participate in the decision. All
21 twelve of our jurors are here and they would be the
22 ones that make a decision. I do want to tell you I
23 appreciate your willingness to serve on this case.
24 And I will tell you also that once you've been
25 excused as a juror in this case there's nothing

1 illegal about your talking to anyone about your
2 service on the case. There's nothing illegal about
3 anybody talking to you about your service. It is a
4 practice of which I strongly disapprove and I
5 strongly discourage, but it's not illegal. You have
6 the right to talk to somebody or anybody, but you
7 have the right not to talk with anybody. If anybody
8 wants to talk with you about your service on this
9 case and you don't want to discuss it with them and
10 they continue to harass and bother you, you let the
11 court personnel know and I'll deal with them.

12 (Alternates were excused.)

13 THE COURT: Tell the jury to begin their
14 deliberations.

15 (Jury was instructed to begin
16 deliberations at 12:50 p.m.)

17 THE COURT: Back on the record with regard
18 to the matter of State versus Brittany Epps. The
19 defendant Brittany Epps is present with her attorney
20 Ms. Butcher. Ms. Barr is here we representing the
21 Third Circuit Solicitor's Office. Counsel, we have
22 a note from the jury whereby they are asking, the
23 note says, could we please listen to the 9-1-1
24 recording signed by Mr. Hatch, the foreperson of the
25 jury. I'll have the note made a Court exhibit and

1 made a part of the record. Let the record reflect
2 that we have retrieved the disk from the jury room
3 and I believe it has been set up on the computer.

4 Is that right, Ms. Barr?

5 MS. BARR: It is, Judge.

6 THE COURT: Okay. And you're prepared to
7 go forward and play it?

8 MS. BARR: Yes, sir.

9 THE COURT: Bring the jury in.

10 (Court's Exhibit Number 2 was marked
11 and made a part of the record.)

12 THE COURT: All right. Now ladies and
13 gentlemen, I hope everyone enjoyed your lunch. I
14 have your note that you want to hear the 9-1-1 tape;
15 is that correct?

16 THE FOREMAN: Yes, sir.

17 THE COURT: We are ready to play it.

18 All right, Ms. Barr.

19 (State's 1 was played for the jury.)

20 THE COURT: All right.

21 THE FOREPERSON: Is that good?

22 (Jurors replied.)

23 THE COURT: Thank you. Return to the jury
24 room to reach a verdict.

25 (WHEREUPON, the jury was removed from the

1 courtroom at 1:45 p.m.)

2 THE BAILIFF: He came out and handed me
3 another question.

4 THE COURT: Where did that come from?

5 THE BAILIFF: The foreman.

6 THE COURT: All right. First of all, let
7 me ask with regard to the first note about the 9-1-1
8 tape, is there any objection, exceptions to the way
9 that was handled, playing it to the jury from t he
10 standpoint of the State, Ms. Barr?

11 MS. BARR: No, Your Honor.

12 THE COURT: From the Defense?

13 MS. BUTCHER: No, Your Honor.

14 THE COURT: All right. That takes care of
15 that. Now we have another note from Mr. Hatch and
16 it says, is it possible to review transcript of
17 testimony. We'll make this a Court exhibit number
18 1. I guess the simple way to answer that question
19 is no.

20 MS. BUTCHER: Your Honor, I don't know if
21 they mean the transcript from this trial or the
22 transcript that we were looking at. I'm not sure
23 what they mean by that.

24 THE COURT: Well, I don't either. Would
25 you like for me to inquire, have the foreman come in

1 and inquire of him what specifically they're looking
2 at?

3 MS. BARR: Judge, I think that will be
4 appropriate.

5 THE COURT: I think that will be
6 appropriate. All right, ask the foreman to come in.

7 (Foreman is returned to the jury room.)

8 THE COURT: Mr. Hatch, you can stand right
9 there for just a minute. I have your last note. It
10 says, is it possible to review the transcript of
11 testimony. That's pretty broad. I'm not sure I
12 know what you're looking for.

13 THE FOREMAN: We're specifically looking
14 for Mr. Samuel's testimony.

15 THE COURT: Mr. Samuel's testimony?

16 THE FOREMAN: Yes, sir.

17 THE COURT: All right. There is no
18 transcript of that testimony, but we can have the
19 court reporter play it for you if that's what the
20 jury would like to have done.

21 THE FOREPERSON: Yes, I think that will be
22 very good.

23 THE COURT: There's no, there is no
24 transcript as such, but we can have it played. It
25 will take us a few minutes to set it up. All right,

1 thank you.

