

VOLUME I OF II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to York County

Honorable J. Mark Hayes, Circuit Court Judge

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DANTONYO ANDROPULIS HEATH,

S.C. SUPREME COURT

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2017-001145

APPENDIX

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State of South Carolina.,	)	In the General Sessions
	)	Court of York
County of York.	)	Case No.: 2011-GS-46-02898
		2011-GS-46-02899
		2011-GS-46-02900
State of South Carolina.,	)	2011-GS-46-02901
	)	2011-GS-46-02902
Plaintiff.,	)	2011-GS-46-02905
	)	2011-GS-46-02906
-vs-	)	2011-GS-46-02907
	)	2011-GS-46-02908
Marquis Jearie Santoni Robinson.,	)	2011-GS-46-02909
Dantonyo Andropul Heath.,	)	
	)	Transcript of Record
<u>Defendants.</u>	)	

July 22-25, 2013
York, South Carolina

B E F O R E:

The Honorable John C. Hayes, III., Judge, and a jury.

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E-X-H-I-B-I-T-S

	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
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2				
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Reporter's Note: All Exhibits were filed with the York County Clerk of Court's Office.			

1 (COURT IN SESSION IN THE MATTER OF STATE V. MARQUIS
2 JEARIE SANTONI ROBINSON AND DANTONYO ANDROPUL HEATH MONDAY
3 JULY 22, 2013 AT 03:07 P.M..)

4 THE COURT: Thank you. Take your seats.

5 (DEFENDANT'S MARQUIS ROBINSON AND DANTONYO HEATH,
6 BLACK MALES, ENTER COURTROOM AT 03:09 P.M..)

7 THE COURT: All right, Ms. Shelton.

8 SOLICITOR SHELTON: Your Honor, the State is ready to
9 proceed on the case of State versus Marquis Robinson and
10 Dantonyo Heath.

11 Mr. Robinson is charged with armed robbery Indictment
12 No. 2011-GS-46-2905; attempted murder Indictment No. 2011-
13 GS-46-2906; criminal conspiracy Indictment No. 2011-GS-46-
14 2-9-0-7; kidnapping Indictment No. 2011-GS-46-2-9-0-8; and
15 possession of a firearm during the commission of a violent
16 crime Indictment No. 2011-GS-46-2-9-0-9.

17 Mr. Heath has been indicted and being tried on the
18 following charges; armed robbery Indictment No. 2011-GS-46-
19 2898; attempted murder 2011-GS-46-2899; criminal conspiracy
20 Indictment No. 2011-GS-46-2900; kidnapping Indictment No.
21 2011-GS-46-2901 and possession of a firearm during the
22 commission of a violent crime Indictment No. 2011-GS-46-
23 2902.

24 THE COURT: Mr. Newkirk is going to assist you?

25 SOLICITOR SHELTON: Yes, Your Honor.

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1 THE COURT: Ms. Burris, you represent?

2 MS. BURRIS: Marquis Robinson, Your Honor.

3 And to my left, Your Honor, is Attorney Heather Cruz
4 who will be assisting me and as a Associate counsel today.

5 THE COURT: Okay. Mr. Smith.

6 MR. SMITH: Yes, Your Honor, for Mr. Heath. And
7 seated with us at the table is Montrey Belton. He has
8 finished his first year in law school; he's been interning
9 with us downstairs.

10 THE COURT: Anyone object to Mr. Belton who is not an
11 attorney yet sitting at counsel's table?

12 SOLICITOR SHELTON: I do not, Your Honor.

13 THE COURT: Ms. Burris?

14 MS. BURRIS: No, sir, Your Honor.

15 MR. SMITH: Thank you, Your Honor.

16 THE COURT: All right, do we have any pretrial
17 matters?

18 I have a number of request for Voir Dire. Why don't
19 we do those. I'm gonna ask some and not ask some. At the
20 end of my Voir Dire you want to put on the record any not
21 ask that you think I should have ask I will certainly give
22 you an opportunity to do that.

23 Anything else before the jury comes up?

24 SOLICITOR SHELTON: Yes, sir. We do have a number of
25 pretrial issues. This is a retrial from a case that was

1 mistried in January. The court reporter has ask me to
2 place on the record that she is going to renumber the
3 exhibits by placing a new sticker over the old sticker in
4 case there is any issue with that coming up down the road.

5 We had in the previous trial had intended to introduce
6 a statement by the defendant Marquis Robinson, I do not
7 intend to introduce that statement so I do not believe a
8 Jackson versus Denno hearing is required. I've let Ms.
9 Burris know that. There is also lineups that were done of
10 both Mr. Robinson and Mr. Heath. We believe we will need
11 to have a Neil versus Biggers hearing on that.

12 Ms. Burris has subpoenaed records from one of the
13 victim's financial records and also his - the person who
14 does his taxes. I filed a motion to quash that subpoena on
15 - the subpoena was given to the victim on Thursday, I filed
16 a motion to quash on Friday. I do believe we need to hear
17 that before we get started. And I believe they were going
18 to make some motions as well, Your Honor.

19 THE COURT: All right. So you got the motion to
20 quash.

21 And what's the other one?

22 SOLICITOR SHELTON: And Neil versus Biggers hearing.

23 THE COURT: Ms. Burris what do you have?

24 MS. BURRIS: Your Honor, thank you, May it please the
25 court.

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1 The motion to quash is not actually an issue at this
2 time but I will probably get to that. I actually have a
3 motion to sequester the witnesses.

4 THE COURT: That will be granted reciprocally to
5 everybody.

6 MS. BURRIS: Thank you, Your Honor. I also have a
7 motion to insure that the State has complied with all the
8 discovery. We actually submitted also a supplemental
9 discovery request and I just want to make sure that the
10 State has actually complied with everything.

11 THE COURT: The State complied with discovery?

12 SOLICITOR SHELTON: Just so I don't -

13 We've given her everything that I know of. We did
14 have a conversation on Friday. When I was going back
15 through the trial notebook I had the internal chain from
16 SLED that I didn't receive until just the beginning of the
17 trial. The last time it was not part of our electronic
18 file. At that point I was concerned that she may not have
19 that. We spoke, I sent that to her after going through and
20 sending that to her and talking about why I believe she has
21 everything.

22 MS. BURRIS: Thank you, Your Honor.

23 The next pretrial motion I have is a motion to exclude
24 - There are certain prior convictions of course we're gonna
25 have to go through the case law in regards to the Cole

1 factors in regards to Mr. Robinson should he decide to
2 actually take the stand and testify. I would like to know
3 exactly what prior convictions the State intends to
4 introduce into trial so that's another pretrial motion the
5 defense has.

6 Also a motion to sever the trial based on the serious
7 right that a joint trial would compromise a specific trial
8 right of the defendant. And would also be extremely
9 prejudicial towards - -

10 THE COURT: Tell me a specific trial right?

11 MS. BURRIS: Your Honor, I will go ahead and just do
12 the motion to sever, but, Your Honor, it is our position
13 that there is a serious risk that a joint trial would
14 compromise the specific trial right of the defendant - -

15 THE COURT: Don't go quite so fast.

16 MS. BURRIS: I apologize, Your Honor.

17 Or should we actually go forward in a joint trial with
18 Mr. Heath as well as to Mr. Robinson that the jury will
19 have - would not be able to compartmentalize the evidence
20 to be presented against each individual defendant.

21 Your Honor, understanding that the risk of prejudice
22 varies with the particular course of acts and circumstances
23 of a particular case, this is a case where on the actual
24 video surveillance at one point you do have what they
25 allege to be Mr. Robinson, at one point what they allege to

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1 be Mr. Heath. However it is our position that if we were
2 to go forward that the jury may have some problems looking
3 at the evidence as it pertains to Mr. Robinson and
4 separated out as to evidence from Mr. Dantonyo Heath. And
5 so it is our position that - -

6 THE COURT: You're telling me - What you're telling me
7 is general. You said there was a specific trial. You're
8 telling me general things that there may be something in a
9 case that might prejudice your client that should not
10 presented against him.

11 MS. BURRIS: It is my understanding that also Mr.
12 Smith also has a motion to sever I believe in regards to
13 the confrontation clause of the substance of his is in
14 regards to confrontation clause and so he would of course
15 be able to further expand on that. But it is my argument
16 that it would be a prejudicial impact to submit into
17 evidence against Marquis Robinson because there are
18 actually going forward together in a joint trial I think
19 would be a prejudicial impasse only because I believe that
20 the jury would take the evidence as it is alleged against
21 Mr. Dantonyo Heath and because they're going forward in
22 trial they will automatically presume or assume that Mr.
23 Marquis Robinson is actually guilty of the exact same thing
24 and they would not be able to sort through or
25 compartmentalize the evidence as presented against each

1 individual.

2 THE COURT: Now what do you base that?

3 MS. BURRIS: Your Honor, I actually do have a couple
4 of cases.

5 THE COURT: Can you hand me a copy?

6 MS. BURRIS: I do not have an extra copy, Your Honor.

7 This was just actually a federal case which was -

8 I'll give you the citation. This is the United States
9 versus Gonzales case which basically talked about the
10 issues that we should discuss to the court when you're
11 talking about co-defendants potentially even testifying or
12 the issues that are factors that we have to go through in
13 determining whether or not we should proceed in a joint
14 trial.

15 One of the things that this court in Gonzales, United
16 States of America versus Gonzales, Hosea B. Gonzales
17 discussed --

18 THE COURT: What's that from?

19 MS. BURRIS: This is United States District Court of
20 Tennessee, Southern District. It discussed whether or not
21 the issue you have to look at is whether or not the jury is
22 likely to find him guilty by his proximity to and
23 association with his co-defendants, that's one of the
24 issues that it discussed. And of course I'm not sure
25 exactly as to who or potentially whether or not one of the

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1 co-defendants would choose to testify. We have not
2 actually elaborated on that issue but should one of the co-
3 defendants - should Mr. Robinson decide to testify or
4 should Mr. Dantonio Heath decide to actually testify then
5 of course with them actually being charged with a specific
6 crime of course we know that they have a right to confront
7 any and all witnesses against them so being that we're
8 actually proceeding to trial together that would prevent
9 them from actually taking the stand and testifying against
10 each other or even in favor of each other.

11 THE COURT: My thoughts on that, why would - If one
12 chooses to testify the other one has the right to cross
13 examine them.

14 MS. BURRIS: But then of course they are going to
15 place themselves in a position because of course they have
16 the right to of course take the Fifth and they don't
17 actually have to testify, you know. Or if they do testify
18 of course they could implicate themselves because they are
19 also charged with the offenses. So it places both I would
20 say defendants in a very difficult situation simply because
21 again if one wanted to use the other as a witness they are
22 not able to do that simply because that individual is
23 actually also charged with the offenses. And again it is
24 my position that if we were to proceed to trial in regards
25 to both of them that I believe strongly that the jury would

1 not be able to - to basically sort through the evidence as
2 to each of the defendants and to be able to fairly access
3 as to what evidence is against Mr. Robinson, as to what
4 evidence is actually against Mr. Heath. They will not be
5 able to do that simply because again we're proceeding to
6 trial together and of course allegedly, you know, they'll
7 have the indictments together so they will just place it
8 all together and neither one of them will have the
9 opportunity to actually have a fair trial simply because if
10 proceeded to trial together they will automatically assume
11 both guilty of the offense or not guilty.

12 THE COURT: Of course I don't buy the automatic - the
13 logic that reaches that conclusion. I think jurors have
14 enough intelligence to use your term compartmentalize deal
15 it with their lives all the time.

16 What does the State have to say about the motion to
17 sever?

18 SOLICITOR SHELTON: Your Honor, there is a long line
19 of cases that they have to - the defense has to be able to
20 articulate how they're - how the client would be
21 prejudiced. The best one I could figure out of the
22 argument is that they could potentially want to call the
23 other as a witness in their case which they would be
24 prohibited from doing that. At this point neither Mr.
25 Smith nor Ms. Burris has indicated that they want to call

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1 the other as a witness in their case or that they intend to
2 do that.

3 I'm trying to pull the case now because I wasn't sure
4 what they're argument was gonna be in time to pull the
5 case. In State versus Crowe has held that that is not a
6 reason to sever the case if one wants to testify against -
7 for the other that that is not a reason to sever the
8 charges - the cases separate some other argument.

9 MS. BURRIS: And, Your Honor, if I may, in regards
10 there is a video surveillance and there is a specific point
11 on the video surveillance where it is alleged that the co-
12 defendant - I assume they're alleging the co-defendant Mr.
13 Heath is attacking the alleged victim and in that
14 particular case due to the facts and circumstances of that
15 particular attack which is quite vicious I would say, that
16 potentially could be held against Mr. Marquis Robinson.

17 THE COURT: Like how?

18 MS. BURRIS: Simply because they're proceeding
19 together in going forward in the trial.

20 THE COURT: Other than the accomplice liability or
21 something like that.

22 MS. BURRIS: Your Honor, there is --

23 THE COURT: I'm not even sure that's an issue here but
24 the fact that one guy is beaten up another guy I don't see
25 how that --

1 MS. BURRIS: I think the facts and circumstances of
2 that particular video, that particular moment, the facts
3 and circumstances of that particular moment could be
4 prejudicial to allegedly - -

5 THE COURT: It would be prejudicial. I've seen it, it
6 would be prejudicial to your client or the other client.
7 Who ever is beaten up that guy its prejudicial I agree with
8 you and that's what - what prejudicial the State would
9 present.

10 SOLICITOR SHELTON: Your Honor, they are charged with
11 criminal conspiracy so I would argue that even if we tried
12 the two cases separately we would be able to introduce the
13 video in it's entirety.

14 THE COURT: Well I'll deny the motion to sever. I
15 don't see any problems as far as Mr. Robinson and Mr.
16 Heath. Mr. Heath hasn't made his motions yet but as far as
17 Mr. Robinson's aspect I deny the motion to sever. I don't
18 follow, in fact the only specific trial I've heard you even
19 elude to is the right to call someone else as a witness in
20 front of the witnesses against them. And that alone is not
21 sufficient as I think it should be.

22 SOLICITOR SHELTON: Yes, sir. Your Honor, the case of
23 State versus Crowe 258, S.C. 258 and I actually have copies
24 brought into the courtroom at this time.

25 THE COURT: I'll take a look at that. I deny the

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1 motion subject to looking at that case.

2 MS. BURRIS: I actually do have, Your Honor, a motion,
3 there are some photographs, actually lots of photographs,
4 some of the photographs actually have pictures of the
5 alleged victims. I think that it is my motion to exclude -
6 and I understand the elements of what each one of these
7 individuals are actually facing and the charges, of course
8 the attempted murder, the armed robbery, the criminal
9 conspiracy, kidnapping and possession of a weapon during
10 the commission of a violent crime, however, it is our
11 position that these particular photographs are going to be
12 presented simply to arouse the sympathy or prejudice of the
13 jury. And I do not think that all of the photographs are
14 actually necessary to substantiate material elements of
15 each of the offenses charged.

16 There are some photographs that actually have - Of
17 course in the indictment - Let me strike that.

18 In the particular photographs they're just pictures,
19 there are actually lacerations of course and cuts but their
20 just photographs of course just with blood on the alleged
21 victim's face. I don't see why it's actually necessary to
22 actually show those photographs to the jury. I think its
23 just simply an attempt of course to have a chilling affect
24 upon the jury and of course to arouse the jury as to
25 sympathy. And I think they're highly prejudicial of course

1 to Mr. Robinson. I can understand if they were for the
2 purpose of corroborating the testimony of the individual
3 victims but I believe that she was allowed to show and
4 publish those individual photographs to the jury, of course
5 all the blood photographs is just an attempt to try to
6 arouse the sympathy of the jury and I do not think that all
7 of the photographs should be allowed in so I'm making a
8 motion to exclude - there are certain photographs of course
9 that have the victim's face - the alleged victims and just
10 blood on it - just blood.

11 THE COURT: All right, Ms. Shelton, the best way to
12 approach this is let Ms. Shelton tell us - show us which
13 one she plans to introduce as opposed to some sort of
14 blanket rouse.

15 SOLICITOR SHELTON: And, Your Honor, there were a
16 large number of photos in the case, well over a hundred,
17 and I want to say around twenty of the victims. I narrowed
18 it down to about thirty pictures total and five of the
19 victims.

20 THE COURT: Show those to Ms. Burris and see if she
21 objects to any of those. And those are numbered?

22 SOLICITOR SHELTON: They are numbered from a previous
23 trial and they are gonna keep the same number.

24 THE COURT: I know, so we'll know what you're talking
25 about you want to tell us what number.

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1 SOLICITOR SHELTON: Yes, sir.

2 I have State's Exhibit Number Eleven, State's Exhibit
3 Number Twelve or the two that she is objecting to. I've
4 also shown her State's Exhibit Number Sixteen, State's
5 Exhibit Number Fifteen, State's Exhibit Number Fourteen,
6 State's Exhibit Number Thirteen.

7 I'm gonna show these to Mr. Smith as well.

8 Mr. Smith, has informed me I miscounted.

9 MR. SMITH: May have.

10 SOLICITOR SHELTON: Again there is also State's
11 Exhibit Number Seventeen.

12 May I approach, Your Honor.

13 (PHOTOS HANDED UP THE COURT.)

14 THE COURT: Which ones do you object, Ms. Burris?

15 MS. BURRIS: The two of Mr. Jordan, I think that's
16 State's Exhibit...

17 SOLICITOR SHELTON: Eleven and Twelve, Your Honor.

18 MS. BURRIS: Eleven and Twelve. And as the Assistant
19 Solicitor stated there are other photographs but she is
20 attempting to introduce those individual photographs and
21 publish to the jury. Again it is our position that it will
22 place a prejudicial - It would have a prejudicial impact
23 upon my client. Again I think it is just an attempt to
24 evoke sympathy from the jury just because of the blood. Of
25 course again I think on those particular photos my

1 understanding is behind the blood are cuts or lacerations.
2 But the reasoning behind just wanting to publish those
3 particular photographs to the jury again is to lure the
4 jury to declaring guilt on the emotional basis is sympathy
5 for the victim in regards to just the blood that's being
6 shown.

7 THE COURT: Who is Eleven and Twelve? Who is that
8 pictures of?

9 SOLICITOR SHELTON: Those are Ernest Jordan. He is
10 present in the courtroom, Your Honor. And there - We
11 didn't have pictures taken before and after he was cleaned
12 up. All the pictures were taken at that same time. They
13 were basically substantially the same pictures. I didn't
14 feel it was necessary to introduce six pictures of him
15 looking like that but we didn't - I didn't pick the most
16 gory pictures. There were no pictures of him cleaned up
17 with stitches in him and those were the pictures that were
18 taken that showed the injuries that he received that night.

19 THE COURT: Well I'll allow one. It appears to me
20 basically they show the same thing. The right side of his
21 face with a gash under his right eye.

22 SOLICITOR SHELTON: I want to say one showed his neck
23 more than the other and he --

24 THE COURT: It does. One shows his neck.

25 SOLICITOR SHELTON: If you're gonna keep on out I'd

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1 rather keep the one with the neck.

2 THE COURT: In?

3 SOLICITOR SHELTON: In yes, sir.

4 THE COURT: That's your choice. That's Number Twelve.

5 (PAUSE.)

6 THE COURT: I'm required to choose one and she chose
7 Number Twelve.

8 MS. BURRIS: Okay.

9 THE COURT: Make Eleven a Court's Exhibit.

10 Mr. Smith, do you object to any of the other ones?

11 MR. SMITH: No, Your Honor, I cannot say that they
12 were I understand the basis for the State's --

13 SOLICITOR SHELTON: Your Honor, can I have a moment so
14 I can just scratch that off before I try to introduce it.

15 (WHEREUPON: COURT'S EXHIBIT NUMBER ONE, IDENTIFIED
16 AND MARKED, RECEIVED INTO THE RECORD.)

17 MS. BURRIS: Your Honor, my next motion is a motion to
18 redact the video. My understanding they are being charged
19 as co-defendants in this particular trial. Again as we
20 previously discussed that particular moment in the video I
21 think it definitely would have a prejudicial impact upon
22 Marquis Robinson. Of course again my argument goes back to
23 the saying that you want the jury to be able to look at the
24 independent evidence against each of the defendants. Of
25 course outside for the jury to look at the independent

1 evidence against Marquis Robinson and if we were to go
2 forward you would want them to be able to determine whether
3 or not they are guilty or not guilty by what evidence is
4 actually presented against Marquis Robinson and again I
5 think if that particular video comes that that particular
6 video comes in against Marquis Robinson again it would have
7 prejudicial impact against Marquis.

8 THE COURT: Well again that's - the State is supposed
9 to introduce the evidence that is not relevant is not
10 prejudicial generally. And he's charged with - your client
11 is charged with conspiring to commit armed robbery and
12 kidnapping or attempted murder. In addition to the
13 attempted murder striking Jared --

14 Mr. Robinson is charged with attempted murder as to
15 Ernest Jordan and armed robbery of Mr. Jordan and Jared
16 Crane. And a criminal conspiracy including armed robbery
17 and attempted murder and kidnapping along with others.

18 I don't need to look at the film again - of the video
19 - I've seen it. It's very graphic and no question about it
20 but it's about as good a evidence as anybody can get us to
21 see what happened on that night there and who was involved.

22 I'm not going to redact any of it so that motion is
23 denied.

24 MS. BURRIS: Thank you, Your Honor.

25 THE COURT: Mr. Smith.

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1 MS. BURRIS: I apologize, Your Honor. I actually do
2 of course as the Assistant Solicitor stated there is a Neil
3 v. Biggers. She has the officers here for that. In
4 regards to the statement my client would still like to go
5 forwards in regards to Jackson v. Denno hearing.

6 THE COURT: If they are not going to present it what's
7 --

8 MS. BURRIS: Are you not going to - -

9 SOLICITOR SHELTON: I've told her we have no intention
10 to present that statement during our case in chief should
11 he testify and we need it to use it to impeach him but we
12 do not intend to introduce it at all in our case in chief.

13 I do not have that witness under subpoena because I
14 didn't intend to use it.

15 MS. BURRIS: One second, Your Honor. Beg the Court's
16 indulgence.

17 (PAUSE.)

18 MS. BURRIS: Unless it actually becomes an issue, Your
19 Honor, as the state is presenting their case in chief, then
20 at this time we will waive the Jackson v. Denno hearing.
21 But if it becomes an issue then of course I'd like to have
22 a Jackson v. Denno as to whether or not they're going to
23 introduce the statement that was made.