2 (Foreman is removed from the courtroom.)

3 THE COURT: Any objection to having, in
4 response to the note and the statement of whether
5 Mr. Hatch having the court reporter set up
6 Mr. Samuel's testimony and playing that for the
7 jury?

8 MS. BARR: No, Your Honor.

9 THE COURT: Any objection?

10 MS. BUTCHER: No, Your Honor.

11 THE COURT: All right.

12 (Testimony was played for the jury.)

13 THE COURT: The foreman has indicated they
14 have heard all the testimony they want to hear.

15 THE FOREMAN: That's correct. Is
16 everybody okay with this?

17 (Jurors replied.)

18 (Court's Exhibit Number 3 was marked
19 and made a part of the record.)

20 THE COURT: Okay, thank you. You may
21 return to your jury room to deliberate your verdict.

22 (WHEREUPON, the jury was removed from the
23 courtroom at 2:15 p.m..)

24 THE COURT: All right, Ms. Barr, any
25 exceptions or to the method of handling the jury's

1 inquiry?

2 MS. BARR: Your Honor, I would
3 respectfully request that the witness' testimony be
4 played in its entirety. It's apparent one of the
5 issues that the jury may be -- and I don't know if
6 they're struggling, I shouldn't use the word
7 struggling -- but they're deliberating about whether
8 or not there's a presence of a male which is why I
9 suppose they requested to hear the 9-1-1 tape. Your
10 Honor, given that during this witness' testimony I
11 presented to him a picture of Mr. McKnight and he
12 testified, as I remember, that that was the
13 absolutely not the person who approached him while
14 he was looking at the wrecked Cadillac. We believe
15 that in the interest of fairness and in the interest
16 of finding the truth, that it's appropriate that the
17 witness' testimony be played in its entirety.

18 THE COURT: Okay. What's your position,
19 Ms. Butcher?

20 MS. BUTCHER: Your Honor, I believe they
21 were trying to find out what Mr. Barr's first
22 impression was. I think they've heard that. I
23 think if they need more they would ask. I believe
24 they've heard all they need to hear.

25 THE COURT: All right. We would both be,

1 all our us would be speculating as what they wanted
2 to hear and what they were interested in, and I do
3 think that to give the jury the full effect of what
4 one witness says, it should not be taken out of
5 context with just a portion of the testimony. I
6 believe it would be appropriate to play the rest of
7 the testimony including cross-examination.

8 I understand that you don't agree with
9 that, Ms. Butcher; you can take exception to that.
10 But I can't see how that can do any harm except to
11 give the jury the full benefit of that witness'
12 testimony. Ask the jury to come back in. Bring the
13 jury back in.

14 (WHEREUPON, the jury was returned to the
15 courtroom at approximately 2:18 p.m. and
16 the following proceedings commenced in
17 open court.)

18 THE COURT: Thank you, ladies and
19 gentlemen. After conferring with counsel the Court
20 has determined that it would be appropriate that the
21 remainder of this testimony be played for you so
22 we're going to play the rest of this witness'
23 testimony.

24 All right, you may proceed, Madam
25 Reporter.

1 (Remainder of Mr. Samuel Barr's testimony was played
2 for the jury.)

3 THE COURT: All right, thank you. That
4 will be all that testimony.

5 (WHEREUPON, the jury was removed from the
6 courtroom at 2:29 p.m.)

7 THE COURT: Any exceptions, Ms. Barr?

8 MS. BARR: No, Your Honor.

9 THE COURT: Any exceptions, Ms. Butcher?

10 MS. BUTCHER: No, Your Honor.

11 THE COURT: Okay, all right. We'll be at
12 ease till we hear from the jury.

13 (WHEREUPON, a recess was taken from the
14 proceedings.)

15 THE COURT: On the record in the matter of
16 State versus Epps we have another note from the
17 jury. The question was, is it possible to find
18 guilty of count two but not count one. I shared
19 this with counsel involved, with their consent
20 brought the foreman in, and told him the simple
21 answer to that question was no. And he has returned
22 to his jury room, and I'm gonna make this part of
23 the record as Court's Exhibit.

24 (Court's Exhibit Number 4 was marked
25 and made a part of the record.)

1 THE COURT: All right, we're back on the
2 record in regard to the matter of the State versus
3 Brittany Epps. Ms. Epps is present with her counsel
4 Ms. Butcher. The State is present with the Third
5 Circuit Solicitor's Office, Ms. Barr and Ms.
6 Swilley. I've been advised that the jury has
7 reached a verdict. Before I bring the jury in I
8 want to announce to everyone present that I know
9 this is an important matter for everybody, and I
10 would also want to remind everyone this is a court
11 of law and I will have to require that order and
12 decorum be maintained in the courtroom when the
13 verdict is published. If there's anyone in the
14 courtroom who thinks they cannot stay quietly when
15 the verdict is read and not have any shows of
16 emotion or anything else, then I would ask that you
17 leave now.

18 Having said that then, is there anything
19 before we bring the jury in, Ms. Barr?

20 MS. BARR: No, sir, Judge.

21 THE COURT: Ms. Butcher?

22 MS. BUTCHER: No, Your Honor.

23 THE COURT: All right. Bring the jury in
24 please.

25 (WHEREUPON, the jury was returned to the

1 courtroom at approximately 4:53 p.m., and
2 the following proceedings commenced in
3 open court.)

4 THE COURT: All right. Mr. Foreman, I
5 understand you've reached a verdict; is that
6 correct?

7 THE FOREMAN: Yes, sir.

8 THE COURT: Would you hand it up please.
9 (Verdict form was tendered to the Court.)

10 THE COURT: All right, from the standpoint
11 of from the verdict appears to be correct. Ms.
12 Butcher, would you and your client stand please.
13 Madam Clerk, would you publish the verdict.

14 THE CLERK OF COURT: In the case of the
15 State of South Carolina versus Brittany Epps,
16 indictment number 2014-GS-49-159: We, the jury, by
17 unanimous consent find the defendant Brittany Epps
18 on the charge of murder guilty. If you find -- I'm
19 sorry, on the charge of possession of a firearm
20 during the commission of a violent crime count two:
21 We, find, the defendant guilty. It's signed by the
22 foreperson Mr. Randy Hatch, dated July 29th, 2016.

23 THE COURT: All right. If this be your
24 verdict so say you all. Please signify by raising
25 your right hand.

1 political speel and you'll be able to go. Thank
2 you. You are excused.

3 (WHEREUPON, the jury was removed from the
4 courtroom at 5:20 p.m.)

5 THE COURT: All right, Ms. Butcher,
6 motions on behalf of the Defendant.

7 MS. BUTCHER: Your Honor, I would at this
8 time, one, renew all my prior motions. I would
9 additionally ask for the verdict to be set aside and
10 judgment entered in accordance to my request for
11 directed verdict earlier, or in the alternative a
12 new trial. I do believe my client was prejudiced by
13 the Court not viewing Theodore McKnight as an
14 adverse witness and my not being allowed to lead in
15 accordance to rule 611(c). Additionally, I believe
16 she was also prejudiced by the criminal history of
17 Mr. McCrea coming in. I do believe it should have
18 been excluded under rule 403. His armed robbery is
19 not considered crime of dishonesty.

20 THE COURT: All right. Ms. Barr, you'd
21 like to be heard?

22 MS. BARR: Your Honor, I think that the
23 rulings by the Court obviously were appropriate. I
24 think there was substantial direct and
25 circumstantial evidence in this case to support the

1 jury verdict, and we will just simply request that
2 the Defense motions be denied.

3 THE COURT: All right. Specifically
4 addressing the two matters that you raised, there is
5 nothing that would have made Mr. McKnight an adverse
6 witness. He is simply a, was not a party. He was
7 not associated with law enforcement, and there is
8 nothing that I would see under the rules that would
9 consider him an adverse witness that would allow
10 the, him to be examined on direct examination by
11 leading questions. I feel very confident that that
12 rule was correct. I also feel very confident that
13 the allowance of the criminal record for Mr. McCrea
14 was appropriate. Really what the state, of what the
15 Defense wanted to do was to be able to call
16 Mr. McCrea to attack the credibility of Mr. McKnight
17 but did not want the State to be able to attack the
18 credibility of Mr. McCrea. In other words, you
19 wanted to be able to use him to attack the
20 credibility of Mr. McKnight but he himself be
21 insulated attack of his credibility. I did not find
22 and allow him to testify on the grounds that armed
23 robbery was a crime that would fall within the
24 category of dishonesty, but found that it was more
25 prejudicial than, I mean, it was -- the probative

1 value was not, the prejudicial effect was not
2 substantially outweighed by the prejudicial, the
3 probative value not substantially outweighed by the
4 prejudicial effect and made the findings on the
5 record in my weighing of those matters of the
6 various factors that I attributed that to, not the
7 least of which and central most issue between the
8 two witnesses was the matter of credibility. And I
9 believe that that ruling was correct as well. I
10 would therefore respectfully decline the motion and
11 arrest the judgment and motion for new trial.