24 THE COURT: Certainly.

25 MS. BURRIS: Thank you, Your Honor.

1 THE COURT: Mr. Smith.

2 SOLICITOR SHELTON: Your Honor, sorry. Before we get
3 started she alluded - Ms. Burris alluded that on the Motion
4 to Quash there wouldn't be a reason to have that and she
5 would get to that later, we did not get to that.

6 THE COURT: What's the issues in regard - -

7 MS. BURRIS: At this point, Your Honor, I do not - I
8 did actually issue a subpoena for the financial records of
9 Mr. Ernest Neil Jordan. At this time that is not an issue
10 however as we progress in trial if it becomes an issue of
11 course then I would like to be able to present my argument
12 before the court as to whether or not the subpoena is valid
13 and whether or not he should actually turn over the
14 financial documents. Thank you.

15 THE COURT: Mr. Smith.

16 MR. SMITH: Thank you, Your Honor, if it please the
17 Court.

18 As far as motions before the jury selection, I suppose
19 my motion to sever would be the only one that would have to
20 be taken up before that.

21 THE COURT: All right.

22 MR. SMITH: My motion to sever is based upon I suppose
23 three different reasons. One to start with and it's been
24 argued somewhat though I believe my client Mr. Heath is in
25 a little bit different position. The allegation by the

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1 State is that of the two individuals on the video one of
2 them has a mask covering his face throughout largely if not
3 all of the entirety of his - observable on the video. That
4 is the person they allege to be my client so my concern for
5 my client is specifically that the jury would see two
6 people on the video, two people in the courtroom therefore
7 assume that these two people are these people. And the
8 weights of the evidence from that video are obviously
9 different against the two individuals. One's face is not
10 covered during the majority of the time that he is on the
11 video and one is covered I would submit the entirety of the
12 time. The next basis would be not a confrontation clause
13 argument if the State does not intend to elicit his
14 statement that was given by Mr. Robinson. However it would
15 be a fact that we cannot call him as a witness
16 specifically, Your Honor, there is an allegation your Honor
17 will remember concerning a nickname that may or may not
18 have been called at the time of the use as a basis of
19 identification of my client, that nickname being Yodie.
20 Mr. Robinson in an interview by Detective Haire was ask if
21 he knew who that was, his response is "I don't know who
22 Yodie is. Dantonyo Heath is my home boy but he wouldn't do
23 anything like that period." So obviously we think that's
24 exculpatory in two ways, one concerning the nickname and
25 two concerning what Mr. Heath's nature of his or inability

1 to likely do crimes like this so we would like to call Mr.
2 Robinson as a witness. Obviously he has a Fifth Amendment
3 right not to testify so if we called him we would be
4 prevented from doing that and therefore we submit without
5 these trials being separated Mr. Heath cannot exercise
6 fully his defense and his ability to call witnesses.

7 THE COURT: So by severing we call your case first.

8 MR. SMITH: I would argue I'm still in the same
9 difficult position. I would ask the State to call the
10 other case first but we could be in the same position.

11 THE COURT: You don't want to sever. You want to
12 control the docket.

13 MR. SMITH: I just want for my client to be able to
14 call witnesses in his defense, Your Honor.

15 THE COURT: All right. Go ahead.

16 MR. SMITH: And my final concern is - concerns the way
17 that the court currently deals with last argument.
18 Currently its my understanding that if either defendant
19 were to introduce evidence both of us would loose the right
20 and I think the privilege or the benefit of last argument I
21 think there is a benefit to it. That's why the State seeks
22 to get it in cases where evidence is introduced. Here if
23 Mr. Robinson were to introduce any piece of evidence
24 representing Mr. Heath we would loose that last argument
25 and though not a Constitutional right I think a valuable

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1 right and defense that we would loose. If the State
2 severed obviously we would not loose that.

3 THE COURT: Kind of go through the three real quick
4 again.

5 MR. SMITH: The specific concerns with the video being
6 damaging to my client because there is a person that is
7 masked through out that video and that evidence I think
8 would be weighed only as a whole video as opposed to
9 individually separately against the two defendants so by
10 sitting by the other defendant who is seen on the video I
11 think it is more inculpatory of my client than it would be
12 at a separate trial.

13 Next would be the right to call witnesses
14 understanding the Crowe decision. And then finally the
15 potential loss of last argument.

16 SOLICITOR SHELTON: Your Honor, on the first issue,
17 the State has more evidence other than you see a masked
18 person on the video. That admittedly the other person on
19 the video is wearing a mask, the majority of the time one
20 of the witnesses did see his fact as he was leaving - as he
21 was leaving the building he had taken that mask off. She
22 identified - she can identify him. There is another
23 witness who was able to identify him in a lineup. There is
24 also DNA evidence that Mr. Heath could not be excluded as
25 the contributor to that DNA so the - That there is an

1 individual who was wearing a mask is the only evidence that
2 the case has and now there is an individual sitting at this
3 table beside the unmasked individual is not the extent of
4 the State's case and do not believe it is a valid reason to
5 sever the case.

6 On the - We would cite Crowe again on the inability to
7 call Mr. Robinson as a witness hoping that case is coming
8 in in the near future. Also in the Crowe case the court
9 held that loss of last argument would not preclude the
10 State from going forward with both cases at the same time,
11 both individuals at the same time.

12 I sent someone to track it down, Your Honor.

13 THE COURT: All right. Well while we're waiting on
14 that and I will wait to rule after we get that and take a
15 look at the Crowe case then I'll finalize my ruling on
16 Robinson and make a ruling on Heath why don't we go ahead-

17 Looks like somebody has arrived.

18 (DOCUMENTS RECEIVED UP BY THE COURT.)

19 (PAUSE AT 03:44 P.M..)

20 THE COURT: Crowe seems to basically take care of all
21 three issues as I see it. I deny Mr. Heath's motions.

22 The Crowe directly discusses the last argument issue,
23 discusses directly about not being able to call the co-
24 defendant as a witness issue, and Page 267, 258 S.C., it
25 says, "Appellant Wright contends they should have been

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1 tried separately upon the ground that proof of the guilt of
2 his co defendant would establish such a heinous crime as to
3 inflame the passions of the jurors and make it impossible
4 for him to receive a fair and just consideration by the
5 jury of the facts applicable to him." The first hurdle.

6 Quote "there is no merit in this contention period.
7 Regardless of the jury's assessment of the evidence against
8 the co-defendant, the guilt of Wright depended upon a
9 determination by the jury of whether he was present aiding
10 and abetting in the commission of the crime. The jury was
11 clearly and plainly so instructed." And that's my plan in
12 this case.

13 And the court goes on saying "determining that issue
14 did not require a separate trial."

15 So basically Crowe says all three of the issues raised
16 in the motion as to both defendants, motions to sever and
17 have separate trials are each respectfully denied as to Mr.
18 Robinson and Mr. Heath.

19 Now Neil versus Biggers.

20 SOLICITOR SHELTON: Do you want to do the jury first,
21 Your Honor? It doesn't matter to me that they are - -

22 THE COURT: Well it's almost four o'clock. What we
23 can do is get the jury up and draw them and I'll probably
24 let them go for the rest of the day.

25 Any objection to that, Ms. Burris?

1 MS. BURRIS: No objection, Your Honor. And also in
2 addition to that I would like to address what prior
3 convictions the State intends to introduce against Mr.
4 Marquis Robinson should he decide to actually take the
5 stand and testify. So we can do those after the jury is
6 actually sworn.

7 MR. SMITH: I'll hold the remainder of my motion. No
8 objection to the drawing - -

9 THE COURT: Okay. All right, well let's get the jury
10 panel up and we'll draw a jury.

11 Now the strikes are five for the State and ten each?

12 MS. BURRIS: Yes, sir.

13 THE COURT: For the defense. Draw two alternates.

14 Anything else before we get the jury up?

15 MS. BURRIS: No, sir, Your Honor.

16 SOLICITOR SHELTON: Nothing from the State, Your
17 Honor.

18 THE COURT: We'll be at ease for a few minutes.

19 SOLICITOR SHELTON: Your Honor, as long as there is no
20 objection, Mr. Jordan is here, since we're not gonna get to
21 any testimony today unless the defense thinks they will
22 need him I'm going to excuse him. If he wants to leave.

23 THE COURT: That's fine with me.

24 MS. BURRIS: We're actually doing the Neil v. Biggers
25 hearing.

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1 SOLICITOR SHELTON: We're gonna start that tomorrow;
2 is that correct?

3 THE COURT: No, I thought we were gonna do that this
4 afternoon.

5 SOLICITOR SHELTON: Oh. Okay. I thought you said
6 after we picked the jury we'd be out of time at that point.

7 THE COURT: No. We would be out of time - That's not
8 what I meant to say but I said it. What I meant is, it's
9 ten till four and if we don't go ahead and get the jury
10 drawn we're gonna be pushing to get the jury drawn by five
11 or six. I have drug court at six and I have to meet with
12 staff probably around 5:30 or a quarter till so we got a
13 little over an hour and a half at least.

14 SOLICITOR SHELTON: Thank you, Your Honor.

15 (COURT AT EASE AT 03:49 P.M..)

16 (COURT BACK IN SESSION AT 03:57 P.M..)

17 THE COURT: Thank you. Take your seats.

18 Members of the jury panel, I'm John Hayes from Rock
19 Hill, and along with Judge Cole who you met this morning,
20 I'm holding General Sessions Court, criminal court; we're
21 gonna draw our jury in the first case for the week.

22 What I'm going to do first is ask Ms. Shelton who is
23 representing the State - she is with the Solicitor's Office
24 - to introduce herself. She is accompanied by Mr. Newkirk,
25 Ryan Newkirk, also with the Solicitor's Office.

1 If both of you all would stand up and let the jury see
2 who you are.

3 (SOLICITOR SHELTON AND SOLICITOR NEWKIRK STOOD/THEN
4 SAT DOWN.)

5 THE COURT: All right. We have two defendants, we
6 have Marquis Jearie Santonio Robinson.

7 Mr. Robinson, would you stand and let the jury see who
8 you are.

9 (DEFENDANT ROBINSON STOOD AND SAT DOWN.)

10 THE COURT: He is represented by Twana Burris and
11 Heather Cruz.

12 (ATTORNEY'S BURRIS AND CRUZ STOOD.)

13 THE COURT: You may be seated.

14 (DEFENSE ATTORNEYS BURRIS AND CRUZ SAT DOWN.)

15 THE COURT: They also have charges against Dantonyo
16 Heath.

17 Mr. Heath would you stand?

18 (DEFENDANT HEATH STOOD.)

19 THE COURT: This is Mr. Dantonyo Heath. He is
20 represented by Mr. Phil Smith. And seated at the table
21 with them is an intern with Mr. Smith's office Mr. Montro
22 Belton.

23 (DEFENSE ATTORNEY SMITH AND INTERN BELTON STOOD.)

24 THE COURT: You may be seated.

25 (DEFENSE ATTORNEY SMITH AND INTERN BELTON SAT DOWN.)

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1 THE COURT: Now each of these defendants are charged
2 with several offenses and they are each charged with the
3 same offenses. They're all alleged to have occurred June
4 8th, 2011, at a sort of what I would call a repair shop.

5 What was the name of it again?

6 SOLICITOR SHELTON: It's Five Star Customs, Your
7 Honor.

8 It's a rim shop.

9 THE COURT: A rim shop. Five Star Customs. What's
10 the last word?

11 SOLICITOR SHELTON: The Five Star Customs.

12 THE COURT: Five Star Customs rim shop. This is where
13 it allegedly happened on June 8th, 2011.

14 The defendants are charged with armed robbery,
15 attempted murder, criminal conspiracy, kidnapping and
16 possession of a firearm during the commission of a violent
17 crime. To these charges each of the defendants have
18 entered pleas of not guilty. This places on the State the
19 burden of proof; that is, the burden of proving their guilt
20 beyond a reasonable doubt before you could convict one, or
21 both, as to any or all of the charges.

22 Similar to the way you were quizzed by Judge Cole this
23 morning I have certain questions to ask. When I ask
24 questions, if you have to respond to my question, please
25 stand and then I will followup by asking you to give me

1 your name and your number and then perhaps some more
2 information. And then I will ask you whether or not the
3 fact that you are standing because of some issue, how if
4 anyway that would affect your ability to serve as a juror.

5 First, are any of you related by blood or marriage, or
6 are you a close personal friend or acquaintance with any of
7 the individuals to whom you've just been introduced? The
8 lawyers or the defendants, if so, please stand? Friend or
9 acquaintance or related.

10 No one stands.

11 Have any of you been represented by in any fashion our
12 solicitor's office, Kevin Brackett, and before that Mr.
13 Tommy Pope, as a victim, as a witness, as a witness
14 victim's assistant, as a volunteer, worked with the
15 solicitor's office in any way whatsoever, please stand?

16 No one stands.

17 If any of you have worked with the office of Burris
18 Law Firm, Ms. Burris, or anyone in her law office at any
19 time, same type question as a witness or a client or are
20 any of you now represented by Ms. Burris; if so, please
21 stand?

22 (NO ONE STANDS.)

23 THE COURT: Finally as to Mr. Smith and the Public
24 Defender's Office, are any of you related by blood or
25 marriage to anyone one who works in the public defender's

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1 office, or, have any of you been represented or a member of
2 your family represented by a member of the York County
3 Public Defender's Office; if so, please stand?

4 No one stands.

5 Are any of you members of the Grand Jury which passed
6 on these indictments at an earlier time, if so, please
7 stand?

8 No one stands.

9 Have any of you heard about this case, read anything
10 about it, heard anything, heard anybody talk about it, know
11 anything about it in any way whatsoever from any source
12 whatsoever or have any of you formed, expressed any opinion
13 about any matter or an issue involved in this case, if so,
14 please stand?

15 No one stands.

16 Are any of you members of, contributors to
17 organizations such as Mother's Against Drunk Drivers';
18 Students Against Drunk Driver's; Citizen's Against
19 Violence, Trooper's Association, Sheriff's Association or
20 Fraternal Order of Police, if so, please stand?

21 No one stands.

22 Are any of you or a member of your family, immediate
23 family, - Let me rephrase that. This is one of those
24 questions that is somewhat delicate and I'm not gonna ask
25 you to get up and tell me the particulars if you have to

1 stand up. But if any of you or a member of your family
2 been the victim of or you or a member of your family been
3 charged with any of the type of offenses I've just gone
4 over? I'll call them violent offenses, kidnapping,
5 attempted murder, armed robbery. If any of you have been
6 the victim of, charged with, or a member of your family
7 been the victim of or charged with any type crime such as
8 that; if so, please stand?

9 All right, please stand. And what I'll ask you to do
10 is give me your name and number and don't go into - I don't
11 want to know about your situation. By standing you've told
12 me that this is part of your background so I'm gonna ask
13 you your name and number and then I will simply ask whether
14 based on this as being one of your life experiences you
15 could be fair and impartial in this trial.

16 So give me your name and number first please.

17 A. My name is Teresia Sexton and my number is 193.

18 THE COURT: Okay. Yes, ma'am.

19 A. Lorraine Schwahl, 191.

20 THE COURT: All right. Yes, sir.

21 A. My name is John Fowler, Number 79.

22 THE COURT: All right. Again I'm not gonna ask you
23 the particulars but based on the fact that you have this as
24 part of your life experience, if that would prevent you
25 from being fair and impartial in this trial, please raise

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1 your right hand?

2 None of the three do.

3 Did you? You kind of - -

4 A. I don't understand the - -

5 THE COURT: All right. You're telling me that you've
6 had, somebody, you or a member of your family has had some
7 experience with a violent crime either somebody was
8 charged.

9 A. If I told you what it was - -

10 THE COURT: No because you've got to - This is an
11 independent decision, I can't make your mind up. All I can
12 ask is - Let's assume, and I'm not saying this is the case
13 with you, let's assume somebody in your family has been
14 charged with kidnapping. Whether they were convicted or
15 not, would that - That's not a good way to put it. Let me
16 back up. Would the fact that somebody - that that question
17 generated your standing, that is that somebody in your
18 family history has something that made you stand either
19 charged with or the victim of some sort of crime.

20 A. They were the victim.

21 THE COURT: Okay. Well would that affect you such
22 that you could not be fair? That is since you've got that
23 as part of your life experiences even with that as part of
24 your life experience could you still be fair and impartial
25 to these two gentlemen and the State?

1 A. I don't know if I could.

2 THE COURT: Okay. Well that's what we want so you can
3 be seated. Your name and number again?

4 A. Lorraine Schwahl, 191.

5 THE COURT: All right.

6 Yes, sir, you kind of looked like at one time you were
7 raising your --

8 A. Yeah. I feel the same way.

9 THE COURT: Okay. Your name and number again?

10 A. John Fowler, 79.

11 THE COURT: Yes, ma'am.

12 A. I'm okay with it.

13 THE COURT: The last lady, your name again?

14 A. Teresa Sexton.

15 THE COURT: All right. You will not be excused. You
16 can stay with us. But thank you and I appreciate - I know
17 sometimes the way I phrase these may be a little confusing
18 and you don't understand stand up and ask me.

19 Have any of you or a member of your immediate family
20 been employed as a law enforcement officer or as a
21 prosecutor of some criminal crimes? That is anything from
22 sheriff's deputy, sheriff or a policeman, US Marshall,
23 military police, judge advocate general, solicitor, US
24 attorney; anything like that, if so, please stand?

25 All right, we will work our way back.

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1 Your name?

2 A. Brandy Hagerman, 173.

3 THE COURT: All right. And I will ask in this
4 particular tell me why you're standing. Uncle Joe is a
5 sheriff or something.

6 A. My uncle works for the York County Sheriff's
7 Department.

8 THE COURT: All right. Your name again?

9 A. Brandy Hagerman.

10 THE COURT: Okay. Just remain standing.

11 Yes, ma'am.

12 A. Brenda Robinson, 183. My uncle and cousin both are
13 state troopers.

14 THE COURT: All right. Yes, ma'am, in the back.

15 A. Tanika Burris, I'm 34 and my grandfather was a
16 detective, homicide detective.

17 THE COURT: All right. Yes, sir.

18 A. Ernest Lawing, 124. My son is a policeman in
19 Huntersville.

20 THE COURT: All right. Yes, ma'am, your name and
21 number?

22 A. Tyresha Thompson, 223. My uncle is a military
23 officer.

24 THE COURT: Your uncle is a military officer. All
25 right.

1 The five of you who are standing, and I apologize for
2 pointing that's the only way I can do it. I've never
3 figured out another way so I point.

4 The fact that you have this, if that would prevent you
5 from being fair and impartial to the trial of this case,
6 fair and impartial to the defense and to the State, if you
7 could not be fair and impartial please raise your right
8 hand?

9 None of the five do. You may remain and have a seat.

10 This follows up a little bit to the one I ask earlier.

11 No, I think I've already covered that.

12 Do any of you have any beliefs, religious or
13 otherwise, philosophical or otherwise that would prevent
14 you from being fair and impartial in the trial of this
15 particular case; if so, please stand?

16 All right, yes ma'am, your name and number?

17 A. My name is Rebecca Garcia and my number is 254.

18 THE COURT: All right. And you have --

19 A. I have --

20 THE COURT: And you believe that would prevent you
21 from being fair and impartial?

22 A. Yes. I don't think I can be impartial because - -

23 THE COURT: Well you don't need to go any further but
24 I will excuse you from serving. Just have a seat.

25 The following are possible witnesses' in this case.

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1 Now I don't know that all of them will testify but even if
2 they don't testify their names may come up. So if you know
3 any of these individuals, and particularly of course if you
4 are related by blood or marriage you obviously know them,
5 but if you know them any way whatsoever please stand and
6 then I'll come back and ask you which person you - the
7 person you know or are related to.

8 Deputy Amy Stivender from the Colleton County
9 Sheriff's Department, Kayla Higgs. From York County
10 Forensics, George H. Weeks and Cheryl S. Gregory. From
11 Rock Hill Communications Division dispatcher Lisa W.

12 Not indicated to me to be associated with law
13 enforcement so I'll call them just non law enforcement,
14 Anastacia Heath. Then from the Rock Hill Police Department
15 Detective Cedric Stokes, Detective Toshia Smith, Detective
16 Bruce Haire, Officer Benjamin Glynn, Officer Ray Hamilton.

17 Then from the York County Forensic Service Unit Mr.
18 Tim Buchannan. Then from the State Law Enforcement
19 Division Lily Gallman, Betty Butler, Patricia Crooks.

20 Then individuals who are not associated with law
21 enforcement, Jared Crane, Amanda Crane, Ernest Jordan,
22 Mindy Hervey Lipinski.

23 Anybody know any of those individuals, related?

24 No one stands

25 All right. Any further questions other than what's

1 been handed up from the State?

2 SOLICITOR SHELTON: No, sir, Your Honor.

3 THE COURT: Any further questions, Ms. Burris?

4 MR. BURRIS: No, sir, Your Honor.

5 THE COURT: Mr. Smith?

6 MR. SMITH: No, Your Honor.

7 THE COURT: Finally, do any of you know of any reason
8 why you could not or should not serve as a fair and
9 impartial juror in the trial of this particular case if so
10 please stand?

11 No one stands.

12 Now the way we draw juries in this courtroom is the
13 bailiff will come and stand in the floor way up here in
14 sort of a well and if you hear your name and number called
15 please come and stand next to him and face first the table
16 where the solicitor's are seated. One of them will say
17 either excuse the juror which means you may return to your
18 seat. Or present the juror. If you hear the words present
19 the juror turn and face the table where Mr. Robinson is
20 seated and one of his attorneys will say either present the
21 juror or excuse the juror. Again the words excuse the
22 juror means you may return to your seat. And if you hear
23 the words present the juror from someone at Mr. Robinson's
24 table you will turn then and face the table where Mr. Heath
25 and his attorney are seated. Mr. Smith will say either

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1 excuse the juror, again, that means you may return to your
2 seat. Or he will say swear the juror. If you hear the
3 words swear the juror step toward the jury box and the
4 bailiff will show you where to sit. Bring with you any
5 personal belongings you may have, book, rain coat, anything
6 like that, umbrella, so that you won't have to go back and
7 get it if you are seated.

8 The State is entitled to excuse - we call it strikes -
9 excuse up to five individuals. Each defendant has the
10 right to excuse up to ten individuals. We want to draw a
11 jury of twelve and two alternates. On the alternates the
12 strikes will be one for the State and two each for each
13 defendant.

14 SOLICITOR SHELTON: Your Honor, may we approach?

15 THE COURT: Yes.

16 (BENCH CONFERENCE OFF THE RECORD AT 04:13 P.M..)

17 THE COURT: Actually because there are two defendants
18 the State gets ten and each of them get ten strikes.

19 All right, if you hear your name called, please come
20 forward.

21 MADAME CLERK: Number 83, Tamara Gary.

22 (BLACK FEMALE COMING FORWARD.)

23 MADAME CLERK: What say you for the State

24 SOLICITOR SHELTON: Please present this juror.

25 MADAME CLERK: Defense Robinson?

1 MS. BURRIS: Please present this juror.
2 MADAME CLERK: Defense Heath?
3 MR. SMITH: Please swear Ms. Gary.
4 MADAME CLERK: Please have a seat in the jury box.
5 Number 29, Jonathan Brown.
6 (WHITE MALE COMING FORWARD.)
7 MADAME CLERK: What say you for the State?
8 SOLICITOR SHELTON: Please present this juror.
9 MADAME CLERK: Defense Robinson?
10 MS. BURRIS: Please excuse this juror.
11 MADAME CLERK: You are excused from this case.
12 Number 5, Jeffrey Antinoro.
13 (WHITE MALE COMING FORWARD.)
14 MADAME CLERK: What say you for the State?
15 SOLICITOR SHELTON: Please present this juror.
16 MADAME CLERK: Defense Robinson?
17 MS. BURRIS: Please excuse this juror.
18 MADAME CLERK: You are excused from this case.
19 Number 2-0-7, Bonnie StClair.
20 (WHITE FEMALE COMING FORWARD.)
21 MADAME CLERK: What say you for the State?
22 SOLICITOR SHELTON: Please present this juror.
23 MADAME CLERK: Defense Robinson?
24 MS. BURRIS: Please present this juror.
25 MADAME CLERK: Defense Heath?

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1 MR. SMITH: Please excuse the juror.

2 MADAME CLERK: You are excused from this case.

3 Number 182, Alex Robinson. Robertson, excuse me.

4 (WHITE MALE COMING FORWARD.)

5 MADAME CLERK: What say you for the State?

6 SOLICITOR SHELTON: Please present this juror.

7 MADAME CLERK: Defense Robinson?

8 MS. BURRIS: Please present this juror.

9 MADAME CLERK: Defense Heath?

10 MR. SMITH: Please swear Mr. Robertson.

11 MADAME CLERK: Please have a seat in the jury box.

12 Number 1-0-8, William Huffstetler.

13 (WHITE MALE COMING FORWARD.)

14 MADAME CLERK: What say you for the State?

15 SOLICITOR SHELTON: Please excuse this juror.

16 MADAME CLERK: You are excused from this case.

17 Number 76, Randall Finn.

18 (WHITE MALE COMING FORWARD.)

19 SOLICITOR SHELTON: What say you for the State?

20 SOLICITOR SHELTON: Please present this juror.

21 MADAME CLERK: Defense Robinson?

22 MS. BURRIS: Please excuse this juror.

23 MADAME CLERK: You are excused from this case.

24 Number 213, Cynthia Tadlock.

25 (WHITE FEMALE COMING FORWARD.)

1 MADAME CLERK: What say you for the State?
2 SOLICITOR SHELTON: Please present this juror.
3 MADAME CLERK: Defense Robinson?
4 MS. BURRIS: Please present this juror.
5 MADAME CLERK: Defense Heath?
6 MR. SMITH: Please excuse Ms. Tadlock.
7 MADAME CLERK: You are excused from this case.
8 Number 177, Eric Ramsdell.
9 (WHITE MALE COMING FORWARD.)
10 MADAME CLERK: What say you for the State?
11 SOLICITOR SHELTON: Please present this juror.
12 MADAME CLERK: Defense Robinson?
13 MS. BURRIS: Beg the Court's indulgence.
14 (PAUSE.)
15 MS. BURRIS: Please present this juror.
16 MADAME CLERK: Defense Heath?
17 MR. SMITH: Please excuse Mr. Ramsdell.
18 MADAME CLERK: You are excused from this case.
19 Number 251, Kevin Baker.
20 (WHITE MALE COMING FORWARD.)
21 MADAME CLERK: What say you for the State?
22 SOLICITOR SHELTON: Please present this juror.
23 MADAME CLERK: Defense Robinson?
24 MS. BURRIS: Please excuse this juror.
25 MADAME CLERK: You are excused from this case.

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1 Number 169, Jonathan Petty.
2 (WHITE MALE COMING FORWARD.)
3 MADAME CLERK: What say you for the State?
4 SOLICITOR SHELTON: Please present this juror.
5 MADAME CLERK: Defense Robinson?
6 MS. BURRIS: Please present this juror.
7 MADAME CLERK: Defense Heath?
8 MR. SMITH: Please swear Mr. Petty.
9 MADAME CLERK: Please have a seat in the jury box.
10 Number 9, Justin Baker.
11 (WHITE MALE COMING FORWARD.)
12 MADAME CLERK: What say you for the State?
13 SOLICITOR SHELTON: Please present this juror.
14 MADAME CLERK: Defense Robinson?
15 MS. BURRIS: Please excuse this juror.
16 MADAME CLERK: You are excused from this case.
17 Number 85, Micah Gaylor.
18 (WHITE MALE COMING FORWARD.)
19 MADAME CLERK: What say you for the State?
20 SOLICITOR SHELTON: Please present this juror.
21 MADAME CLERK: Defense Robinson?
22 MS. BURRIS: Please present this juror.
23 MADAME CLERK: Defense Heath?
24 MR. SMITH: Please swear Mr. Gaylor.
25 MADAME CLERK: Please have a seat in the jury box.

1 Number 142. David McCauley.
2 (WHITE MALE COMING FORWARD.)
3 MADAME CLERK: What say you for the State?
4 SOLICITOR SHELTON: Please present this juror.
5 MADAME CLERK: Defense Robinson?
6 MS. BURRIS: Please present this juror.
7 MADAME CLERK: Defense Heath?
8 MR. SMITH: Please excuse Mr. McCauley.
9 MADAME CLERK: You are excused from this case.
10 Number 8, Angela Baioni.
11 (WHITE FEMALE COMING FORWARD.)
12 MADAME CLERK: What say you for the State?
13 SOLICITOR SHELTON: Please present this juror.
14 MADAME CLERK: Defense Robinson?
15 MS. BURRIS: Please excuse this juror.
16 MADAME CLERK: You are excused from this case.
17 Number 124, Ernest Lawking.
18 (WHITE MALE COMING FORWARD.)
19 MADAME CLERK: What say you for the State?
20 SOLICITOR SHELTON: Please present this juror.
21 MADAME CLERK: Defense Robinson?
22 MS. BURRIS: Please excuse this juror.
23 MADAME CLERK: You are excused from this case.
24 Number 233, David Wendland.
25 (WHITE MALE COMING FORWARD.)

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1 MADAME CLERK: What say you for the State?

2 SOLICITOR SHELTON: Please present this juror.

3 MADAME CLERK: Defense Robinson?

4 MS. BURRIS: Please present this juror.

5 MADAME CLERK: Defense Heath?

6 MR. SMITH: Please excuse Mr. Wendland.

7 MADAME CLERK: You are excused from this case.

8 Number 78, Dawn Styles.

9 (WHITE FEMALE COMING FORWARD.)

10 MADAME CLERK: What say you for the State?

11 SOLICITOR SHELTON: Please present this juror.

12 MADAME CLERK: Defense Robinson?

13 MS. BURRIS: Please present this juror.

14 MADAME CLERK: Defense Heath?

15 MR. SMITH: Please swear Ms. Styles.

16 MADAME CLERK: Please have a seat in the jury box.

17 Number 264, Jermaine Taylor.

18 (BLACK MALE COMING FORWARD.)

19 MADAME CLERK: What say you for the State?

20 SOLICITOR SHELTON: Please present this juror.

21 MADAME CLERK: Defense Robinson?

22 MS. BURRIS: Please present this juror.

23 MADAME CLERK: Defense Heath?

24 MR. SMITH: Please present Mr. Taylor.

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

1 Number 52, Teresa Coulter.
2 (WHITE FEMALE COMING FORWARD.)
3 MADAME CLERK: What say you for the State?
4 SOLICITOR SHELTON: Please present this juror.
5 MADAME CLERK: Defense Robinson?
6 MS. BURRIS: Please present this juror.
7 MADAME CLERK: Defense Heath?
8 MR. SMITH: Please swear Ms. Coulter.
9 MADAME CLERK: Please have a seat in the jury box.
10 Number 2-0-1, Sharon Smith.
11 (WHITE FEMALE COMING FORWARD.)
12 MADAME CLERK: What say you for the State?
13 SOLICITOR SHELTON: Please present this juror.
14 MADAME CLERK: Defense Robinson?
15 MS. BURRIS: Please present this juror.
16 MADAME CLERK: Defense Heath?
17 MR. SMITH: Please excuse Ms. Smith
18 MADAME CLERK: You are excused from this case.
19 Number 173, Brandy Hagerman.
20 (WHITE FEMALE COMING FORWARD.)
21 MADAME CLERK: What say you for the State?
22 SOLICITOR SHELTON: Please present this juror.
23 MADAME CLERK: Defense Robinson?
24 MS. BURRIS: Please present this juror.
25 MADAME CLERK: Defense Heath?

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1 MR. SMITH: Please excuse Ms. Hagerman.
2 MADAME CLERK: You are excused from this case.
3 Number 252, Lindsey Campbell.
4 (WHITE FEMALE COMING FORWARD.)
5 MADAME CLERK: What say you for the State?
6 SOLICITOR SHELTON: Please present this juror.
7 MADAME CLERK: Defense Robinson?
8 MS. BURRIS: Please present this juror.
9 MADAME CLERK: Defense Heath?
10 MR. SMITH: Please swear Ms. Campbell.
11 MADAME CLERK: Please have a seat in the jury box.
12 Number 193, Teresia Sexton.
13 (WHITE FEMALE COMING FORWARD.)
14 MADAME CLERK: What say you for the State?
15 SOLICITOR SHELTON: Please present this juror.
16 MADAME CLERK: Defense Robinson?
17 MS. BURRIS: Please present this juror.
18 MADAME CLERK: Defense Heath?
19 MR. SMITH: Please excuse Ms. Sexton.
20 MADAME CLERK: You are excused from this case.
21 Number 25, Joseph Brandon.
22 (WHITE MALE COMING FORWARD.)
23 MADAME CLERK: What say you for the State?
24 SOLICITOR SHELTON: Please present this juror.
25 MADAME CLERK: Defense Robinson?

1 MS. BURRIS: Please present this juror.
2 MADAME CLERK: Defense Heath?
3 MR. SMITH: Please swear Mr. Brandon.
4 MADAME CLERK: Please have a seat in the jury box.
5 Number 235, Jennifer West.
6 (WHITE FEMALE COMING FORWARD.)
7 MADAME CLERK: What say you for the State?
8 SOLICITOR SHELTON: Please present this juror.
9 MADAME CLERK: Defense Robinson?
10 MS. BURRIS: Please present this juror.
11 MADAME CLERK: Defense Heath?
12 MR. SMITH: Please swear Ms. West.
13 MADAME CLERK: Please have a seat in the jury box.
14 Number 17, Ilse Bertilson.
15 (WHITE FEMALE COMING FORWARD.)
16 MADAME CLERK: What say you for the State?
17 SOLICITOR SHELTON: Please present this juror.
18 MADAME CLERK: Defense Robinson?
19 MS. BURRIS: Please present this juror.
20 MADAME CLERK: Defense Heath?
21 MR. SMITH: Please swear Ms. Bertilson.
22 MADAME CLERK: Please have a seat in the jury box.
23 Number 2-0-9, Thomas Stevenson.
24 (WHITE MALE COMING FORWARD.)
25 MADAME CLERK: What say you for the State?

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1 SOLICITOR SHELTON: Please excuse this juror.

2 MADAME CLERK: You are excused from this case.

3 Number 130, Justin Lucas.

4 (WHITE MALE COMING FORWARD.)

5 MADAME CLERK: What say you for the State?

6 SOLICITOR SHELTON: Please present this juror.

7 MADAME CLERK: Defense Robinson?

8 MS. BURRIS: Please present this juror.

9 MADAME CLERK: Defense Heath?

10 MR. SMITH: Please swear Mr. Lucas.

11 MADAME CLERK: Please have a seat in the jury box.

12 THE COURT: Strikes on the alternates will be one each
13 to the State; two each to the Defense.

14 MADAME CLERK: Number 117, Lynn Kimble.

15 (WHITE FEMALE COMING FORWARD.)

16 MADAME CLERK: What say you for the State?

17 SOLICITOR SHELTON: Please present this juror.

18 MADAME CLERK: Defense Robinson?

19 MS. BURRIS: Please present this juror.

20 MADAME CLERK: Defense Heath?

21 MR. SMITH: Please swear Ms. Kimble.

22 MADAME CLERK: Please have a seat in the jury box.

23 Number 64, Susan Dove.

24 (WHITE FEMALE COMING FORWARD.)

25 MADAME CLERK: What say you for the State?

1 SOLICITOR SHELTON: Please present this juror.

2 MADAME CLERK: Defense Robinson?

3 MS. BURRIS: Please present this juror.

4 MADAME CLERK: Defense Heath?

5 MR. SMITH: Please excuse Ms. Dove.

6 MADAME CLERK: You are excused from this case.

7 Number 121, Gary Lamb.

8 (WHITE MALE COMING FORWARD.)

9 MADAME CLERK: What say you for the State?

10 SOLICITOR SHELTON: Please present this juror.

11 MADAME CLERK: Defense Robinson?

12 MS. BURRIS: Please present this juror.

13 MADAME CLERK: Defense Heath?

14 MR. SMITH: Please swear Mr. Lamb.

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

16 THE COURT: Anything from the State involving the
17 striking of the panel?

18 SOLICITOR SHELTON: No, sir, Your Honor.

19 THE COURT: Ms. Burris:

20 MS. BURRIS: No, sir, Your Honor.

21 THE COURT: Mr. Smith?

22 MR. SMITH: No, Your Honor.

23 THE COURT: Those of you who were not chosen I'm going
24 to allow you to go. Please call tonight after seven and
25 follow whatever instructions you will receive. It may be

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1 to call back at a certain time; it may be to report at a
2 certain time. It's very important that you follow those
3 instructions, so have a pleasant evening and call back
4 tonight after seven. And please try to be fairly quite
5 when you leave, I want to start talking with this panel.

6 (JURY DISMISSED AT 04:55 P.M..)

7 THE COURT: Those of you who were chosen I'm going to
8 ask you to give me your attention for just a few minutes.
9 It's almost five o'clock and I have a diversion court that
10 I have to hold at six o'clock, plus I don't want to keep
11 you here much later than five anyway.

12 I'm going to chat with you just a minute and then let
13 you go for the day. We're not going to administer the oath
14 to you, that is swear you in until in the morning, but you
15 are on this jury panel so I have to give you some
16 cautionary instructions. One is while you are serving on
17 this jury do not try to make up your mind and do not
18 discuss the case among yourselves until we reach the point
19 where I instruct you to jointly deliberate and return a
20 unanimous verdict. Prior to that time you are not equipped
21 with all the tools you need to make a fair and reasonable
22 decision. Do not let anyone discuss the case with you
23 outside the courtroom. If anyone tries to discuss this
24 case with you tell them you cannot as you are serving as a
25 juror and report back to me if anyone tries to discuss the

1 case with you hopefully identifying that person because I
2 would have to take action against any individual who tries
3 to talk to a seated juror.

4 Do not let yourself be exposed to any news coverage if
5 there is any. I don't know that there will be. Don't read
6 about, watch anything or listen to anything that would
7 remotely deal with this trial. Your verdict must be based
8 on the law and the evidence as it's developed here in the
9 courtroom. Along those lines do not do any independent
10 research on this case. Do not go to the scene. I don't
11 know that building -

12 What's the name again? Five Star?

13 SOLICITOR SHELTON: Five Star Customs, Your Honor.

14 THE COURT: Five Star Custom Rims. I don't know if
15 it's even at that same location but there is no reason for
16 you to go by where Five Star Rims was, Custom Rims was, or
17 is now. You have to base your verdict on the law and the
18 evidence.

19 Again don't discuss the case or let yourselves be
20 exposed to any news coverage. Do not do any independent
21 research. Don't go on line, don't use any social media or
22 any kind of electronics, don't Google, or go to any source
23 whatsoever to find out anything about this case. That is
24 including about the law, rules of evidence, court
25 personnel, me, the lawyers involved, the defendants.

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1 During the week you'll hear the name of the alleged
2 victims. Don't go and research anything about them. That
3 is keep in mind that you are not to do any research on your
4 own. Your verdict must be based on what's developed here
5 in the courtroom.

6 To go on line and do any research would not only be a
7 violation of your oath, it would disrupt perhaps these
8 proceedings. And while this may sound a little out - a
9 little far fetch, I don't think it is, don't go on line and
10 use any social media. Do not go on line and say guess what
11 I'm serving on a jury where we're trying someone for
12 attempted murder. The next thing you will get back is some
13 message from somebody who is a friend or somebody who likes
14 you or whatever it is on Facebook that may give you some
15 consternation or concern. There is no need for anybody -
16 of course your family members will know you're on a jury -
17 but there is no need for you to go into cyberspace and
18 discuss this case of what you're doing as far as your
19 services on this jury. Again it would be improper and
20 unfair to the parties. They are entitled to you listening
21 to the trial and basing your decision solely on the law and
22 the evidence as its developed here in the trial.

23 I will have some other things to chat with you about
24 in the morning but we are going to stop in just a moment.
25 I will first ask the State is there anything else they want

1 me to cover this afternoon?

2 SOLICITOR SHELTON: No, sir, Your Honor.

3 THE COURT: Ms. Burris?

4 MS. BURRIS: No, sir, Your Honor.

5 THE COURT: Mr. Smith?

6 MR. SMITH: No, Your Honor.

7 THE COURT: All right. When you leave I will appoint
8 a foreperson when you return in the morning. In fact I'll
9 probably have the bailiff tell you who the foreperson is
10 before you come out because the foreperson will take this
11 first seat in the first row. The two alternates are always
12 seated in those two seats. There is no other assigned
13 seating. When you leave at this time follow the bailiff
14 and he will tell you how to get in and out while you are
15 serving as a juror and show you where the jury room is at
16 this point, so I'm gonna allow you to leave at this time.

17 (PETIT JURY EXITS COURTROOM AT 05:00 P.M..)

18 THE COURT: Mike, I didn't tell them, tell them to be
19 here at 9:30. Thank you.

20 THE COURT: We've got about forty minutes, we can work
21 on Neil versus Biggers if you're ready.

22 SOLICITOR SHELTON: Yes, Your Honor.

23 Your Honor, just - do you want to start that or do you
24 want to cover the matter of Mr. Robinson's prior criminal
25 history? I know Ms. Burris wants to get that on the

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1 record.

2 THE COURT: All right. Either one. We've got about
3 like I say I have to meet with staff about twenty till and
4 it's five o'clock now, we've got forty minutes. I'll leave
5 it up to those of you who has something to do.

6 Let me ask Ms. Naylis something if she'll come up
7 here.

8 (BENCH CONFERENCE WITH COURTROOM CLERK OFF THE
9 RECORD.)

10 THE COURT: All right. What record do you contend on
11 behalf of the State constitutes evidence which could be
12 admitted to impeach Mr. Robinson?

13 SOLICITOR SHELTON: Your Honor, he has five charges
14 which the convictions of would carry over a year. He has
15 an indecent exposure. That was the - He pled to that in
16 2004. He has a possession of a pistol by a person
17 prohibited, pled to that in '99 and ABHAN in '99, a
18 possession of crack in 2000 and a failure to stop for a
19 blue light in 2000. I know those are old and outside the
20 ten year time limit for the conviction date but I checked
21 with probation, he was being supervised on those charges.
22 On one set until 2005 and on the other set till 2009 until
23 the end of 2009.

24 THE COURT: All right. What were they, indecent
25 exposure, pistol, ABHAN, failure to stop. I missed the

1 last one.

2 SOLICITOR SHELTON: Possession of crack. And on the
3 ABHAN, Your Honor, since it is so very closely related to
4 this charge I would only ask if that - if he had been
5 convicted of a felony. On the gun charge as well.

6 MS. BURRIS: So which one do you actually, other than
7 the gun charge and the ABHAN?

8 THE COURT: None of these fall into the crime of
9 dishonesty so it would fall under 609(a)(1) as an accused
10 the court has to determine the approbative value committing
11 those crimes outweighs the prejudicial effect.

12 Do you have any comments, Ms. Burris?

13 MS. BURRIS: I do, Your Honor.

14 Your Honor, understanding - my understanding that she
15 indicated that he was actually being supervised in 2009 of
16 course you know there is actually a time limit and of
17 course the conviction date indicates in 2000 the rules says
18 of a conviction under this rule is not admissible when a
19 time of ten years or more has elapsed since the day of the
20 conviction or the release of the witness from the
21 confinement if proposed for that conviction which is at a
22 later date unless the court determines. Now the question
23 becomes whether or not probation is the same as confinement
24 and our position that probation is not the same as
25 confinement. Additionally the court of Appeals of South

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1 Carolina which is actually a 2011 case and this is a case
2 in which the Court of Appeals remanded the case back down
3 to the Circuit Court to discuss the five factors set forth
4 in *Kaufe* and ruled that his prior convictions were
5 admissible. However *Kaufe* gives us the five factor
6 analysis that we must look at in addition to my previous
7 argument that supervision is not the same as confinement
8 according to the rule. It gives the five factors analysis
9 it says that we must look at whether or not the impeachment
10 value of the prior crime which it is our position that the
11 convictions that the assistant solicitor stated that she
12 would like to ask Mr. Robinson about does not have any
13 impeachment value, is not a crime of dishonesty. We have
14 to look at the point in time of conviction and the
15 witnesses's subsequent history. Well of course the
16 previous conviction was as previously stated in 2000, we
17 are now in 2013 so of course it was some time ago. We have
18 to look at the similarity between the past crime and the
19 crime charged. It is my understanding that she does not
20 intend to ask anything about the ABHAN neither the gun
21 charge because they are similar to what the offense he's
22 being charged with today. And of course the defendant's
23 testimony it is our position that Mr. Robinson is facing
24 over I would say ninety years in regards to these offenses
25 that's charged today.

1 Your Honor, in his testimony it's extremely important
2 simply because allegedly there were I guess allegedly four
3 persons who would actually be witnesses to this particular
4 alleged crime and so it's our position that his testimony
5 is extremely important and should he desire to actually
6 take the stand I do not believe that she should actually
7 bring in charges that are ten years from this date.