12 All right, you have sentencing sheet?

13 MS. BARR: Judge, I do. Your Honor, may I
14 respectfully request that the Court would hold
15 sentencing until the August term of court. Judge,
16 you're gonna be back here.

17 THE COURT: I'll be back here on August
18 the 22nd.

19 MS. BARR: During that term. Judge, we
20 would also ask the Court to impose sentencing on the
21 co-defendant Ms. Jackson, and so we're gonna have to
22 have the victim family come back for that separate
23 sentencing proceeding. Ms. Gamble, Patricia Gamble
24 who is the victim's sister, she's been with me all
25 week. I looked back, I didn't see her in the

1 courtroom, but I know that she would want to be here
2 for that. And in light of the fact that you are
3 gonna be back in I believe three weeks, it gives the
4 State an opportunity to make sure our victims are
5 here. Judge, we do want both of these defendants to
6 be sentenced at the same time and also would give me
7 Ms. Butcher an opportunity to get any mitigation.

8 THE COURT: I think that's fair and I
9 agree to give Ms. Butcher an opportunity to present
10 any mitigation that she wishes to present in
11 connection with this matter.

12 Are you in agreement with that, to delay
13 sentencing, Ms. Butcher?

14 MS. BUTCHER: I am, Your Honor.

15 THE COURT: I am also more comfortable
16 with that. I would like to give some thought to it
17 and not make that decision in a few minutes, and so
18 the Court appreciates that request by the State and
19 the concurrence by the Defense and would put me in a
20 more comfortable position in sentencing and give
21 both parties patients an opportunity to present all
22 of the things that they wish to present that would
23 affect impact on sentencing including mitigation by
24 the defendant. So having said that then, the court
25 will delay sentencing in this matter until August

6 Having said that, I see a few of the
7 jurors did come in, and normally the process is that
8 sentencing is imposed right after a guilty verdict
9 is returned; but as you heard, the State and with
0 the concurrence of the Defendant have asked
1 sentencing be delayed for about three weeks to give
2 the parties an opportunity to present matters in
3 mitigation or in aggravation of the sentence and to
4 present whatever they wish to present to me by way
5 of information before passing sentence. One of the
6 reasons for this, of course, is that the victims and
7 the victim's family have a right to be notified and
8 have a right to address the Court, and they need to
9 be here for the sentencing phase as well. So unlike
0 what I told you when I excused you, we're not gonna
1 go into the sentencing phase this afternoon, but it
2 will be done during the week of August 22nd so if
3 you would like to leave you're certainly free to do
4 so. You're free go.

(Pause.)

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG) COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA)

STATE,)

v.)

TRANSCRIPT OF RECORD
14-GS-45-0159

BRITTANY E. EPPS,)

DEFENDANT.)

August 24, 2016
Kingstree, South Carolina

BEFORE :

THE HONORABLE HOWARD P. KING, JUDGE

APPEARANCES:

KIMBERLY V. BARR, ESQ.
Assistant Solicitor

DEBORAH J. BUTCHER, ESQ.
Attorney for Defendant

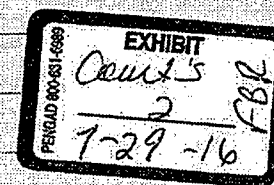
FRANCES B. RAY, RPR
Circuit Court Reporter

1 time, if anyone thinks that they cannot sit quietly
2 while this sentence is imposed I would ask that you
3 leave now. The sentence of the Court with regard to
4 indictment number 2014-GS-0159 which is the State
5 versus Brittany Epps who is charged in count one
6 with murder and then count two, possession of a
7 weapon during the commission of a violent crime, the
8 sentence of the Court is defendant is committed to
9 the State Department of Corrections for a
10 determinate term of 45 years. On the charge of
11 possession of a weapon during a violent crime the
12 sentence of the Court is defendant is committed to
13 the State Department of Corrections for a term of
14 five years to run concurrent. She will be given
15 credit for whatever time that she has served. All
16 right, that will conclude the matters as far as
17 Ms. Epps is concerned.