8 And of course the other factor that Kaufe says took
9 place is the centrality of the credibility issue. Again
10 these are not crimes of dishonesty, Your Honor. I think
11 that these would be simply presented or ask of Mr. Robinson
12 these questions simply in order to try to bring light to
13 the jury that he has some type or he has committed some
14 type of offense in the past or to present him in some type
15 of bad light or either - or some way just prior bad act.
16 So I think that this is improper to actually allow these
17 particular offenses into the record in regards to the
18 indecent exposure. Again they are more than ten years old,
19 it's not a crime of dishonesty, his testimony is extremely
20 important --

21 THE COURT: Indecent exposure is 2004. My math isn't
22 real real good but I don't put that outside the ten year -

23 MS. BURRIS: The indecent exposure was in 2004. But
24 again, Your Honor, we would just ask that the assistant
25 solicitor and the state not be allowed to ask him about any

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1 of these prior convictions simply because of the timing of
2 these prior convictions. And again the importance of the
3 defendant's testimony and what he's actually facing today
4 again over ninety years. And also we have to look at the
5 impeachment value of the prior crime which it is our
6 position there is not any impeachment value.

7 THE COURT: When was the failure to stop?

8 SOLICITOR SHELTON: He pled to the failure to stop and
9 possession of crack in 2002. He was under supervision on
10 that until 2006. And, Your Honor, I have the case State
11 versus Joey Ellis which held that probation is the same as
12 confinement so the period of confinement would end in 2006.

13 THE COURT: So he was on probation until 2006 on those
14 2002's. Is that right, a failure to stop?

15 SOLICITOR SHELTON: Yes. The failure to stop and the
16 possession of crack I believe was 2006 and the unlawful
17 carrying - possession of a pistol, the ABHAN and he was
18 released from supervision on that in 2005. I believe what
19 happened is that he was on probation and then picked up the
20 other charges so he had to finish that before his YOA
21 started is the way the records from probation read.

22 THE COURT: Say that again.

23 SOLICITOR SHELTON: I believe he pled in '99 to the
24 possession and the ABHAH.

25 THE COURT: And what kind of sentence did he get?

1 SOLICITOR SHELTON: He received a probationary
2 sentence.

3 THE COURT: I know but it has a number of years.

4 SOLICITOR SHELTON: He received - I'll tell Your
5 Honor.

6 Five years suspended on probation. They are on one
7 charge, one year suspended on probation for unlawful
8 carrying and then five years on the remaining charges
9 suspended on probation all to run - -

10 THE COURT: But how long is the probation? How long
11 does it say it ran?

12 SOLICITOR SHELTON: It didn't there so I had to call
13 probation to get his records. It was - it didn't say. It
14 just says five years suspended on probation. He was on - I
15 believe he got five years on probation and then he picked
16 up the new charge and it appears from his probation record
17 that they sort of suspended his or tolled or whatever,
18 stopped his probation time, let him serve his YOA time and
19 then picked back up his probation time or vice versa. He
20 wound up serving his probation time and then started his
21 YOA.

22 THE COURT: Well I'm gonna ask you to get some
23 confirmation from somebody to exactly what happened.

24 SOLICITOR SHELTON: I have the printout from probation
25 if you would like to see that.

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1 THE COURT: Have you shown that to Ms. Burris?

2 SOLICITOR SHELTON: I do not think I did. I told her
3 that we can run it but I didn't show her the printout.

4 (DEFENSE ATTORNEY BURRIS REVIEWING DOCUMENTS.)

5 MS. BURRIS: Your Honor, I actually have the
6 sentencing sheets so I think that the sentencing sheets we
7 were able to pull from the records.

8 On this particular sheet that's being presented, Your
9 Honor, it doesn't actually even have the charges on it. It
10 has the start date.

11 THE COURT: Let's do this. We don't have to decide
12 this today. I can take this under advisement because it's
13 not going to be determined today whether to testify or not.
14 But I would like whatever documentation I can have and any
15 case law. I thought there was a case that says possession
16 of crack in and of itself does not - is not a showing of
17 lack of veracity.

18 SOLICITOR SHELTON: Yes, sir. And there may be and we
19 may have decided that last time. I cannot remember.

20 THE COURT: Well we'll do some research on that. The
21 same thing for failure to stop. I don't think that makes
22 somebody a liar because they failed to stop. The same as
23 indecent exposure.

24 SOLICITOR SHELTON: They did - One of the victims also
25 had a possession of crack charge. They were allowed to ask

1 him about that charge in the prior trial.

2 THE COURT: Well it's different. It's a witness as
3 opposed to the accused. If the accused with the witness it
4 says any witness evidence of a witness other than the
5 accused has been convicted of a crime shall be admitted -
6 you got the one year - and so there is no caveat.

7 SOLICITOR SHELTON: Yes, sir.

8 THE COURT: But the evidence of the accused had been
9 convicted of such a crime shall be admitted if the court
10 determines the approbative value i.e., that it shows that
11 somebody may be lying outweighs the prejudicial effect. So
12 there is a balancing test as to an accused that do not
13 apply to a witness.

14 SOLICITOR SHELTON: Yes, sir.

15 MS. BURRIS: Your Honor, and this may be something
16 that Your Honor would like to take up at a later date also,
17 a later time also. In regards to the alleged victim's
18 prior record we have Ernest Jordan and Jared Crane and my
19 understanding is Amanda do not have any convictions that
20 were actually qualify --

21 SOLICITOR SHELTON: Neither Jared or Amanda Crane had
22 any convictions that would qualify.

23 MS. BURRIS: Well --

24 SOLICITOR SHELTON: Mr. Jordan did. He had two. He
25 had a possession of crack and a receiving stolen goods.

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1 THE COURT: We've got a little bit of time before we
2 get to those witnesses; we'll do some research.

3 SOLICITOR SHELTON: Do you want what I have from
4 probation, Your Honor?

5 THE COURT: Please.

6 Just make a copy and give it to me tomorrow and give
7 her a copy.

8 MS. BURRIS: Thank you.

9 THE COURT: And, Ms. Burris, if you will give me a
10 copy of what you want me to look at.

11 MS. BURRIS: Yes, sir, Your Honor.

12 THE COURT: All right. It's now almost a quarter
13 after five. You think you got time, a half hour or so to
14 do Neil versus Biggers?

15 SOLICITOR SHELTON: There's four witnesses total. I
16 have three of those witnesses here.

17 THE COURT: Go ahead.

18 SOLICITOR SHELTON: I doubt we'll get through all of
19 them.

20 THE COURT: Why don't we go ahead and get started.
21 Does anybody need a break?

22 Wanda?

23 MADAME COURT REPORTER: No, sir.

24 THE COURT: Stephanie?

25 MADAME CLERK: I'm good.

DETECTIVE CEDRIC STOKES: BY SOLICITOR SHELTON - IN CAMERA

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1 THE COURT: All right, then we'll go ahead and do..

2 You want to call your first witness?

3 SOLICITOR SHELTON: Yes, sir. The State would call
4 Ernest Jordan.

5 THE COURT: Now as far as sequestration the victims
6 have a right to remain in the courtroom.

7 SOLICITOR SHELTON: Yes, sir, Your Honor. I don't
8 think they wanted to be in here for the jury selection.

9 Your Honor, we can call Detective Stokes.

10 THE COURT: All right, come on up and put your left
11 hand on the Bible and raise your right.

12 (WHEREUPON: CEDRIC STOKES,
13 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

14 DIRECT EXAMINATION - IN CAMERA

15 DETECTIVE CEDRIC STOKES BY SOLICITOR SHELTON:

16 Q. State your name for the record, please.

17 A. Cedric Stokes.

18 Q. And where do you work?

19 A. Rock Hill Police Department, ma'am.

20 Q. And what do you do there?

21 A. I'm currently assigned as a detective with the
22 department.

23 Q. What were you doing back in June of 2011?

24 A. I was assigned as a detective back at the police
25 department.

DETECTIVE CEDRIC STOKES: BY SOLICITOR SHELTON - IN CAMERA

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1 Q. And at some point during June of 2011 did you become
2 involved in the investigation of an armed robbery and
3 attempted murder, kidnapping charges out of Five Star
4 Customs?

5 A. Yes, ma'am. I was.

6 Q. And what was your involvement in that case?

7 A. I actually was called to the scene as the investigator
8 to come and assist the patrol officers with the
9 investigation.

10 Q. And as part of that investigation, did you do a photo
11 lineup to show either of the victims or both of the
12 victims?

13 A. I did.

14 Q. Who were the victims in this case?

15 A. Jared Crane and Ernest Jordan.

16 Q. And did you prepare those lineups yourself?

17 A. I did.

18 Q. Did you have anyone assist you in preparing those
19 lineups?

20 A. No, ma'am.

21 Q. When - Who did you develop as a suspect in the
22 robbery?

23 A. Maquis Robinson.

24 Q. But then that's who you developed? That's the initial
25 suspect?

1 A. Yes, ma'am.

2 Q. How did you develop him as a suspect?

3 A. I was told by Mr. Jordan at the time Maquis Robinson.

4 Q. He knew Mr. Robinson?

5 A. He did.

6 Q. And so you developed a lineup from that information?

7 A. Yes, ma'am, I did.

8 Q. How long after the initial crime did you prepare that
9 lineup?

10 A. The lineup was prepared of Mr. Robinson that evening.

11 Q. That same night?

12 A. Yes, ma'am, the same.

13 Q. And it was prepared. Was it shown to the victims at
14 that point?

15 A. Once I prepared it, I showed it to the victims at the
16 hospital.

17 Q. At the hospital?

18 A. Yes. Well, I showed Mr. Jordan and Detective Smith.

19 Q. And we're calling it a lineup. Exactly what was it?
20 How did you prepare it?

21 A. It was a six person photo lineup of one picture
22 containing Mr. Robinson.

23 Q. And the folks in the lineup, the different photos,
24 how are they --

25 A. They are arranged by the same similar shapes, sizes,

DETECTIVE CEDRIC STOKES: BY SOLICITOR SHELTON - IN CAMERA

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1 age, skin complexion.

2 Q. And were those photos marked in any way?

3 A. No, ma'am, they weren't.

4 Q. Any wording on them?

5 A. No, ma'am, they weren't.

6 Q. Anything to indicate who was actually pictured in the
7 photos?

8 A. No, ma'am.

9 Q. Who showed the -- You showed the lineups to both Ernest
10 Jordan and Jared Crane?

11 A. I showed it to Mr. Jordan. Detective Smith showed Mr.
12 Crane the photo lineup.

13 Q. Okay. And was anyone with you when you showed it to
14 Mr. Jordan?

15 A. No, ma'am.

16 Q. Was Mr. Crane present?

17 A. No, ma'am. They were in separate rooms.

18 Q. And was Detective Smith with you?

19 A. She was actually in the other room with Mr. Crane.

20 Q. Was the victim shown multiple lineups? Mr. Jordan.

21 A. No, ma'am. Just one.

22 Q. And how did you present that lineup to the victim, to
23 Mr. Jordan?

24 A. Usually when I have a photo lineup, there is a form
25 that I have that I actually read to the victims. Pretty

DETECTIVE CEDRIC STOKES: BY SOLICITOR SHELTON - IN CAMERA

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1 much I say don't indicate to me. If you see the person
2 that committed the offense, then you go ahead and circle
3 and initial or and/or initial.

4 Q. Do you tell them that the suspect is absolutely in
5 that lineup?

6 A. No. The form actually reads may or may not. The
7 photo lineup may or may not contain the person who
8 committed the offense.

9 Q. Did you do anything to influence Mr. Jordan and when
10 showing him that lineup to indicate who the suspect was?

11 A. No, ma'am.

12 Q. Was Mr. Jordan able to select a photo from that
13 display?

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

15 Q. And who did he select?

16 A. Maquis Robinson.

17 Q. How long did it take him to pick him out?

18 A. Instantaneously.

19 Q. Did he say anything while he was picking out the
20 photo?

21 A. I can't recall exactly what he said but he told me
22 that's him right there on the photo lineup.

23 (WHEREUPON: STATE'S EXHIBIT NUMBER THIRTY-SEVEN
24 PREMARKED FOR IDENTIFICATION.)

25 Q. Detective Stokes, I'm going to hand you what's been

DETECTIVE CEDRIC STOKES: BY SOLICITOR SHELTON - IN CAMERA

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1 marked for identification purposes only as State's Exhibit
2 Number Thirty-seven.

3 A. Yes, ma'am.

4 Q. Do you recognize that exhibit?

5 A. I do.

6 Q. What is it?

7 A. It's the actual photo lineup that I prepared that
8 evening or that morning.

9 Q. And how do you recognize it?

10 A. Because I actually signed right underneath where Mr.
11 Jordan signed.

12 Q. And is that the same lineup that you showed him?

13 A. Yes, ma'am.

14 Q. Has it been changed or altered in any way?

15 A. No, ma'am.

16 Q. And does that lineup indicate that Mr. Jordan
17 identified Maquis Robinson as the suspect?

18 A. Yes, ma'am, it does.

19 Q. Thank you. And were you able to develop a second
20 suspect in this case?

21 A. Yes, ma'am, I was.

22 Q. And who was that?

23 A. Mr. Heath, Dantonyo Heath.

24 Q. And did you prepare a lineup for Mr. Heath?

25 A. I did.

1 Q. Did you show those to both victims, Ernest Jordan and
2 Jared Crane?

3 A. I did.

4 Q. How - In time line when was that lineup prepared after
5 the initial --

6 A. After speaking with Mr. Jordan, he gave me a nickname
7 of Yodie and he told me at the time that his mother lived
8 somewhere down on Crest Street. And he gave me the vehicle
9 description that his mother - the vehicle that his mother
10 was driving. Myself and Detective Smith actually went down
11 to Crest Street, saw the vehicle - saw a vehicle that
12 matched that description. I ran the tag and it came back
13 to Dantonyo Heath and I did a photo lineup.

14 Q. And who did you show the photo lineup first, Ernest
15 Jordan or Jared Crane?

16 A. It was Mr. Crane.

17 Q. And was he able to identify anyone in the lineup?

18 A. Ma'am, he was not.

19 Q. Did you have him - You talked about a form that you
20 read. Was there a form that you showed to Mr. Crane?

21 A. That particular evening I didn't have a form. I
22 actually met Mr. Crane at the Fast Bucks out on - I guess
23 that's Highway 5 between Rock Hill and Lancaster, and from
24 there I actually responded to the Bojangles down in
25 Lancaster and that's where I met Mr. Jordan.

DETECTIVE CEDRIC STOKES: BY SOLICITOR SHELTON - IN CAMERA

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1 Q. So you did not have the form with you at all that
2 night?

3 A. I didn't have the form that night.

4 Q. So you met with Jared Crane first. Mr. Crane was not
5 able to identify anyone from the photo lineup and then you
6 met with Mr. Jordan?

7 A. Correct.

8 Q. And you showed him the lineup?

9 A. I did.

10 Q. How many photos were in the lineup?

11 A. Six person photo lineup, same as before.

12 Q. How were those photos arranged?

13 A. It was arranged again by the same, complexion, height,
14 weight and age.

15 Q. Any markings or identification on any of those photos?

16 A. No, ma'am.

17 Q. Any particular order?

18 A. No, ma'am.

19 Q. Did you do or say anything to Mr. Jordan before
20 showing him the lineup to influence his decision on who he
21 had identified?

22 A. No, ma'am.

23 Q. Did you advise him of how the lineup would be shown to
24 him?

25 A. Yes, ma'am.

1 Q. And what did you tell him?

2 A. I advised him again it may or may not contain the
3 person who committed the offense against him and if you see
4 him, again just circle and initial.

5 Q. Was there anyone else present with you at this time?

6 A. I was there. Mr. Jordan and his wife were there.

7 Q. Was she outside of the car or inside the car?

8 A. He actually stepped outside of the car because I
9 remember it raining that night.

10 Q. Did she say or do anything to you?

11 A. No, ma'am. No, ma'am.

12 Q. And was he able to identify someone from the photo
13 lineup?

14 A. He did.

15 Q. And who was that?

16 A. Mr. Heath.

17 (WHEREUPON: STATE'S EXHIBIT NUMBER THIRTY-NINE,
18 PREMARKED FOR IDENTIFICATION.)

19 Q. I'm going to show you what's been marked as State's
20 Exhibit Number Thirty-nine.

21 A. Yes, ma'am.

22 Q. Do you recognize that?

23 A. I do.

24 Q. How do you recognize it?

25 A. This is the photo lineup that Mr. Jordan signed and

DETECTIVE CEDRIC STOKES: BY MS. BURRIS - IN CAMERA

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1 initialed and actually wrote "this is him" on it.

2 Q. And you recognize that from his initial on it what
3 he wrote on it?

4 A. Yes, ma'am.

5 Q. And from that lineup, who did he identify?

6 A. Mr. Heath.

7 Q. His full name?

8 A. Dantonyo Heath.

9 Q. And you did not say anything or do anything to
10 indicate that that was the suspect that he should choose?

11 A. No, ma'am.

12 Q. And just - did you - You prepared the lineup that was
13 shown to Jared Crane. We've already --

14 A. I did.

15 Q. It was basically the same lineup of Maquis Robinson
16 that was shown to Jared Crane and to Ernest --

17 A. Yes, ma'am. It was shown in two different places.

18 Q. And the photos that were contained therein - from the
19 lineup that was shown to Jared Crane, how were those photos
20 arranged in size, shape, weight?

21 A. Same again. Of course, race, size, shape, weight and
22 age.

23 Q. And did you provide that lineup to Detective Smith?

24 A. Ma'am, I did.

25 SOLICITOR SHELTON: I have no more questions, Your

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1 Honor.

2 MS. BURRIS: Thank you, Your Honor. May it please the
3 Court.

4 CROSS EXAMINATION - IN CAMERA

5 DETECTIVE CEDRIC STOKES BY MS. BURRIS:

6 Q. Detective Stokes, you've just testified that you went
7 to assist the initial responding officers at the scene?

8 A. Ma'am, I did.

9 Q. But you actually ended up going from the scene of the
10 alleged incident to the hospital?

11 A. Correct.

12 Q. And when you got to the hospital, what was the
13 condition of each alleged victim, Mr. Crane and --

14 A. When I got there they was being attended to at the
15 hospital. Everybody was kind of - I think they were
16 starting to clean him up but they was pretty battered and
17 bruised at the hospital.

18 Q. So they were battered and bruised?

19 A. Yes, ma'am.

20 Q. Eyes open or closed?

21 A. They were open.

22 Q. Open?

23 A. Yes.

24 Q. Now one of the things that you do in preparing a
25 lineup, is that you get together some lineup identification

DETECTIVE CEDRIC STOKES: BY MS. BURRIS - IN CAMERA

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1 or image details?

2 A. What I do is - It's a computerized system that we use.
3 I plug in a name of the person that I want to get a photo
4 lineup containing and the computer select images.

5 Q. Okay. And it is true that you actually had a lineup
6 image detail that you presented in your file for Mr. Heath.
7 Correct?

8 A. I'm sorry, ma'am?

9 Q. It is true that you actually presented a lineup image
10 detail for Mr. Heath. Correct?

11 A. A lineup image detail as far as what?

12 Q. What the computer actually generated.

13 A. Yes, ma'am.

14 Q. Okay. And did you actually present a lineup image
15 detail for Maquis Robinson also?

16 A. It should be in the file. Yes, ma'am.

17 Q. So you would have actually created a lineup image
18 detail for Maquis Robinson?

19 A. Well, when it generates, it generates the photo lineup
20 and then another second page with it.

21 Q. So that actually should have been turned over to the
22 State. Correct. Or in your case file?

23 A. Yes, ma'am.

24 Q. Who was actually present in the room with Mr. Jordan?

25 A. When I did the photo lineup?

DETECTIVE CEDRIC STOKES: BY MS. BURRIS - IN CAMERA

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1 Q. Yes.

2 A. Just he and I.

3 Q. Okay. And who was present in the room with Mr. Crane?

4 A. Detective Smith did the photo lineup with Mr. Crane.

5 Q. So it was just Mr. Crane and Detective Smith?

6 A. Ma'am, I'm not sure. We were doing it at the same
7 time. Simultaneously.

8 Q. But you actually eventually went into the room where
9 Jared Crane was. Correct?

10 A. Yeah, after dealing with Mr. Jordan. Yes.

11 Q. And who was present in there once you went in there?

12 A. Just Detective Smith. Who I recall just Detective
13 Smith and Mr. Crane.

14 Q. And in the lineup detail image that's actually
15 generated by the computer.

16 A. Ma'am.

17 Q. You indicate that you want the same persons with the
18 same complexion --

19 A. Well, the computer by default goes same age,
20 complexion, race, hair style.

21 Q. Now you testified earlier when asked by the State
22 whether or not in regards to your instruction sheet for
23 identification ---

24 A. Yes, ma'am.

25 Q. --- that you actually read, do you actually read off

DETECTIVE CEDRIC STOKES: BY MS. BURRIS - IN CAMERA

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1 of that or is that something that you allow --

2 A. I read it. I usually read it. Sometimes they just
3 read it. They ask can they just read it themselves but I
4 usually read it.

5 Q. And so on that particular night when you actually went
6 into the hospital room where Mr. Jordan was.

7 A. Ma'am.

8 Q. You actually read verbatim from the instruction sheet
9 for identification?

10 A. Yes, ma'am.

11 Q. And you just testified that when asked by the State,
12 when you showed or presented the photo identification to
13 Mr. Jordan, you read that it may or may not be the alleged
14 suspect.

15 A. Correct.

16 Q. And you remember testifying at the previous trial.
17 Correct?

18 A. I do. Vaguely, but I do.

19 Q. And according to your previous testimony you
20 indicated, and when showing him the photo display and that
21 you were asked did you say that the suspect is one of these
22 six pictures and your answer was, you stated, it may.

23 A. No. I don't recall saying that.

24 MS. BURRIS: Your Honor, may I approach the witness
25 please?

1 THE COURT: You may.

2 MS. BURRIS: Thank you.

3 Q. Can you please read for the Court Line 17 through 21
4 of your previous testimony.

5 A. Sure. "And when showing the photo display, did you
6 say that the suspect is one of these six pictures?"

7 Answer. "It may."

8 Question. "Maybe?"

9 Answer. "Maybe."

10 Q. So it was your previous testimony that you stated that
11 the suspect may be in these photos and today your testimony
12 is when showing the alleged victim the photographic lineup
13 you said it may or may not.

14 A. May or may not, according to the form. Yes, ma'am.

15 Q. Now, when --

16 Where is the photo identification?

17 What's been previously marked as State's Exhibit
18 Thirty-seven, I'm going to show you.

19 Is there any particular way as an arrangement as to
20 how you place the photos in the display?

21 A. No, ma'am. The computer generates it.

22 Q. So if the computer actually generates it, you would
23 have had to actually input Maquis Robinson's information
24 first as Marquis Robinson is the first person on that photo
25 display. Correct?

DETECTIVE CEDRIC STOKES: BY MS. BURRIS - IN CAMERA

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1 A. Yeah. I will place his name into the system because
2 that's the person that I want the photo lineup generated
3 for. Yes.

4 Q. But you don't necessarily have to place the individual
5 as the first person in the photo lineup. Right?

6 A. I wouldn't place them at all. The computer would
7 place it wherever it places it.

8 Q. So the computer decides where to place the alleged
9 suspect?

10 A. Correct. Correct.

11 Q. And it doesn't matter as to how you input the
12 information?

13 A. No, ma'am. It could be any one of the six. It
14 depends on how the computer placed it.

15 Q. And the name of that system is?

16 A. It's just our records management system.

17 Q. So it was around eleven o'clock when you arrived at
18 Piedmont Medical Center?

19 A. I think I was dispatched out about around eleven. I
20 was dispatched between 10:45 and eleven. Went to the scene
21 and there I was notified that Mr. Jordan was at the
22 hospital. I believe Mr. Crane was being transported when I
23 got there.

24 Q. When Mr. Jordan was actually picking out the alleged
25 suspect of who he believed Maquis Robinson, what were his

1 emotions, if any?

2 A. I don't know about his emotions. He was just laying
3 in the hospital - the hospital room.

4 Q. So he was lying down in the bed?

5 A. Yes.

6 Q. Was he upset?

7 A. I guess, yes.

8 Q. What did you actually observe?

9 A. Him laying in the hospital bed with wounds to his
10 face.

11 Q. Did he have any reaction when picking out Maquis
12 Robinson?

13 A. Just I think he said, that's him right there.

14 Q. Did he just say, that's him, or did he say, that's him
15 who actually committed the crime?

16 A. I think he said, that's him.

17 Q. That's him?

18 A. Yes.

19 Q. How certain would you say that Mr. Jordan was certain?

20 A. It was almost immediate.

21 Q. Now, is your testimony that you actually read the
22 identification - instruction sheet for identification.
23 Correct?

24 A. Yes.

25 Q. And then you actually showed him the photo lineup?

DETECTIVE CEDRIC STOKES: BY MS. BURRIS - IN CAMERA

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1 A. Right. Just like this. It was actually stapled
2 together.

3 Q. You showed it or did you read it?

4 A. Yes, like this. I read it to him and then I flipped
5 it over and I showed it to him.

6 Q. And what's been previously marked as State's Exhibit
7 Thirty-seven, you asked him to actually sign?.

8 A. Yes. After he did it, I actually asked him to sign
9 and then I signed underneath. That's my signature.

10 Q. Right there?

11 A. Yes, ma'am.

12 Q. In the time was actually 12:30 in the morning.
13 Correct?

14 A. Whatever is noted on the form there, ma'am, is when he
15 signed it.

16 Q. Do you know whether or not he was under the influence
17 of any medications?

18 A. Ma'am, I do not.

19 Q. Were nurses back and forth in the room when you were
20 there?

21 A. No. I asked everybody to leave.

22 Q. You asked everyone to leave?

23 A. Yes. Meaning - When I got there I believe there was a
24 nurse at the door and I kind of closed the door and said I
25 need to speak with him so nobody came in at that point.

1 Q. Did you speak with any of the nurses to see if he was
2 actually under the influence of any medications?

3 A. No, ma'am.

4 Q. So you don't really know what his mind set or mental
5 condition was. Correct?

6 A. No, ma'am.

7 Q. You never asked him about any medication or drugs in
8 his system?

9 A. No, ma'am.

10 Q. You never questioned him about the amount of sleep
11 that he had?

12 A. No, ma'am.

13 Q. Prior to showing him the photo identification, the
14 photo lineup, did you speak with him in regards to - just
15 do an investigation and speak to him in regards to what
16 happened that night?

17 A. I think briefly. Kind of said hey, how you doing.
18 Introduced myself. Kind of what happened and that was it.
19 Nothing - not an extensive interview at that time because
20 he laying in the hospital bed.

21 Q. Was he hooked up to any oxygen machine or anything?

22 A. No, ma'am.

23 Q. Was anything connected to his body?

24 A. Not that I can recall.

25 Q. Not that you can recall. You're not sure though?

DETECTIVE CEDRIC STOKES: BY MS. BURRIS - IN CAMERA

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1 A. Not really sure.

2 Q. Tell me a little bit about the lighting in the room,
3 in the hospital room, while he was lying in the bed.

4 A. Just regular hospital lights on. Regular lighting
5 just like the courtroom.

6 Q. So it's 12:30 in the morning. It wasn't this light.
7 Right?

8 A. I can't recall. It's almost two years ago. I can't
9 recall. It wasn't dim in the room. It was bright enough
10 where he could see the photos.

11 Q. So he was actually lying in the hospital bed ---

12 A. He was.

13 Q. --- at Piedmont Medical Center?

14 A. He was.

15 Q. You said it was not dim?

16 A. No it wasn't dim lighting.

17 Q. So was the light similar to the lighting as reflected
18 in the courtroom?

19 A. Yes, ma'am.

20 Q. Prior to preparing the photographic lineup to take to
21 Piedmont Medical Center to show to Mr. Jordan and Mr.
22 Crane, what information if any did you have?

23 A. At the scene, I had - I think I had information that
24 Maquis Robinson was named.

25 Q. Where did you receive that information from?

DETECTIVE CEDRIC STOKES: BY MS. BURRIS - IN CAMERA

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1 A. I can't - one of the patrol officers. I can't
2 remember.

3 Q. At the scene?

4 A. Yes, ma'am. I mean it was several officers at the
5 scene. I can't remember exactly which one gave me the
6 name.

7 Q. Did you in any way actually in any way point to Mr.
8 Robinson in the photographic lineup?

9 A. No, ma'am.

10 Q. And Detective Tashia Smith was the detective who
11 actually presented the photographic lineup to Mr. Jared
12 Crane?

13 A. Yes, ma'am.

14 Q. Other than signing the photographic lineup sheet as
15 presented to Mr. Ernest Jordan, did he make any other
16 statements that night while in the hospital?

17 A. Ma'am, honestly I can't remember exactly what
18 statements he made. Once we did the photo lineup, like I
19 said, I kind of left there because he was still being
20 attended to so I wanted the hospital to finish working and
21 I was going to get his statement the next day, kind of a
22 visit the next day once he, you know, got everything
23 squared away at the hospital because he had bad injuries to
24 his face.

25 Q. To his face?

DETECTIVE CEDRIC STOKES: BY MS. BURRIS - IN CAMERA
BY MR. SMITH - IN CAMERA

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1 A. Yeah. Face and his --

2 Q. And around his eyes?

3 A. Yeah, I can't remember. I just remember that really
4 bad slice below one of his eyes.

5 MS. BURRIS: Beg the court's indulgence.

6 (PAUSE.)

7 MS. BURRIS: No further questions for this witness at
8 this time, Your Honor.

9 MR. SMITH: May it please the court, Your Honor.

10 CROSS EXAMINATION - IN CAMERA

11 DETECTIVE CEDRIC STOKES BY MR. SMITH:

12 Q. Detective Stokes, did you show a lineup to Mrs. Crane,
13 Amanda Crane?

14 A. I can't remember if I showed it to her or Detective
15 Smith. I can't remember, Mr. Smith.

16 Q. Okay. And do you know the time that you showed the
17 lineup with my client, Mr. Heath, what time you showed that
18 to Mr. Jordan and what time of day or night that would have
19 been?

20 A. I believe he may have noted it on the form photo
21 lineup.

22 (ATTORNEY SMITH HANDED WITNESS EXHIBIT.)

23 A. Yes, sir.

24 Q. Okay. So that was nine o'clock in the evening; is
25 that right?

DETECTIVE CEDRIC STOKES: BY MR. SMITH - IN CAMERA

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1 A. Yes, sir.

2 Q. Okay. And you said that that occurred where?

3 A. It was at the Bojangles on - I believe it's Highway 5
4 in Lancaster.

5 Q. But there was no cover form - You didn't have a cover
6 form at that lineup at that point in time?

7 A. No, sir, I did not.

8 Q. All right. And then did you show a lineup of my
9 client to Mr. Crane?

10 A. I did.

11 Q. Okay. And do you know when you showed that?

12 A. It was maybe ten minutes prior. He couldn't - he
13 couldn't pick out your client.

14 Q. Was it at the same location at Bojangles or was it
15 somewhere different?

16 A. He was at the Fast Bucks, further down - closer into
17 Rock Hill.

18 MR. SMITH: No further questions.

19 THE COURT: Redirect.

20 SOLICITOR SHELTON: Just very, very briefly, Your
21 Honor.

22 REDIRECT EXAMINATION - IN CAMERA

23 DETECTIVE CEDRIC STOKES BY SOLICITOR SHELTON:

24 Q. The lineup in the detail that Ms. Burris asked you
25 about, you don't show that to the victims?

DETECTIVE CEDRIC STOKES: BY SOLICITOR SHELTON - IN CAMERA

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1 A. No, ma'am, I don't.

2 Q. And that's just gen - it's a report generated from
3 when you do pictures.

4 A. Correct.

5 Q. Does it contain personal information of people that
6 are not related to the case?

7 A. It contains personal information of everybody in
8 this photo lineup so we --

9 Q. Social security number. That sort of thing?

10 A. Yes.

11 Q. And I believe Mr. Smith asked you if you showed a
12 lineup to Amanda Crane.

13 A. Yes.

14 Q. Do you remem --

15 A. Honestly I can't recall.

16 Q. Did you make any note in your files that you showed
17 her a lineup?

18 A. I did not. I can't recall making a note that we
19 showed a photo lineup to Mrs. Crane.

20 Q. If you had shown her a lineup would you have made a
21 note if she was not able to identify someone?

22 A. Yes, because at that time with the form it actually
23 on the bottom part where it says if you can't identify
24 someone, we ask them to sign that form also.

25 Q. But if you don't have that form.

DETECTIVE CEDRIC STOKES: BY SOLICITOR SHELTON - IN CAMERA
BY MR. SMITH - IN CAMERA

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1 A. If we don't have that form, then I would have made
2 a note.

3 Q. If you - And there is no note in your file that you
4 showed her a lineup?

5 A. No. No, ma'am.

6 Q. Did you see her at the Fast Bucks?

7 A. I believe he - yes, he pulled up with her.

8 Q. Okay but do you remember showing her a lineup there?

9 A. I did not show her a lineup. No. Just Mr. Heath --
10 Mr. Crane as I can remember. I can't --

11 Q. And you would not have had Mr. Heath's lineup to show
12 her at the hospital?

13 A. No. We didn't develop him until a day or so later.

14 SOLICITOR SHELTON: I have no further questions, Your
15 Honor.

16 MS. BURRIS: No further questions, Your Honor

17 RECROSS EXAMINATION - IN CAMERA

18 DETECTIVE CEDRIC STOKES BY MR. SMITH:

19 Q. If you thought that Mrs. Crane, a witness to the
20 crime, would have been able to identify Mr. Heath, you
21 would have shown her lineup. Right?

22 A. Yes. I may have ruled out - I can't remember. I
23 can't recall, Mr. Smith, if I did or not.

24 Q. Okay, but I mean if you thought she could have made an
25 I.D. and it would have been valuable to the case, you would

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1 have shown it to her?

2 A. Probably.

3 MR. SMITH: Thank you.

4 No further questions, Your Honor.

5 THE COURT: You can step down. Appreciate your time.

6 (WITNESS LEAVING WITNESS STAND.)

7 THE COURT: You can stay in as case agent. You
8 haven't been so designated but I believe you want Mr.
9 Stokes to stay in.

10 Detective Stokes.

11 SOLICITOR SHELTON: Yes, sir, Your Honor.

12 THE COURT: All right. We'll stop until 9:30 in the
13 morning. It's almost six and I've got drug court so we'll
14 start back at 9:30 in the morning.

15 (COURT IN RECESS AT 05:48 P.M..)

16 (COURT BACK IN SESSION TUESDAY, JULY 23, 2013 AT 09:58
17 A.M..)

18 THE COURT: Take your seats.

19 Get the defendants in.

20 (DEFENDANTS MARQUIS ROBINSON AND DANTONYO HEATH, BLACK
21 MALES, REENTER COURTROOM.)

22 THE COURT: All right, I'm gonna let the jury go until
23 one. We have - were in the middle of a *Neil versus*
24 *Biggers*.

25 We also I understand have some motions that were not

1 called to the court's attention yesterday but we'll deal
2 with those. And so I'm gonna allow the jury to leave until
3 one o'clock.

4 And they don't need to come in here. I can just --

5 Anybody object to me just having the bailiff telling
6 them to return at one?

7 SOLICITOR SHELTON: No, sir, Your Honor.

8 MS. BURRIS: No, sir, Your Honor.

9 THE COURT: All right. Now we're kind of getting
10 jungled here. We're getting motions on top of motions.

11 I've been told that defendant Robinson has a motion to
12 quash the indictments and of course if that's granted then
13 everything else is kind of moot. I guess that's to Mr.
14 Robinson at least temporarily. Quashing the indictment of
15 course is not a finding he is not guilty.

16 But, Ms. Burris, if you want to go forward with that
17 and tell me which indictments you want quashed. He was
18 indicted under several.

19 MS. BURRIS: Thank you, Your Honor. May it please the
20 Court.

21 THE COURT: All right.

22 MS. BURRIS: Your Honor, on behalf of Marquis Robinson
23 I am asking for a motion to quash Indictments Number 2001-
24 GS-46-0-2-9-0-5 which is the armed robbery which
25 specifically has that in this particular indictment that

1 defendant Marquis Robinson by means of force or
2 intimidation goods or monies of said victims. Had both of
3 the victims actually named in the indictment; they have the
4 language Ernest Jordan and or Jared Crane such goods or
5 monies being described.

6 Additionally in regards to the warrant, the warrant

7 --

8 THE COURT: Actually the one I'm looking at doesn't --
9 That's Mr. Heath's.

10 MS. BURRIS: I have it was submitted to the Grand Jury
11 Septe3mber 15th, 2011.

12 THE COURT: It will just take me a minute to find it.
13 I know what you're talking about.

14 MS. BURRIS: Yes, sir.

15 THE COURT: Okay, I got it. I've got

16 MS. BURRIS: Now on the warrant it gives - which of
17 course is the informal charge prior to him being formally
18 indicted, it specifically just stated that Mr. Marquis
19 Robinson is charged with robbing the victim Ernest Jordan
20 with a handgun. It doesn't mention anything in regards to
21 Jared Crane, and or Jared Crane.

22 Additionally on Indictment Number 2011-GS-46-0-2-9-0-8
23 which is actually the kidnapping indictment, and
24 specifically on the warrant it list that Mr. Marquis
25 Robinson is being charged with tying the victim Jared Crane

1 with speaker wire after forcing him from the garage into a
2 bathroom, but the particular formal charges document which
3 is the indictment charges him with abducting or carrying
4 away the victim, Jared Crane and/or Ernest Jordan.

5 Your Honor, there is a case which I've actually passed
6 up to the court and I've also given the state a copy of it,
7 it's a 2013, recently decided May 22nd, 2013, in *State*
8 *versus Samuels*. And one of the issues the court looked at
9 is whether or not there had been any potential prejudice as
10 a result of duplicitous indictments. Of course you know as
11 stated in this case is as you know we're gonna require the
12 jury to make separate findings of guilt or innocence
13 according to the evidentiary facts. So what they did was
14 they looked at the *Gentry* case and they talk about the
15 *Gentry* case in regards to sufficiency of the indictment as
16 generally. And then secondarily said but the *Gentry* case
17 did not address - and I'm looking on Page 4 - did not
18 consider duplicitous indictments which allege two distinct
19 and separate offenses in the same count.

20 And in their analysis they specifically say that for
21 example such indictments when you have one indictment with
22 two different individuals and the two victims because in
23 this particular case the facts of this particular case it
24 was alleged in *State v. Samuels* that the defendant
25 assaulted two women in the same account. Particularly it

1 states that "such indictments present the risk that a jury
2 divided on the two separate offenses in one count could
3 nevertheless convict through a general verdict on the one
4 count." And it says that there is a "risk that the jurors
5 may not have been unanimous as to any one of the crimes
6 charged."

7 And it goes on and gives deference of course to the
8 federal courts and it says "duplicitous indictments can of
9 course create sentencing problems." And it says "in
10 analyzing whether a defendant suffered prejudice" it gives
11 deference to the Second Circuit which states that the
12 "relevant policy consideration because you have to avoid
13 the uncertainty of whether a general verdict of guilty
14 conceals a finding of guilty as to one crime and a finding
15 of not guilty as to the another, avoiding the risk that the
16 jurors may not have been unanimous as to one of the crimes
17 charged, assuring the defendant adequate notice, providing
18 the basis for appropriate sentencing, and protecting
19 against double jeopardy in subsequent prosecutions."

20 On Page 5 I'm reading in regards to it says "we
21 recognize both the policy considerations supporting a
22 prohibition against duplicitous indictments and that the
23 Gentry case just did not protect against the potential
24 harms." Then - and the court basically here in South
25 Carolina the court - the Supreme Court of South Carolina

1 adopted the federal standard and said that Your Honor must
2 apply a two part standard to this case. It agreed of
3 course in this particular case with the defendant that his
4 indictment was duplicitous. And it said "for offenses
5 against the person, a separate offense exists for each
6 person subjected to the criminal conduct. Each victim of
7 his threatening conduct constituted a new assault offense
8 and by including both victims in one count, the indictment
9 charged two offenses in one count and was defective for
10 duplicity.

11 THE COURT: What remedy do you seek?

12 MS. BURRIS: Your Honor, I am asking for a motion to
13 quash the indictments. I understand that again that the --

14 THE COURT: You're trying and realize that if the
15 indictment is quashed then the State can go back and seek
16 two indictments against your client on each named victim
17 which would subject him to not one indictment but two. Not
18 one sentence, but two?

19 Do you understand that? Have you explained that to
20 Mr. Robinson?

21 MS. BURRIS: I have not, Your Honor, but I am willing
22 to discuss it with him.

23 THE COURT: Well I think I would.

24 SOLICITOR SHELTON: And, Your Honor, if it helps in
25 that, the State would do exactly that.

1 THE COURT: What I can do is require the State to
2 amend and sort of elect and decide to go with one victim
3 and set aside the other one and let him be indicted on that
4 one and try it at a later time if that's what he wants.

5 MS. BURRIS: Your Honor, he --

6 THE COURT: I want to make sure that he's happy. And
7 you know we hate to try a case that's based on post
8 conviction relief but I would not be surprised if he is
9 subject to being tried twice for two different victims as
10 opposed to this one since somebody is gonna be saying that
11 you've gotten all of it in the basket but you're his lawyer
12 so ---

13 MS. BURRIS: Yes, sir.

14 THE COURT: --- I want you to tell me. Do you want me
15 to quash the indictment?

16 MS. BURRIS: Yes, sir, quash the indictments and of
17 course I understand that the state can submit the
18 indictments to the Grand Jury and have them re-indicted of
19 course have two separate offense naming each of the victim
20 in each of the indictments. I believe that that would
21 forbid the prejudicial impact that it would have upon Mr.
22 Robinson if we would actually present an indictment that
23 actually has two of the victim's names on it given that
24 there is different evidence against each of the alleged
25 defendant as presented in the video.

1 We want to make sure that the jury again is able to
2 make a separate finding of guilt and I do not believe they
3 would be able to make a separate finding if they are given
4 the prejudicial impact again that given that they are
5 proceeding together and in the particular indictment each
6 of the victim's are named. I understand the State if you
7 actually grant my motion, Your Honor, they can actually
8 send it back to the Grand Jury and actually have it re-
9 indicted on each victim, two indictments as opposed to one
10 and I think that would be the proper thing to do according
11 to the case.

12 THE COURT: Well he's still on trial for attempted
13 murder, criminal conspiracy and possession of a firearm.
14 Those won't be quashed and the case will go forward and
15 he's still facing those charges.

16 MS. BURRIS: And that's fine, Your Honor.

17 THE COURT: So we end up having three trials if we
18 tried this one and we tried for Mr. Jordan and then tried
19 for Mr. Crane. Is that what he wants?

20 MS. BURRIS: That's no problem as long as the issues
21 are not confused and there is not any mentioning of the
22 kidnapping and there is not any mentioning of the armed
23 robbery. There is actually a section on the video in which
24 allegedly Marquis Robinson on the video alleged the State
25 that there is a gun so of course that video would have to

1 be redacted and they would not be able to show that
2 particular - publish that information to - -

3 THE COURT: Why? He's charged with attempted murder.

4 That's his violent crime. He's charged with
5 possessing a firearm during the commission of a violent
6 crime. You don't get the gun out just because those are
7 out. I'm gonna make sure you thought through this, Ms.
8 Burris.

9 MS. BURRIS: Right.

10 THE COURT: I'm not the lawyer but I want your client
11 to understand that I don't think - it's not up to me to
12 decide whether he's making progress or not in regard to
13 these charges but he's still on trial for attempted murder.
14 If I quash those, criminal conspiracy, the conspiracy does
15 include armed robbery so - and that only has to do and
16 kidnapping and that does not name a victim so he will still
17 for purposes of committing a crime of armed robbery and
18 attempted murder and kidnapping, so under the criminal
19 conspiracy charge the State would still have the right to
20 present evidence and argue that he was committing a crime
21 of armed robbery and or attempted murder and kidnapping
22 because that's what the conspiracy charges are.

23 And possession of a firearm is while attempting a
24 armed robbery and murder so they can still try him on those
25 and still get in all that evidence.

1 MS. BURRIS: Right. I think that Your Honor of course
2 it is at your discretion but you know according to law I
3 think we should actually ask for a continuance simply
4 because you're exactly right. In regard to the criminal
5 conspiracy indictments substantively the armed robbery is
6 actually listed in the criminal conspiracy - -

7 THE COURT: I can tell you I'm not gonna continue the
8 case. I mean this case you're relying on came out in March
9 of this year so its not anything that happened over night.
10 So if that's his position then and I haven't ruled yet, and
11 I guess I could require the state to amend and drop - still
12 go ahead and try him on those two that you want quashed but
13 instead of quashing them allow them to be amended and then
14 go forward on those anyway and have him tried either go
15 forward on Mr. Jordan or go forward on Mr. Crane and then
16 set aside and him them re-indict him on the other charges
17 at a later time and try him separately on those.