18
19 * * * END OF REQUESTED TRANSCRIPT OF RECORD * * *
20
21
22
23
24
25

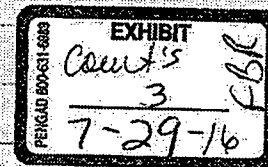
COULD WE PLEASE
LISTEN TO 911 RECORDING

Randy Hall

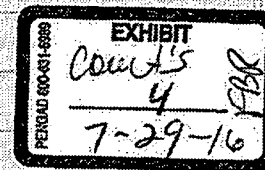


IS IT POSSIBLE TO
REVIEW TRANSCRIPT OF
TESTIMONY?

Randy Held



IS IT POSSIBLE TO FIND
GUILTY OF ~~CHARGE~~ COUNT
TWO BUT NOT COUNT
ONE?



891

WITNESSES

Inv. Juan Ballard
Williamsburg County Sheriff's Office

ARREST WARRANT NUMBER

2014A4510100232 2014A4510100233
2014A4510100237

2014A4510100231

ACTION OF GRAND JURY

TRUE BILL

Date: 7/31/14

Shelley Powers

Foreperson of Grand Jury

Date: 7/31/14

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2014-GS-45-0159

The State of South Carolina

County of WILLIAMSBURG

COURT OF GENERAL SESSIONS

AUGUST TERM 2014

THE STATE

vs.

BRITTANY EMOESHA EPPS

JESSICA BLAIR JACKSON

Indictment for

MURDER AND POSSESSION OF A FIREARM
DURING THE COMMISSION OF A VIOLENT CRIME

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF WILLIAMSBURG)

INDICTMENT FOR
**MURDER AND POSSESSION OF A FIREARM
DURING THE COMMISSION OF A VIOLENT
CRIME**

At a Court of General Sessions convened on July 31, 2014, the Grand Jurors of
WILLIAMSBURG County did present upon their oath:

COUNT ONE - MURDER

That the defendants, Brittany Emoeshia Epps and Jessica Blair Jackson, did in
Williamsburg County, South Carolina on or about March 29, 2014, willfully, feloniously,
and intentionally kill the victim, Joseph Brown, with malice aforethought, by means of
shooting, and the victim did die as a proximate result thereof, in violation of §16-3-10 of
the South Carolina Code of Laws (1976, as amended).

**COUNT TWO – POSSESSION OF A FIREARM DURING THE COMMISSION OF A
VIOLENT CRIME**

That the defendants, Brittany Emoeshia Epps and Jessica Blair Jackson, did in
Williamsburg County, South Carolina on or about March 29, 2014, possess a firearm or
visibly display what appeared to be a firearm, during the commission or attempted
commission of a violent crime, in violation of §16-23-490 of the South Carolina Code of
Laws (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such
case made and provided.

Solicitor



STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Williamsburg

VS.

Brittany Emoeshia Epps

AKA:

Race: Black

Sex: F

Age: KND 18

DOB: [REDACTED]

SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Salters, SC 29590

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014-GS-45-0159

A/W#: 2014A4510100231

Date of Offense: 3/29/2014

S.C. Code §: 16-03-0010

CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0010

of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS(CSC
w/minor 1st or Lewd Act)☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTORNEY:

Barr, Kimberly V

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 45 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)	\$	\$
TOTAL	\$	\$

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: Found & Found guilty
legged me on 4/29/2016☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

SENTENCING DATE: 4/24/16
Presiding Judge: Howard P. King
Judge Code: 210
Sentence Date: 8/24/16

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

Williamsburg

VS.

Brittany Emoeha Epps

INDICTMENT/CASE#: 2014-GS-45-0159

A/W#: 2014A4510100232

Date of Offense: 3/29/2014

S.C. Code § : 16-23-0490

CDR Code #: 0549

AKA:

Race: Black Sex: F Age: 18

DOB: SS#: DL#:

Address:

City, State, Zip: Salters, SC 29590

DL#: SID#:

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

Barr, Kimberly V SC Bar# 8443

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation formonths/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114 (BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning

\$ paid to Public Defender Fund

Other: fined & found guilty on
July 28, 2016 by me.☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code: 2107

Sentence Date: 8/29/16

Clerk of Court/Deputy Clerk

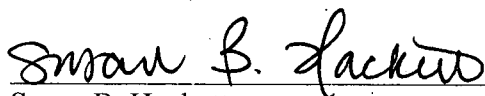
Court Reporter:

SCCA/217 (03/2011)

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Susan B. Hackett
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 9th day of November, 2017.

RECEIVED
NOV 09 2017
SC Court of Appeals