18 I mean if that's what you want - and I haven't decided
19 I'm gonna rule on that - but I want you to understand those
20 are what your options are and I want your client to
21 understand that. You know this old saying - it's not up
22 to me, you're his lawyer - but be careful what you ask for
23 you might get it.

24 MS. BURRIS: That's right.

25 THE COURT: And so I - with that kind of adage go

1 ahead.

2 MS. BURRIS: I understand, Your Honor. What about in
3 regards to the criminal conspiracy submitting this
4 indictment to the Grand Jury in regards to the armed
5 robbery - -

6 THE COURT: No, no. You're - You can't just start
7 telling us what we ought to do. You made a motion to quash
8 two indictments ---

9 MS. BURRIS: Yes sir.

10 THE COURT: --- not those three and you did it on the
11 grounds that those other two named two possible victims and
12 that of course duplicitous. The others you haven't even
13 raised and so you can't tell me to start - ask me or the
14 state to start doing some kind of cherry picking as far as
15 those indictments. You haven't said there was anything was
16 basically wrong with them.

17 MS. BURRIS: May I, Your Honor.

18 THE COURT: Yeah.

19 MS. BURRIS: Okay. Thank you.

20 So in regards to the criminal conspiracy it is my
21 position that we would make a motion to quash that
22 indictment because two of the indictments that we
23 previously made a motion to quash which is the armed
24 robbery and the kidnapping is actually listed in the
25 criminal conspiracy indictment and so we're not submitting

1 the kidnapping and the armed robbery indictment to the
2 Grand Jury and we have these substantive charges as listed
3 in the criminal conspiracy indictment. It would be our
4 position that the criminal conspiracy also be quashed and
5 sent --

6 THE COURT: Well there's nothing basically - I deny
7 that without requiring you to go further. There is nothing
8 basically defective about criminal conspiracy. He
9 committed one or two armed robberies and attempted murder
10 then the criminal conspiracy stands and again I don't
11 believe - I might have to do some research on this - but I
12 would quash those indictments without allowing the state
13 the right to amend them to - so -

14 Let me hear from --

15 But go ahead. Go ahead, Ms. Burris and finish up.

16 MS. BURRIS: Again I would just go back to this recent
17 case that was decided this year, Your Honor. We just want
18 to make sure that the jury is able to make separate
19 findings of guilt as to the evidentiary facts that would be
20 presented through the testimony as well as evidence
21 presented and I do believe that if we were to go forward
22 and proceed on the kidnapping and the armed robbery which
23 the Court's forward us and said these are duplicitous
24 indictments that have two different - they have two
25 victims: He was put on notice in his warrant that he would

1 actually be charged with both of the victims or allegedly
2 charged with both of the victims in the formal indictment
3 it is our position that it would be prejudicial in order to
4 submit the armed robbery and the kidnapping indictments to
5 the Grand Jury and we want to make sure - require the jury
6 to make separate findings of guilt on each individual
7 defendant as to each victim.

8 THE COURT: We can certainly do that by a verdict
9 form. We can require the jury to make separate findings of
10 guilt under these indictments as drafted and instead of a
11 general verdict as kidnapping we can have interrogatories
12 to find guilt as to kidnapping as to Mr. Crane and a
13 separate as to finding guilt or not guilty as to Mr. Jordan
14 so we can take care of that without any prejudice to your
15 client. So I deny the motion to quash those two
16 indictments. And I'm not sure what you - It looks like you
17 - Sounds like you made a motion to quash the criminal
18 conspiracy indictments somewhere in there and I deny that
19 also.

20 MS. BURRIS: Thank you, Your Honor. So I just want to
21 make sure I'm straight. You're actually going to submit a
22 special form to the jury?

23 THE COURT: I don't call it - Yes, special form -

24 Let me hear from the State. I don't know the State
25 may want to do something different, I can't run the show

1 for them. I can certainly handle the situation without
2 quashing the indictment and take care of the concerns of
3 you and your client by as to those two charges making a
4 finding of guilt as Mr. Crane and guilt as to Mr. Jordan.
5 Now that creates an interesting situation because then he
6 can be found guilty of two charges and whether or not that
7 would subject him to two sentencing options, doubling up
8 instead of - instead of what you want to do is narrowing
9 the situation.

10 I haven't researched it but it may open him up for
11 sentencing for the two victims if the jury found him guilty
12 as to the two victims and he very likely may be subject to
13 two sentences. Just because - He has a right to be tried
14 as to each victim, each victim is entitled to justice.
15 Each victim is entitled to have him sentenced appropriately
16 and if he's guilty of committing a crime against the victim
17 they have the right each individually to have a sentence
18 imposed as to the crime against them. So there are several
19 ways we can approach it without quashing the indictment and
20 I'm not going to quash the indictments.

21 Mr. Newkirk, you are poised.

22 MR. NEWKIRK: No, not at all, sir. I just wanted to
23 put on the record that we wouldn't seek two sentences
24 anyway especially for PCR purposes. And a curative jury
25 form with special instructions --

1 THE COURT: Well let me stop you there. It's not up
2 to you to seek two sentences.

3 MR. NEWKIRK: Yes, sir.

4 THE COURT: If the Court decides to give two sentences
5 I'm the sentencer and so it's up to the Court to decide
6 whether he gets two sentences for attempted robbery of two
7 people and kidnapping two people or kidnapping two people.
8 Whether the state ask for it or not that's up to the Court
9 so that's very generous of you to say that you would not
10 ask that he get what he ask for, two sentences, or the
11 possibility of two sentences rather that he stick with what
12 the state wants to stick with exposing him with only one
13 sentence if he wants to be exposed to two. That's up to
14 me.

15 MR. NEWKIRK: Yes, sir. The *Samuels* case that Ms.
16 Burris handed up, the curative jury instruction with a
17 special verdict form was how the court resolved that case
18 so the State is in full agreement with your ruling.

19 THE COURT: Okay. Now we're back to *Neil versus*
20 *Biggers*. We have motions to quash the three indictments
21 which is ultimately ended up being on behalf of Mr.
22 Robinson which were kidnapping, attempted armed robbery or
23 armed robbery, kidnapping and tangentially criminal
24 conspiracy motion to quash all three of those are denied.

25 Now anything else before we get back on *Neil versus*

1 *Biggers?*

2 MS. BURRIS: I don't have anything else prior to
3 getting back to *Neil v. Biggers* but I do have three
4 additional motions but I think, Your Honor, we can actually
5 get to those later so we can continue *Neil v. Biggers*.

6 THE COURT: Okay.

7 SOLICITOR SHELTON: And just again, for the court's
8 information I have no notice of any motions so we depending
9 on what they are and it --

10 THE COURT: Well in chambers we talked about
11 photographs again, I think. Isn't that right?

12 MS. BURRIS: That's correct. We had an issue come up
13 yesterday in regards to Mr. Robinson's prior convictions
14 --

15 THE COURT: Oh, prior convictions, yes. Those two I
16 recall, what's the third?

17 MS. BURRIS: And it was in regards to the victim
18 Ernest Jordan's prior conviction.

19 THE COURT: Okay. All right. We can take care of
20 that later. Let's go ahead and do the *Neil versus Biggers*.

21 SOLICITOR SHELTON: Your Honor, at this time we would
22 call Detective Tashia Smith.

23 THE COURT: Go ahead and be getting Ms. Smith.

24 Mr. Smith, do you have anything to take up before we
25 get back into *Neil versus Biggers*? I don't want to go - -

1 MR. SMITH: I can do it any time. I do have, Your
2 Honor, my client has requested a motion to have the charges
3 dismissed based on double jeopardy, incorporate the last
4 trial that occurred in January the 28th of 2013 this year.
5 At that time a - the court granted a mistrial and I believe
6 it was our motion as well based upon improper I don't want
7 to say jury selection but the pool that was provided to our
8 clerk it did not include all the proper names. My client's
9 position is whatever error that was it was by the
10 government general and he should only be placed in jeopardy
11 once for this crime therefore I make a motion for a
12 dismissal due to double jeopardy.

13 THE COURT: Well I deny the motion. I do not believe
14 that he is being exposed to double jeopardy. Jeopardy did
15 attach, there is no question. In the first case jeopardy
16 attached, we had a jury drawn and were partly through with
17 the trial so there is no question jeopardy attached but I
18 made a determination that there was a manifest necessity in
19 granting a mistrial not by any conduct by the prosecution
20 or the defense. Arguably there was state involvement in
21 that the reason the situation rose was I don't want to get
22 the agency wrong, but I believe it was the election
23 commission gave inadequate list that is list that did not
24 have all of the potential jurors which should have been
25 included so the list that was drawn by our clerk of court

DETECTIVE TOSHIA SMITH: BY SOLICITOR SHELTON - IN CAMERA

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1 was arguably defective because of somebody else not
2 complying with the requirements. So while the state had
3 some involvement so to speak certainly no intentional
4 conduct by the state that was an inadvertence and the state
5 did not cause a mistrial that is the prosecution did not so
6 I deny the motion. I find that while jeopardy did attach
7 the retrial of Mr. Heath at this time does not constitute a
8 violation of his rights of being tried twice; that is
9 double jeopardy twice.

10 Now let's go back to Ms. Smith.

11 SOLICITOR SHELTON: Detective Toshia Smith.

12 (WHEREUPON: TOSHIA SMITH, BEING
14 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

15 DIRECT EXAMINATION - IN CAMERA

16 DETECTIVE TOSHIA SMITH BY SOLICITOR SHELTON:

17 Q. Please state your name for the record, please.

18 A. Detective Tashia Smith.

19 Q. And where are you employed?

20 A. Rock Hill Police Department.

21 Q. How long have you been with them?

22 A. Since 2006.

23 Q. What are your current duties?

24 A. I am a Sargent over Community Services Division.

25 Q. And what were your duties in June of 2011?

1 A. I was a detective for property side.

DETECTIVE TOSHIA SMITH: BY SOLICITOR SHELTON - IN CAMERA

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1 Q. And during that time, did you become involved in an
2 investigation of an armed robbery and kidnapping and
3 attempted murder and various other charges from a Five Star
4 Customs on Cherry Road in Rock Hill?

5 A. Yes, I did.

6 Q. And as part of that investigation, did you have the
7 opportunity to show a lineup to any of the victims?

8 A. Yes, I did.

9 Q. And what victim was that?

10 A. Jared Crane.

11 Q. And the lineup was for which suspect?

12 A. It was for Mr. Robinson.

13 Q. And that lineup was prepared by Detective Stokes?

14 A. Yes.

15 Q. About how long after the initial offense did you show
16 the lineup to Mr. Crane?

17 A. We responded to Five Star Customs; had a brief
18 conversation with our victims. They were - actually I
19 don't think they were there. They were at the hospital.
20 So we met with the two officers that were on scene. Went
21 back to the law center, prepared the lineup, and then met
22 with the victims at the hospital.

23 Q. And when you say at the hospital, which hospital was
24 that?

25 A. Piedmont Medical Center.

1 Q. And so within hours after the offense?

2 A. Right.

3 Q. The lineup that was shown to him, how many photos were
4 in that lineup?

5 A. I believe there were six photos in that lineup.

6 Q. Were the photos marked in any way?

7 A. No.

8 Q. Anything to identify --

9 A. No.

10 Q. Any additional information about the people in the
11 photos provided to the victim?

12 A. No.

13 Q. And when you gave him the lineup, showed him the
14 lineup, did you -- what did you say to him?

15 A. I read him the sheet. There's a cover sheet that we
16 have we usually print to show lineups. I'm not sure what
17 it says verbatim but it tells -- the part that we read to
18 the victim says that the photo lineup was produced and it
19 may or may not include the person responsible for the crime
20 and something to that effect.

21 (WHEREUPON: STATE'S EXHIBIT NUMBER THIRTY-EIGHT,
22 PREMARKED FOR IDENTIFICATION.)

23 Q. I'm going to show you what's marked for identification
24 as State's Exhibit Number Thirty-eight. Do you recognize
25 that?

DETECTIVE TOSHIA SMITH: BY SOLICITOR SHELTON - IN CAMERA

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1 A. Yes, I do.

2 Q. And what is it?

3 A. This is the lineup that I showed to Mr. Crane.

4 Q. And how do you recognize it?

5 A. It's got my signature here.

6 Q. And looking at that form that you read to him, what
7 did you advise him of the pictures?

8 A. The viewer portion of it? You want me to just read
9 that part? It says, "You will be asked to look at a group
10 of photographs. The fact that photos are shown to you
11 should not influence your judgement in any way. You should
12 not conclude nor guess that the photographs contain the
13 picture of the person who committed the crime. You do not
14 have to identify anyone. It is just as important to free
15 innocent persons from suspicion as it is to identify guilty
16 parties. Keep in mind that hair styles, beards and
17 mustaches are easily changed. Please do not indicate to
18 other witnesses that you have or have not made an
19 identification."

20 Q. And that's what you read to him?

21 A. Yes.

22 Q. At that point was there anyone else in the room?

23 A. Mrs. Crane. Amanda.

24 Q. Amanda Crane?

25 A. Correct.

1 Q. Did she do anything or say anything to Mr. Crane to
2 influence his decision on who he picked out of the lineup?

3 A. No, she did not.

4 Q. And was Mr. Crane able to pick someone up out of the
5 lineup?

6 A. Yes he was.

7 Q. Did he do or say anything in conjunction with picking
8 out that photo?

9 A. No. After I read him what I needed to read to him, I
10 gave him the lineup, gave him a pen and he identified Mr.
11 Robinson.

12 Q. And how long did it take him?

13 A. It didn't take him very long. I don't think it took
14 him long at all.

15 Q. Did he seem to have a hard time looking at the
16 pictures as far as being able to see them with the
17 lighting?

18 A. No.

19 Q. Did he appear to you to be - have a hard time
20 understanding what was going on?

21 A. No, he didn't. We were in a well lit hospital room.

22 Q. And you said Mrs. Crane was present?

23 A. Yes, she was.

24 Q. Did you show her a photo lineup?

25 A. No, I did not.

DETECTIVE TOSHIA SMITH: BY SOLICITOR SHELTON - IN CAMERA
BY MS. BURRIS - IN CAMERA

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1 Q. Why not?

2 A. Because Mr. Crane was pretty adamant about her not
3 being involved and that he was concerned for her safety at
4 the time and didn't want her involved.

5 SOLICITOR SHELTON: Please answer any questions that
6 the defense has for you.

7 CROSS EXAMINATION - IN CAMERA

8 DETECTIVE TOSHIA SMITH BY MS. BURRIS:

9 Q. Detective Smith, you indicated that you all were in a
10 well lit hospital room at twelve o'clock in the morning?

11 A. Yes.

12 Q. And the lights in the room were well lit is what you
13 are saying?

14 A. It was as well lit as a hospital room can be. Lit
15 enough for a doctor and a nurse to perform whatever duties
16 they had with patients at the time. Yes.

17 Q. So there had actually been a nurse in the room prior
18 to you coming in. Correct?

19 A. I don't remember if there was a nurse in there or not
20 but it was the ER triage section of the hospital so they
21 have examination rooms there.

22 Q. And you don't know exactly what his medical condition
23 was, whether or not he had a concussion or anything.
24 Right?

25 A. No, I don't.

1 Q. You don't know whether or not he was actually -- as in
2 Jared Crane, I apologize for the record -- you don't know
3 whether or not Jared Crane was under any medications.
4 Correct?

5 A. I do not. No.

6 Q. You never asked?

7 A. Asked Mr. Crane if he was --

8 Q. Or a nurse.

9 A. Well the nurse probably wouldn't give me that
10 information. Mr. Crane would have been the one.

11 Q. Did you ever ask Mr. Crane was he under the influence
12 of any medication?

13 A. I don't believe I did. No. He was coherent and
14 responding to my questions.

15 Q. So he was lying down in the hospital bed. Correct?

16 A. I don't know if he was lying down or sitting in the
17 bed, but I remember meeting with him in the room.

18 Q. When you actually got into the hospital room, was Mr.
19 Crane's response -- he and his wife were there?

20 A. Correct.

21 Q. Okay. What type of investigation did you do prior to
22 going into the hospital room with Mr. Crane?

23 A. We responded to the scene of the call out. We get
24 called out when we're on second shift and we responded to
25 the scene. Met with the reporting officers and got their

DETECTIVE TOSHIA SMITH: BY MS. BURRIS - IN CAMERA

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1 side of what happened and were told that the victims were
2 at the hospital and had --

3 Q. Do you remember what the reporting officers told you?

4 A. I do not. They would have had to have given us Mr.
5 Robinson's name as an identification from the victims for
6 us to produce a lineup.

7 Q. So they gave you Mr. Robinson's name to produce a
8 lineup and did you actually produce the lineup?

9 A. I did not. Detective Stokes did.

10 Q. But you actually presented the lineup to Mr. Jared
11 Crane.

12 A. I did.

13 Q. Now in regards to this lineup and the process that's
14 used in producing the lineup and the image details, can you
15 tell me about that?

16 A. The process?

17 Q. Yeah.

18 A. We have our system, our database, and we can put in
19 height, weight. Put in certain characteristics that match
20 whoever we're looking for and the computer produces a list.
21 It produces pictures and we chose from those pictures.

22 Q. Now how are you certain that -- how do you actually go
23 about as to what physical characteristics or the
24 information to actually put into the computer to generate a
25 photo lineup?

1 A. That would be something that we would have in our
2 reporting system or from DMV.

3 Q. Right. So I guess my question is do you actually take
4 the physical characteristics, age, weight, complexion, hair
5 color, eyes, of the alleged defendant and you place that
6 into the system first?

7 A. Actually I don't place them into the system. I would
8 place the suspect's name and the computer would match up
9 based on the suspect's demographics.

10 Q. And then it prints up - out what we call a lineup
11 image detail?

12 A. Correct.

13 Q. I'm going to show you what's been previously marked as
14 State's Exhibit Thirty-eight.

15 Is there any reason why Maquis Robinson's photograph
16 is first on that particular photo lineup?

17 A. Again, that's something that we wouldn't - the
18 detectives wouldn't have had control over. It's something
19 that the computer will do.

20 Q. Is there any reason that Maquis Robinson's photo
21 background is a different color than some of the other
22 photo backgrounds?

23 A. Just based on photographic. It might not be a
24 different color. It might just be the lighting of the
25 pictures at the time that they were taken. But no, there's

DETECTIVE TOSHIA SMITH: BY MS. BURRIS - IN CAMERA

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1 no specific reason. We wouldn't control that. We would
2 just chose from those pictures that were given to us.

3 Q. You said it might be the lighting?

4 A. Well, his background is gray. The two that you are
5 referring to that are different, they look like they might
6 be gray also. It just might be the lighting of the camera
7 at the time.

8 Q. So you're indicating that you did not submit the
9 information to the computer but you put the alleged
10 defendant's information in and then the computer generates
11 those who have similar characteristics, age, height and all
12 of that?

13 A. Well, I didn't do that. Detective Stokes --

14 Q. Right, but I'm just talking about the process.

15 A. But yes, that's --

16 Q. I mean, it's not your choice as to whether or not the
17 photograph prints out first or last. Correct?

18 A. Correct.

19 Q. Is there any reason why Maquis Robinson's photograph
20 on the photographic lineup appeared first and Dantonyo
21 Heath's photograph appeared last on the photographic
22 lineup?

23 A. Again, that would just be the computer, the choice of
24 random computer programming, I guess.

25 Q. When you actually went into the hospital room of Jared

1 Crane, did you ask him -- did you do an investigation?

2 A. What type of an investigation?

3 Q. Did you ask him any questions as to the alleged
4 suspect, the physical characteristics, age, or did you ask
5 him who it was first or?

6 A. No. I told him that based on the information that we
7 had been given at the scene, I had a photographic lineup
8 and asked him if he would be able to pick the person that
9 assaulted him out of the lineup.

10 Q. So you implied that the person was in the photographic
11 lineup that you were actually presenting to him without
12 asking him any previous questions in your investigation?

13 A. No. I didn't make any implications that the person
14 would be in the photographic lineup because I read to him
15 prior to showing him the lineup the fact that the person
16 may or may not be in the lineup. I just asked him if he
17 would be able to identify his attacker.

18 Q. If he would be able to do what?

19 A. Identify the person that attacked him.

20 Q. And you said it didn't take him -- About how much time
21 did it take him?

22 A. I don't remember exactly how much time it took him.

23 It took him a few minutes. It didn't take him long.

24 Q. Did he actually take the time and place the
25 photographic lineup in his hands and look at all the

DETECTIVE TOSHIA SMITH: BY MS. BURRIS - IN CAMERA

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1 photos?

2 A. Yes, he did.

3 Q. You never asked him about whether or not he had any
4 consumption of alcohol?

5 A. I did not.

6 Q. You never asked him whether he had any drugs in his
7 system?

8 A. I did not.

9 Q. You never asked him about whether or not he had any
10 sleep the night before?

11 A. I did not.

12 Q. You never asked him what did he focus on during the
13 incident?

14 A. I did not.

15 Q. You never asked him what was the physical conditions
16 in the room when he said that he observed Maquis Robinson?

17 A. I did not.

18 Q. Never asked him about this is between he and Maquis
19 Robinson when he said he noticed Maquis Robinson did you?

20 A. No, I did not.

21 Q. Never asked him about his line of sight when he said
22 he identified Maquis Robinson. Correct? I mean line of
23 sight as in at the incident site. What I mean by lineup
24 site as like where was he lying, where was he standing,
25 when he said he actually saw Maquis Robinson.

1 A. I didn't ask him anything about his positioning and
2 Mr. Robinson's positioning because apparently there had
3 been an altercation and in order for there to be an
4 altercation, you would have to be within arm's length.
5 You'd have to be pretty close to be attacked by someone.

6 Q. But you are assuming that, right?

7 A. Unless that person has some long something that they
8 can attack you with, they would have to be within arm's
9 length in order to attack someone.

10 Q. And you received the information as to Maquis Robinson
11 from the initial responding officer?

12 A. Correct. Officer Glenn and Officer Stivendar was on -
13 they were both on scene.

14 Q. Do you know whether or not Jared Crane actually said
15 Maquis Robinson or whether or not he actually gave a
16 physical description of the person he believed to be the
17 person who harmed him?

18 A. I don't know what was said to Officer Stivendar and
19 Officer Glenn.

20 Q. Never asked --

21 A. I'm sorry.

22 Q. Strike that. Never ask Jared Crane whether or not the
23 person that harmed him had any distinguishing features,
24 such as tattoos or anything like that?

25 A. No, I did not. There aren't any tattoos though

DETECTIVE TOSHIA SMITH: BY MS. BURRIS - IN CAMERA

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1 included from what I have here on the photo lineup.

2 Q. When he looked at - When Jared Crane actually looked
3 at the photographic lineup, what was his immediate
4 reaction?

5 A. I don't remember his immediate reaction. I couldn't
6 tell you.

7 Q. Was he emotional?

8 A. He was emotional the entire time I was talking to him.
9 He had just been attacked.

10 Q. As in crying?

11 A. I don't remember if he was crying but I know that he
12 was pretty upset. He was still pretty shaken up when we
13 got to the hospital room and I made contact with him. Yes.

14 Q. Were his eyes open the whole time?

15 A. Yes.

16 Q. By the time you got there he was cleaned up?

17 A. No, he wasn't quite cleaned up. They had just gotten
18 back into the rooms and I think they were waiting for --

19 Q. So he still had blood all over his face?

20 A. He still had blood. Not all over his face but he
21 still had blood.

22 Q. And while you were actually in the Piedmont Medical
23 Center hospital room, Detective Stokes actually came in
24 there with you. Correct?

25 A. After he had met with Mr. Neal in his hospital room.

1 Q. And what additional process took place when Detective
2 Stokes was in there?

3 A. What do you mean?

4 Q. Anything additional happen once Detective Stokes came
5 in there?

6 A. I believe he started to speak to Mr. Crane and Mrs.
7 Crane.

8 Q. About what?

9 A. About the crime that had occurred.

10 Q. You were in training during that time?

11 A. I was.

12 Q. And Detective Stokes was training you?

13 A. He was.

14 Q. But he allowed you to present the photographic lineup
15 to Jared Crane out of his presence?

16 A. He did. We had a pretty busy week that week so I had
17 already learned how to present photo lineups.

18 Q. How long had you actually been in training?

19 A. I had been in the detective division for a few months
20 prior to this.

21 Q. How many times - How many times have you actually
22 shown victims photographic lineups?

23 A. I can't tell you how many times I showed
24 photographic lineups.

25 Q. Estimate.

DETECTIVE TOSHIA SMITH: BY MS. BURRIS - IN CAMERA

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1 A. I don't know but I had already shown some lineups
2 prior to Mr. Crane's. I was trained on what I had to do.

3 Q. How long had it been since you had training?

4 A. I started back there in March of 2010, I believe.
5 2011.

6 Q. So you were in training from 2011 to 2013? You were
7 still in training in the detective division. I'm sorry,
8 from March 2011 to what, June 2011?

9 A. No. That was our on-call week but we had - when we do
10 on-call, we train for a few months prior to going on call.
11 That next week after I left Detective Stokes, I had my own
12 - I was the primary detective on call.

13 Q. So you had been in training for a couple months?

14 A. Right.

15 Q. And you've done about how many photographic lineup?

16 SOLICITOR SHELTON: Objection, Your Honor.

17 A. I don't know.

18 SOLICITOR SHELTON: She's asked and answered that
19 question.

20 THE COURT: I'll let this, this is cross but she did a
21 minute ago say she couldn't estimate.

22 Q. So you do not know.

23 THE COURT: I'll let you ask again. Go ahead.

24 Q. About how many photographic lineups had you actually
25 presented to victims?

1 A. Again, I don't remember. I know that I had done a
2 photographic lineup and I knew what to do.

3 Q. Now you just mentioned - Just a couple more questions.

4 You mentioned that when you had actually already
5 presented the photographic lineup to Jared Crane in the
6 hospital room, that's when Detective Stokes actually came
7 in?

8 A. Correct.

9 Q. Okay. And he furthered again to ask Jared Crane
10 questions?

11 A. About the incident.

12 Q. About the incident; not necessarily the photographic
13 lineup?

14 A. Correct.

15 Q. Okay. Did he ask anything about physical descriptions
16 of the person that he was alleging? What was he asking?

17 A. I don't remember anybody asking about the physical
18 description. I mean, we had already done the photographic
19 lineup so I can't see why that line of questioning would
20 have been relevant at the time. I know that we had gotten
21 information about what Jared was doing at the time and what
22 he saw and just basic investigative questioning for a
23 victim. Where were you? Who was there with you? What did
24 you see? What was the person wearing?

25 Q. And so on that particular night, Jared Crane actually

DETECTIVE TOSHIA SMITH: BY MS. BURRIS - IN CAMERA
BY MR. SMITH - IN CAMERA

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1 gave a statement in regards to Maquis Robinson?

2 A. He did not give a statement. He answered a few
3 questions at the hospital at the time - I think he came in
4 later on to give a statement, an actual written statement.

5 Q. Okay, but he did give a verbal statement to Detective
6 Stokes?

7 A. He answered questions.

8 MS. BURRIS: Thank you. I have no further questions
9 at this time.

10 THE COURT: Mr. Smith.

11 MR. SMITH: Thank you, Your Honor, may it please the
12 court.

13 CROSS EXAMINATION - IN CAMERA

14 DETECTIVE TOSHIA SMITH BY MR. SMITH:

15 Q. Sargent Smith, ---

16 A. Yes, sir.

17 Q. --- by the time you went to the hospital, how much
18 knowledge of this case would you have had?

19 A. Just what the responding officers would have given to
20 us at the time when we arrived on the scene.

21 Q. So you arrived on the scene?

22 A. Correct.

23 Q. And did you arrive with Detective Stokes or did you
24 come separately?

25 A. I came separately. Like I said, this was a call-out

DETECTIVE TOSHIA SMITH: BY MR. SMITH - IN CAMERA

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1 and we were both at home. But I arrived - I was right
2 behind him.

3 Q. And then at some point you went back to the police
4 department before going to the hospital ; is that correct?

5 A. Correct.

6 Q. But you did not engage in the preparation of this
7 photographic lineup?

8 A. No, I did not.

9 Q. But did - Was it requested of you that you show a
10 lineup to one of the individuals or how did the division of
11 labor go about it at the hospital?

12 A. When we got to the hospital, Detective Stokes went to
13 meet with Mr. Jordan and I took the lineup and met with Mr.
14 Crane.

15 Q. And at that point, was it your understanding that you
16 were suppose to show it to Mr. Crane or to Mr. Crane and
17 Mrs. Crane or what were you suppose to do at that point?

18 A. Like I said, when I got there Mr. Crane was pretty
19 adamant about Mrs. Crane not being involved. I do believe
20 that I had two lineups with me. They were the same but I
21 had two of them, one for Mrs. Crane and one for Mr. Crane.

22 Q. Okay. So no lineup was shown to Mrs. Crane; is that
23 right?

24 A. No.

25 Q. Neither by you nor by Detective Stokes in your

DETECTIVE TOSHIA SMITH: BY MR. SMITH - IN CAMERA

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1 presence?

2 A. Right.

3 Q. And you indicated that you did not have any discussion
4 with Mr. Crane or Mrs. Crane concerning the events. You
5 were basically just there to show the lineup?

6 A. Correct.

7 Q. And at that point, how many suspects were you looking
8 for?

9 A. Just the one - Well, we had two suspects at the time.
10 We knew that there were two people but we only had one
11 identified.

12 Q. Did you receive information from the responding
13 officers that there were three suspects?

14 A. No, I did not.

15 MR. SMITH: No further questions, Your Honor.

16 THE COURT: Redirect?

17 SOLICITOR SHELTON: Nothing, Your Honor.

18 THE COURT: All right. You may step down. Thank you.

19 OFFICER SMITH: Thank you, Your Honor.

20 (WITNESS LEAVING WITNESS STAND.)

21 THE COURT: Call your next witness.

22 SOLICITOR SHELTON: Your Honor, the State would call
23 Ernest Jordan.

24 THE COURT: Please come up and place your hand on this
25 Bible and raise your right hand.

ERNEST JORDAN: BY SOLICITOR SHELTON - IN CAMERA

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1 (WHEREUPON: ERNEST JORDAN,
2 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION - IN CAMERA

4 ERNEST JORDAN BY SOLICITOR SHELTON:

6 Q. State your name for the record, please.

7 A. Ernest Jordan.

8 Q. And Mr. Jordan, where do you live?

9 A. Lancaster, South Carolina.

10 Q. And where do you work?

11 A. Five Star Customs.

12 Q. Who is the owner of that business?

13 A. I am.

14 Q. And were you working there back in June of 2011,
15 specifically on June 8th of 2011?

16 A. Yes, ma'am.

17 Q. Did you own the business then?

18 A. Yes, ma'am.

19 Q. And on June 8th of 2011 were you the victim of a
20 crime?

21 A. Yes, ma'am.

22 Q. Was that a kidnaping, armed robbery and attempted
23 murder?

24 A. Yes, ma'am.

25 Q. And law enforcement responded?

1

ERNEST JORDAN: BY SOLICITOR SHELTON - IN CAMERA

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1 A. Yes, ma'am.

2 Q. Uniform officers?

4 A. Yes, ma'am.

5 Q. Did you speak with them?

6 A. Yes, ma'am.

7 Q. Did you tell them who you believed one of the suspects
8 to be?

9 A. Yes, ma'am.

10 Q. And who was that?

11 A. Maquis Robinson.

12 Q. And how did you know his name?

13 A. Because he'd be at the shop all the time.

14 Q. How long had you known him?

15 A. About four or five years.

16 Q. So years, you had known him for a while?

17 A. Yes, ma'am.

18 Q. Had he ever worked for you?

19 A. No. He used to come around the shop and help out
20 every now and again.

21 Q. So when you say help out, he didn't work for you as an
22 employee?

23 A. No, ma'am

24 Q. He would just do jobs for you?

25 A. Yeah. You know, like somebody just come your shop and
1 just hang around. Like, man help me do this or something

ERNEST JORDAN: BY SOLICITOR SHELTON - IN CAMERA

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1 like that there.

2 Q. And so you would see him a good bit?

3 A. Yes, ma'am.

4 Q. And the person who committed the crime that you knew
5 as Maquis Robinson was his face covered during the --

6 A. No, ma'am.

7 Q. So you were able to get a good look at him?

8 A. Yes, ma'am.

9 Q. How close were you to him?

10 A. Face to face.

11 Q. What were the lights like in your shop?

12 A. Bright.

13 Q. Were you drunk at the time?

14 A. No, ma'am. I don't drink.

15 Q. Were you high at the time?

16 A. No, ma'am.

17 Q. Do you feel like you were able to get a good look at
18 him?

19 A. Yes, ma'am.

20 Q. So the name you gave to law enforcement was Maquis
21 Robinson?

22 A. Yes, ma'am.

23 Q. At the hospital, did you meet with anyone else from
24 law enforcement that showed you a lineup?

25 A. Detective Stokes.

ERNEST JORDAN: BY SOLICITOR SHELTON - IN CAMERA

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1 Q. And where were you when you met with Detective Stokes?

2 A. In the hospital bed.

3 Q. And he brought a lineup in and showed it to you?

4 A. Well, no. That day he just came and just came and
5 just asked me questions.

6 Q. He didn't show you a lineup that day?

7 A. No, ma'am. I think he did. I think he showed me a
8 lineup but I think that was on a later date when he showed
9 me the lineup.

10 Q. I'm going to show you what's been marked as State's
11 Exhibit Number Thirty-seven.

12 A. Yes, ma'am.

13 Q. Do you recognize that exhibit?

14 A. Yes, ma'am.

15 Q. What is it?

16 A. A photo lineup.

17 Q. Is that the photo lineup that Detective Stokes showed
18 to you?

19 A. Yes, ma'am.

20 Q. And is there a date and time on that photo lineup?

21 A. Yes, ma'am.

22 Q. When is that?

23 A. 6-9-11 at 12:30 a.m..

24 Q. And so would that be later on after the crime had
25 occurred?

ERNEST JORDAN: BY SOLICITOR SHELTON - IN CAMERA

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1 A. Yes, ma'am.

2 Q. Does that help refresh your memory as to when he
3 showed you the lineup?

4 A. Yes, ma'am. I was just thinking about the statement.

5 Q. And for Maquis Robinson, Detective Stokes showed you
6 the lineup?

7 A. Yes, ma'am.

8 Q. Did he do anything or say to you to indicate who you
9 should pick out of that lineup?

10 A. No, ma'am.

11 Q. Did he point out anybody?

12 A. No, ma'am.

13 Q. Did he show you like one picture and then show you
14 some other pictures?

15 A. No, ma'am.

16 Q. Did he -- Was there anyone else in the room?

17 A. My wife.

18 Q. Did she do anything to influence your decision?

19 A. No, ma'am.

20 Q. Did she point out to you anything?

21 A. No, ma'am.

22 Q. Did Detective Stokes have you read that form or did he
23 read that form to you before showing you the lineup?

24 A. He read it to me.

25 Q. So were you advised that the suspect may or may not be

ERNEST JORDAN: BY SOLICITOR SHELTON - IN CAMERA

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1 in the lineup?

2 A. Yes, ma'am.

3 Q. And were you able to pick someone out of that lineup?

4 A. Yes, ma'am.

5 Q. You can look at it.

6 (WITNESS REVIEWING EXHIBIT.)

7 Q. Which picture did you pick out?

8 A. The first picture.

9 Q. And who is in that picture?

10 A. Maquis Robinson.

11 Q. Did you do anything to indicate that that was the
12 picture you selected?

13 A. Yeah. I initialed it.

14 Q. And are those your initials on there?

15 A. Yes, ma'am.

16 Q. What made you pick out that photo?

17 A. Well, I mean like, soon as I seen it I knew who it
18 was.

19 Q. And you're sure that's who was part of - who came into
20 your shop on June 8TH as part of the crime that was
21 committed against you?

22 A. Yes, ma'am.

23 SOLICITOR SHELTON: Thank you. Please answer any
24 questions the defense has for you.

25 THE COURT: Ms. Burris.

ERNEST JORDAN: BY MS. BURRIS - IN CAMERA

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1 MS. BURRIS: Thank you, Your Honor. May it please the
2 court.

3 THE COURT: Yes, ma'am.

4 CROSS EXAMINATION - IN CAMERA

5 ERNEST JORDAN BY MS. BURRIS:

6 Q. Mr. Jordan, now when Detective Stokes did actually
7 come to Piedmont Medical Center and showed you the
8 photographic lineup, State's Exhibit Thirty-seven, he read
9 you the photographic lineup instruction.

10 What did he do? Did he show it to you or did he read
11 you the lineup, photographic lineup instructions?

12 A. He came in and told me he had some photographs to show
13 me. Read me the paper and then asked me can I identify
14 anybody on there.

15 Q. When you say paper, you mean the photographic lineup
16 instruction?

17 A. Yes, ma'am.

18 Q. And did you actually sign the photographic lineup
19 instruction before or after?

20 A. I think it was - I ain't sure. I think it was before
21 though.

22 Q. And did he in any way indicate that the person who
23 actually - you had an encounter with was in this photograph

24 ---

25 A. No, ma'am.

ERNEST JORDAN: BY MS. BURRIS - IN CAMERA

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- 1 Q. --- lineup?
- 2 A. No, ma'am.
- 3 Q. Now you were the one who actually called 9-1-1.
- 4 Right?
- 5 A. Yes, ma'am.
- 6 Q. Okay. So you called 9-1-1 and you told them?
- 7 A. I'd just been shot.
- 8 Q. You had just been shot?
- 9 A. Yeah.
- 10 Q. Okay. And you told them?
- 11 A. You say I told them?
- 12 Q. What else did you tell them? Yes, sir.
- 13 A. I said send paramedics. I told them to send
- 14 paramedics. I think I'm fixing to die. That's what I told
- 15 them.
- 16 Q. Send paramedics and you think you're going to die.
- 17 Okay. And then you told them what else?
- 18 A. I don't remember now.
- 19 Q. What else did they ask you? Do you remember?
- 20 A. Did I know who did it.
- 21 Q. Did you know who did it?
- 22 A. Yeah.
- 23 Q. And you told them?
- 24 A. Maquis Robinson.
- 25 Q. And you told them for sure I know Maquis Robinson did

1 it?

2 A. Yes, ma'am. Exactly. Yes, ma'am.

3 Q. And you are one hundred percent sure and certain that
4 Maquis Robinson was there at your place and you had had an
5 encounter with Maquis Robinson?

6 A. I'm a thousand percent sure.

7 Q. And that's what you told 9-1-1?

8 A. Yes, ma'am.

9 Q. Okay. One thousand percent sure. All right. Now,
10 you had testified that Maquis Robinson hangs around your
11 shop all the time. When was the last time you actually saw
12 Maquis Robinson?

13 A. About three to four days before that happened.

14 Q. Three to four days before that happened?

15 A. Yes, ma'am.

16 Q. And did you all have any - Was there any
17 confrontation or issues of contention?

18 A. No. Something about a tire. His cousin had called
19 about a tire. Something about the wrong size on a tire or
20 something.

21 Q. A tire?

22 A. Yes, ma'am.

23 Q. Okay. On a vehicle or something?

24 A. Yes, ma'am. That's the last time I talked to him.

25 Q. Okay. And so on that particular night, you were at

ERNEST JORDAN: BY MS. BURRIS - IN CAMERA

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1 your shop.

2 A. Yes, ma'am.

3 Q. It was around ten p.m.?

4 A. Yes, ma'am.

5 Q. And you were doing what?

6 A. We was fixin to paint a car.

7 Q. About to paint a car. You and Jared Crane?

8 A. Yes, ma'am.

9 Q. Okay. And how was the lighting in the room?

10 A. It was bright because you know when you paint you've
11 got to have real bright lights up in shop.

12 Q. So sort of fluorescent lights?

13 A. Yes, ma'am.

14 Q. So it was fluorescent lights?

15 A. Yes, ma'am.

16 Q. That's what you're referring to as bright. Right?

17 A. Yes, ma'am.

18 Q. Now when the individual actually came into the room in
19 which you were about to paint - You were prepping a car, a
20 vehicle for painting?

21 A. Yes, ma'am.

22 Q. Okay. So when the individual came into the room, what
23 were you doing?

24 A. Actually I was coming out the bathroom when I heard
25 the bay door come up, slam up, so I kind of ran up to the

ERNEST JORDAN: BY MS. BURRIS - IN CAMERA

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1 front. I was like who is this, you know. So I turned
2 around and I came back out. I said let me go back here and
3 see what's going on. By the time I came back out around, I
4 had a gun in my face.

5 Q. Okay. So by the time you turned around - You heard
6 the bay door go up?

7 A. Yes, ma'am.

8 Q. And you had your back turned?

9 A. No. I was coming out the bathroom.

10 Q. You were coming out the bathroom?

11 A. Yes, ma'am.

12 Q. Okay.

13 A. So I head the bay door come up. It slammed so hard so
14 I kind of like ran up front. Ran up front so then I said
15 naw, Jared back there let me go see what's going on. So I
16 turned back around and started back walking towards the bay
17 door and that's when I seen the gun in my face.

18 Q. Okay. So you were walking back towards the bay door
19 where the person is actually coming through?

20 A. Yes, ma'am.

21 Q. Okay. And when the person had - The individual had
22 the gun to your face or your head, which one?

23 A. To my head.

24 Q. To your head. I assume within arm's length ---

25 A. Yes, ma'am.

ERNEST JORDAN: BY MS. BURRIS - IN CAMERA

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1 Q. --- away from you. Right?

2 A. Yes, ma'am.

3 Q. When did you actually first notice who the person was?

4 A. I noticed as soon as he walked in. I kind of
5 greeted him with a smile. I thought he was playing.

6 Q. Once the person got up on you, was anything blocking
7 your view at that time other than the alleged gun?

8 A. No. He had his little shirt right there, you know
9 what I'm saying, soon as he walked in. It was like his
10 shirt like pulled right there at his nose.

11 Q. So you didn't see all of the physical characteristics
12 of who you are claiming to be Maquis Robinson. You didn't
13 see all the physical characteristics. You saw a tee shirt
14 pulled up over the mouth and the nose?

15 A. Yeah soon as he walked in but soon as he walked in it
16 just fell down.

17 Q. Okay. The tee shirt fell down?

18 A. Yes, ma'am.

19 Q. Okay. How soon after the incident happened did you
20 call 9-1-1?

21 A. Right after I stumbled back in.

22 Q. Stumbled back into?

23 A. The shop.

24 Q. The shop.

25 A. Yes, ma'am.

ERNEST JORDAN: BY MS. BURRIS - IN CAMERA

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1 Q. Did the 9-1-1 dispatcher --

2 SOLICITOR SHELTON: Objection, Your Honor. I -- for a
3 lineup I'm not sure what all the 9-1-1 questions --

4 THE COURT: Well, this is cross but let's -- I'll let
5 you go into it but keep in mind this is the *Neil versus*
6 *Biggers* to determine whether or not the photo lineup was
7 suggestive and whether or not it was not suggestive.
8 Whether or not -- Well in any event, whether or not this
9 witness's identification, if he does make an identification
10 of Mr. Robinson in court, if whether that's reliable. I
11 mean I know -- I'll allow you some breath, but keep in mind
12 that's the issue.

13 MS. BURRIS: Okay. I was just going to ask him in
14 regards to physical characteristics that he gave to 9-1-1.

15 THE COURT: Okay. Fine.

16 BY MS. BURRIS:

17 Q. So did the 9-1-1 dispatcher ask you about physical
18 characteristics of the person that you suspected was there
19 in the shop who had attacked you, allegedly attacked you?

20 A. Yes, ma'am.

21 Q. Okay. And what physical did you give them?

22 A. I done forgot what all I told them that night that
23 night about the description. I think I just really
24 remember telling them it was a light skinned dude you know.

25 Q. Light skinned dude?

ERNEST JORDAN: BY MS. BURRIS - IN CAMERA

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1 A. Yes, ma'am.

2 Q. What else you told them?

3 A. I done forgot.

4 Q. Did they - okay. Did they ask you what he was wearing
5 or anything like that?

6 A. Yes, ma'am.

7 Q. And you told them what the suspect was wearing?

8 A. Yes, ma'am.

9 Q. Asked you about his hair, age, height?

10 A. I don't think they asked me all that.

11 Q. Okay. Asked you whether or not he had any
12 distinguishing features?

13 A. No, ma'am.

14 Q. Now, when you were in the hospital when they first
15 took you into the hospital room, did they give you any
16 medications?

17 A. No, ma'am.

18 Q. They just took you in, wiped the blood off, bandaged
19 you?

20 A. They just took me in the room and the doctor just
21 rushed back and checked my face, checked the face and then
22 they came back in and started cleaning me up.

23 Q. I'm sorry. They came back?

24 A. They came in and they checked my face and then once
25 the doctors left out, the nurses came in and started

1 cleaning me up.

2 Q. Was your eye swollen at all?

3 A. Yes, ma'am.

4 Q. Which one, right or left?

5 A. My right.

6 Q. Your right eye?

7 A. Yes, ma'am.

8 Q. You got a really good look at the photographic lineup?

9 A. Yes, ma'am.

10 Q. Did you put it up to your face?

11 A. Yes, ma'am.

12 Q. Did you have any kind of - Did you have any kind
13 of reaction when Detective Stokes showed you the
14 photographic lineup, like emotional reactions or anything
15 like that?

16 A. Yeah. I kinda did because I couldn't believe he did
17 it, you know.

18 Q. What was your emotional reaction?

19 A. I done forgot what you know I did now.

20 Q. And you are one hundred percent sure that Maquis
21 Robinson is the person that actually came into your shop
22 ---

23 A. Yes, ma'am.

24 Q. --- on June 8th, 2011?

25 A. Yes, ma'am.

ERNEST JORDAN: BY SOLICITOR SHELTON - IN CAMERA

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1 MS. BURRIS: Thank you. I have no further questions.

2 THE COURT: Mr. Smith.

3 MR. SMITH: I don't have any questions with regard to
4 this lineup. I don't know if they're going to go into the
5 other one.

6 SOLICITOR SHELTON: Yes, sir, Your Honor.

7 THE COURT: Okay.

8 REDIRECT EXAMINATION - IN CAMERA

9 ERNEST JORDAN BY SOLICITOR SHELTON

10 Q. Mr. Jordan, going back, the night at the hospital you
11 were shown a lineup of Maquis Robinson.

12 A. Yes, ma'am.

13 Q. And that was the only lineup you were shown that
14 night?

15 A. Yes, ma'am.

16 Q. Were you later shown another lineup?

17 A. Yes, ma'am.

18 Q. And who showed you that lineup?

19 A. Detective Stokes.

20 Q. Do you remember where you were?

21 A. Yeah. I was on my way to the beach and Detective
22 Stokes told me to meet him somewhere and I met him at
23 Bojangles parking lot.

24 Q. Okay. And did you have anyone with you?

25 A. Yeah, my wife.

1 Q. And you met with Detective Stokes at the Bojangles
2 parking lot. Where at?

3 A. In Lancaster, South Carolina.

4 Q. In Lancaster. And he at that point had a lineup with
5 Dantonyo Heath as a suspect in that lineup?

6 A. Yes, ma'am.

7 Q. And in showing you that lineup, did he say anything to
8 you or do anything, point to anyone, do anything to
9 influence who you selected?

10 A. No, ma'am.

11 Q. Was there anything marking or identifying the
12 pictures?

13 A. No, ma'am.

14 Q. Did he give you any additional information about each
15 person in the pictures other than just to give you the
16 pictures?

17 A. No, ma'am.

18 Q. Did your wife do or say anything to you to point out
19 who it was?

20 A. No, ma'am.

21 Q. And going back to the night in question, June 8th,
22 you testified that you and Maquis Robinson were face to
23 face and that he is the one that assaulted you. How close
24 were you to Dantonyo Heath?

25 A. We was face to face too.

ERNEST JORDAN: BY SOLICITOR SHELTON - IN CAMERA

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1 Q. And where was that when you all were face to face?

2 A. Like - Actually like when they came in and they had
3 the gun on me, I seen somebody else run in and bend down
4 beside the jeep and I knew who it was when I see it, so by
5 the time when the whole ordeal started, when the whole
6 ordeal started, like after I had been choked where I
7 couldn't hardly breath so he actually gave me some water.

8 Q. Dantonyo Heath gave you some water?

9 A. Yes, ma'am.

10 Q. How long had you known Mr. Heath?

11 A. He had been at the shop probably about three or four
12 times.

13 Q. So you had seen him a few times before?

14 A. Yes, ma'am.

15 Q. Did you know his name?

16 A. I just know they called him Yodi.

17 Q. And did you hear someone call him Yodi that night?

18 A. Yes, ma'am.

19 Q. And who did you hear call him Yodi that night?

20 A. Maquis Robinson.

21 Q. When Detective Stokes was showing you the photos, did
22 he show you individual photos ahead of time?

23 A. No, ma'am.

24 Q. And did he tell you that Dantonyo - that the suspect
25 was one of the pictures?

1 A. No, ma'am.

2 Q. Let me show you what's been marked for identification
3 State's Exhibit Number Thirty-nine.

4 (WITNESS REVIEWING EXHIBIT.)

5 Q. Do you recognize that?

6 A. Yes, ma'am.

7 Q. And what is it?

8 A. A photo lineup.

9 Q. And is that the lineup that Detective Stokes showed to
10 you?

11 A. Yes, ma'am.

12 Q. Is the person that you picked out on that lineup, is
13 that still your identification?

14 A. Yes, ma'am.

15 Q. And which picture is that?

16 A. The last one.

17 Q. And who is that in that picture?

18 A. Dantonyo Heath.

19 Q. And did you do anything to mark or identify that
20 picture as the second person?

21 A. Yes, ma'am. I circled and initialed.

22 Q. And is that your initials?

23 A. Yes, ma'am.

24 Q. And all your previous testimony is this still the
25 same, the lighting at the store, it was well lit and ---

ERNEST JORDAN: BY SOLICITOR SHELTON - IN CAMERA
BY MR. SMITH - IN CAMERA

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1 A. Yes, ma'am.

2 Q. --- you've already testified how close you were to Mr.
3 Heath.

4 A. Yes, ma'am.

5 SOLICITOR SHELTON: I have no further questions, Your
6 Honor.

7 THE COURT: Ms. Burris.

8 MS. BURRIS: I have no questions at this time, Your
9 Honor.

10 THE COURT: Mr. Smith.

11 CROSS EXAMINATION - IN CAMERA

12 ERNEST JORDAN BY MR. SMITH:

13 Q. Mr. Jordan, you indicated that when Detective Stokes
14 said he wanted to meet you at Bojangles when you were on
15 the way to the beach, that you knew he had a lineup with
16 Dantonyo Heath in it as a suspect; is that right?

17 A. No. I didn't know he had a lineup with him in it but
18 he just told me he had some lineups for me to look at.

19 Q. He had some lineups?

20 A. Yes, sir.

21 Q. Okay. How many different lineups did he end up
22 showing you?

23 A. He just showed me a lineup with six different pictures
24 in it.

25 Q. Okay.

ERNEST JORDAN: BY MR. SMITH - IN CAMERA

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1 Q. It might a been twelve. No, it was six. It was six
2 cause it was six different pictures in it. Yeah.

3 Q. Okay. And you talked about with the prior lineup that
4 you saw at the hospital that the way Detective Stokes began
5 was he read you a form, a sort of coversheet on that
6 lineup. Did he do that as well with the lineup with Mr.
7 Heath in it?

8 A. Yes, ma'am - I mean, yes, sir.

9 Q. And did you sign that form just like you signed the
10 form with Mr. Robinson in it?

11 A. I don't think I did. I think I just initialed the
12 lineup on the page.

13 Q. Now you said that you had seen Mr. Heath I believe
14 three to four times at your shop; is that right?

15 A. Yes, sir.

16 Q. Would he come up on his own or would he come with
17 someone?

18 A. With Maquis.

19 Q. He would come with Mr. Robinson when he came?

20 A. Yes, sir.

21 Q. And did you ever do work for him or what was the
22 nature of your conversation when he was there?

23 A. He would just come up there with him. Suppose to be
24 doing some work on this Cadillac, on the Cadillac but we
25 never did.

ERNEST JORDAN: BY MR. SMITH - IN CAMERA

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1 Q. Okay. And the Cadillac, was that his or whose vehicle
2 was that?

3 A. It was his.

4 Q. And he never worked for you or you didn't go to school
5 with him or know him from the past or anything like that?

6 A. No, sir.

7 Q. And you indicated that as soon as you saw the second
8 individual come in and duck down behind the jeep that you
9 knew that to be Dantonyo Heath. Is that your testimony?

10 A. Yes, sir.

11 Q. On the form - I'm sorry. You also described a call
12 you made to 9-1-1 when you returned and in that call you
13 told them that you believed it was Mr. Robinson who had
14 just assaulted you and robbed you; is that right?

15 A. Yes, sir.

16 Q. But you didn't name Mr. Heath did you?

17 A. No. I just told them it was some guy named Yodi.

18 Q. Okay. And did you give descriptions of him?

19 A. Yes, sir.

20 Q. What descriptions did you give?

21 A. I told her he was about 6'2", dark skin.

22 Q. And that was it?

23 A. I done forgot what else I told them at the time. I
24 think I remember telling them what kind of clothes and
25 stuff he had on.

ERNEST JORDAN: BY MR. SMITH - IN CAMERA
BY SOLICITOR SHELTON - IN CAMERA
BY MS. BURRIS - IN CAMERA

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1 Q. And did you mention a third suspect?

2 A. I thought there was.

3 Q. Did you give a description for him?

4 A. No, sir.

5 MR. SMITH: No further questions.

6 SOLICITOR SHELTON: Just one, Your Honor.

7 REDIRECT EXAMINATION - IN CAMERA

8 ERNEST JORDAN BY SOLICITOR SHELTON:

9 Q. The third suspect, where did you think you saw a third
10 person?

11 A. No where. I just thought it might a been a get away.
12 Somebody driving the car.

13 Q. So you didn't actually see a third person inside the
14 shop?

15 A. No.

16 Q. You never had any contact with a third person?

17 A. No, ma'am.

18 THE COURT: Ms. Burris.

19 MS. BURRIS: Yes, sir.

20 RECROSS EXAMINATION - IN CAMERA

21 ERNEST JORDAN BY MS. BURRIS:

22 Q. Mr. Jordan, at one point you actually end up outside
23 of the shop with two of the alleged suspects. Correct?

24 A. Yes, ma'am.

25 Q. Okay. And so you did tell the initial responding

ERNEST JORDAN: BY MS. BURRIS - IN CAMERA

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1 officer that you thought there was a third person involved.
2 Right?

3 A. Yes.

4 Q. But you ended up outside of the shop along with the
5 alleged suspects and you knew there wasn't a third suspect.
6 Right?

7 A. I told them I thought somebody was driving the get
8 away car.

9 Q. What you're alleging as the get away car, you had the
10 opportunity to see that car. Right?

11 A. Yeah.

12 Q. And it wasn't running was it?

13 A. I don't know. It was parked up on top the hill.

14 Q. On top of the hill where?

15 A. Like right there at the title loan place it was parked
16 up on top of the hill.

17 Q. Okay. So the shop, Five Star Customs, is actually
18 located beside title loan?

19 A. No. The shop is actually located beside the payday
20 loan.

21 Q. Payday loan.

22 A. And the next parking lot over is the title loan and
23 they was actually parked on top of the hill up there.

24 Q. And what made you say a third suspect?

25 A. Because I thought they had a get away driver.

JARED CRANE: BY SOLICITOR SHELTON - IN CAMERA

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1 Q. That's just in your mind. Right?

2 A. Yeah, that's just in my mind.

3 MS. BURRIS: No further questions.

4 THE COURT: Mr. Smith?

5 MR. SMITH: No.

6 THE COURT: You may step down. Thank you, Mr. Jordan,
7 you can go back and have a seat.

8 (WITNESS LEAVING WITNESS STAND.)

9 THE COURT: Call your next witness.

10 SOLICITOR SHELTON: Jared Crane.

11 (WHEREUPON: JARED CRANE,

12 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

13 MADAME CLERK: Thank you. You may have a seat.

14 DIRECT EXAMINATION - IN CAMERA

15 JARED CRANE BY SOLICITOR SHELTON:

16 Q. State your name for the record please?

17 A. Jared Crane.

18 Q. And Mr. Crane, where do you live?

19 A. Lancaster, South Carolina.

20 Q. And back on June 8th, 2011 where were you - where
21 were you working?

22 A. Five Star Customs.

23 Q. Is that the only job you had back then?

24 A. Yes, ma'am.

25 Q. And were you working there in 2011? Were you there

JARED CRANE: BY SOLICITOR SHELTON - IN CAMERA

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1 that night?

2 A. Yes, ma'am.

3 Q. And were you the victim of a crime that night?

4 A. I was.

5 Q. That attempted murder, armed robbery, kidnapping?

6 A. Yes, ma'am.

7 Q. At some point that evening, did you have an
8 opportunity to meet with Detective Smith at the hospital?

9 A. Yes, ma'am.

10 Q. And as part of that meeting, did she show you a lineup?

11 A. She did.

12 Q. And in showing you that lineup, how did she show it to
13 you?

14 A. She read me a - I mean, just the basics of what I
15 needed to do. I mean, if there was somebody - if I didn't
16 see - I just didn't need to guess about it. I needed to be
17 one hundred percent for sure.

18 Q. And did she show you one picture at a time?

19 A. No, ma'am. They were all six pictures on one sheet.

20 Q. Did she do or say anything to you to influence your
21 decision?

22 A. No, ma'am.

23 Q. Did she point to anybody?

24 A. No, ma'am.

25 Q. Were the pictures marked in any way?

JARED CRANE: BY SOLICITOR SHELTON - IN CAMERA

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1 A. No, ma'am.

2 Q. Did she provide you any identifying information of
3 each person in the picture to go with the pictures?

4 A. No, ma'am.

5 Q. Was there anyone else present with you?

6 A. My wife.

7 Q. Did your wife do or say anything to influence?

8 A. No, ma'am. She sat in the corner -- or in the side of
9 the room.

10 Q. And the photo lineup was to determine if the suspect
11 Maquis Robinson was in that lineup; is that correct?

12 A. Yes, ma'am.

13 Q. The evening -- earlier that evening, did you have an
14 opportunity to see Maquis Robinson?

15 A. I don't remember if it was earlier that evening --

16 Q. By that I mean earlier than the lineup. During the
17 crime, did you see --

18 A. Oh, yes, ma'am. Yes, ma'am.

19 Q. How close were you to him at any point in time during
20 that?

21 A. Four to eight feet, five to eight feet from him.

22 Q. Did you ever get any closer than that?

23 A. Oh, yeah I got closer to him but that's the first time
24 I saw him.

25 Q. Okay.

JARED CRANE: BY SOLICITOR SHELTON - IN CAMERA

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1 A. That's when he come through the door.

2 Q. What was the closest you ever got to him?

3 A. Face to face.

4 Q. And was that in the bathroom?

5 A. Yes, ma'am.

6 Q. When you were being tied up?

7 A. Yes, ma'am.

8 Q. And how long had you --

9 A. Well, no. He wasn't tying me up.

10 Q. He was not but you were being tied up?

11 A. Yes, ma'am.

12 Q. How long had you known Maquis Robinson?

13 A. A few weeks. I'd see him around for a few weeks. I'd
14 seen him maybe four times in over those - those weeks. I
15 actually sat down and had a conversation with him about
16 teaching him how to paint airbrush.

17 Q. So you had seen him a few times ---

18 A. Yes, ma'am.

19 Q. --- over the course of a few weeks?

20 A. Yes.

21 Q. And during the evening of the 8th, was his face
22 covered when you saw him?

23 A. Yeah. When he first come through the door, he did
24 have his shirt pulled over his nose like that.

25 (WITNESS DEMONSTRATED.)

JARED CRANE: BY SOLICITOR SHELTON - IN CAMERA

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1 Q. But then at some point were you able to see his face?

2 A. Yes, ma'am.

3 Q. And how was the lighting in the shop?

4 A. The lighting was perfect. A lot better than any
5 normal building like that, I would think.

6 Q. I want to show you what's been marked for
7 identification as State's Exhibit Number Thirty-eight.

8 (WITNESS REVIEWING EXHIBIT.)

9 Q. Do you recognize that?

10 A. Yes, ma'am.

11 Q. And how do you recognize it?

12 A. Because it's the lineup I was given and that's my
13 signature. That's my printed name and that's my signature.

14 Q. And looking at that lineup, which photo were you able
15 to select?

16 A. Top left corner.

17 Q. And what made you pick that one?

18 A. Because I know him. Because I know that's who did it
19 and that's who I'd seen time and time again.

20 Q. And who is that?

21 A. Maquis Robinson.

22 Q. And is that photo a fair photo of him? Does that look
23 like him?

24 A. Yes, ma'am. That's a fair photo.

25 Q. Has it been altered in any way from looking at it

JARED CRANE: BY SOLICITOR SHELTON - IN CAMERA

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1 then from when you knew him then, was the photo changed and
2 altered in any way to influence --

3 A. No. That's exactly what he looked like when it
4 happened.

5 Q. You were able to pick out Maquis Robinson from that
6 lineup?

7 A. Yes.

8 Q. A little bit later were you shown a second lineup?

9 A. Yes, I was.

10 Q. And that was the lineup for Dantonyo Heath?

11 A. It was.

12 Q. And Detective Stokes showed you that lineup; is that
13 correct?

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

15 Q. Were you able to identify --

16 A. I was not.

17 Q. And during the commission of the robbery and attempted
18 murder, was Mr. Heath's face covered?

19 A. It was.

20 Q. What was it covered with?

21 A. It was covered with a black bandana for a -- for most
22 of the part but I did pull it off.

23 Q. And you -- did you know Dantonyo Heath? Had you seen
24 him before?

25 A. No, ma'am.

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1 SOLICITOR SHELTON: I have no further questions, Your
2 Honor.

3 MS. BURRIS: Thank you, Your Honor.

4 CROSS EXAMINATION - IN CAMERA

5 JARED CRANE BY MS. BURRIS:

6 Q. Mr. Crane, how are you?

7 A. I'm all right.

8 Q. Now, you mentioned that you'd actually seen Maquis
9 Robinson a few times. Right?

10 A. Yes, ma'am.

11 Q. Okay. And you also testified you'd see him time and
12 time again. Right?

13 A. Yes, ma'am.

14 Q. Okay. And you also mentioned that you've known him
15 - you've seen him a few times and you've known him for a
16 few weeks?

17 A. Yes, ma'am.

18 Q. And you allege that Maquis Robinson came within five
19 to eight feet to you?

20 A. In the beginning.

21 Q. In the beginning?

22 A. Yes, ma'am. That's when the roll up door that's when
23 it first started happening; that's when he come through the
24 door.

25 Q. Okay. And so when who you are alleging is Maquis

JARED CRANE: BY MS. BURRIS - IN CAMERA

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1 Robinson comes through the roll up door, you were where?

2 A. I was standing in front of a Dodge Durango in the
3 center of the hood painting it and it was in the center of
4 the bay. He come by. He come running by it.

5 Q. Okay. So he actually ran past you?

6 A. Well, I wouldn't say full speed run. Jogging.
7 Sprinting.

8 Q. Okay. So the person who actually came through the bay
9 doors sprinted past you and you were actually in front of
10 the vehicle that you were preparing to paint?

11 A. Yeah. Well, I was actually in the process of painting
12 it.

13 Q. So you were in the process of painting?

14 A. Yes, ma'am.

15 Q. Okay. Did you actually have like your brush in your
16 hand or the wand?

17 A. No. I had a paint gun in my hand. Yes, ma'am.

18 Q. Okay. Paint gun in your hand.

19 A. Yes, ma'am.

20 Q. Okay. So you had a paint gun in your hand.

21 A. Uh-huh.

22 Q. Did you have a mask on or anything?

23 A. No.

24 Q. Paint gun in your hand, it was after ten o'clock at
25 night?

1 A. Yes, ma'am.

2 Q. Okay. And all you see is a person come sprinting past
3 you - basically jogging?

4 A. No. I seen Maquis Robinson come past me.

5 Q. Now, in regards to the photographic lineup which is
6 State's Exhibit Thirty-eight, do you know any of these
7 other persons ---

8 A. No, I don't.

9 Q. --- in here?

10 A. I sure don't.

11 Q. Never seen them before?

12 A. Never seen them.

13 Q. The only person you've ever seen was Maquis Robinson.
14 Right?

15 A. Yes.

16 Q. You heard - You heard someone say Maquis Robinson
17 prior to actually seeing the photographic lineup at
18 Piedmont Medical Center didn't you?

19 A. No, not that I recall.

20 Q. But you knew, you made your own independent judgment
21 from this photographic lineup being shown to you by the
22 detective and you said, it's Maquis Robinson?

23 A. I knew it was Maquis Robinson because he told me what
24 his name was. When I first started working at his shop he
25 told me who he was.

JARED CRANE: BY MS. BURRIS - IN CAMERA

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1 Q. So how long had you been at the shop?

2 A. I'd been working for Neal for a while, maybe two
3 months. Well when was this, in June? Yeah, for about two
4 months.

5 Q. So you had actually been working for two months?

6 A. Uh-huh.

7 Q. Okay. So you're saying Maquis Robinson told you his
8 name?

9 A. Yes, ma'am. He introduced himself to me because I was
10 the painter. I was Neal's painter and he was - he
11 described himself to me as being some sort of a painter,
12 wanting to paint, wanting to learn how to airbrush.

13 Q. And you paint - you were there everyday, correct?
14 Monday through Friday?

15 A. Yes, ma'am. Well, Monday through Saturday.

16 Q. Monday through Saturday. Hours were?

17 A. Nine o'clock in the morning-ish to - it was supposed
18 to be six o'clock but sometimes things happen. That
19 particular day where I was doing my painting, they had cars
20 in it that were having wheels put on it so I had to wait to
21 paint so that's why I was there later.

22 Q. Okay. And you had seen Maquis Robinson a few times.
23 Correct?

24 A. I'd seen him, yeah, about four times before that.

25 Like I said, I actually sat and had about a forty-five

JARED CRANE: BY MS. BURRIS - IN CAMERA

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1 minute conversation with him talking to him about
2 airbrushing his wheels, some custom wheels that he had. He
3 wanted Sonic the Hedge Hog or something - a sonic hedge hog
4 airbrushed on his wheels.

5 Q. Mr. Crane, had you seen him four times or a few times?

6 A. Three to four times.

7 Q. Three to four times?

8 A. Uh-huh. I don't know, I mean, what a few constitutes
9 as.

10 Q. About two.

11 A. Okay. Well I thought that would be a couple but yeah,
12 I'd seen him about three or four times.

13 Q. Okay. So you'd seen him three to four times prior to
14 this night or what you're alleging happened?

15 A. Yes, ma'am.

16 Q. Now, you indicated in your previous testimony, you
17 were at the hospital. Right?

18 A. Uh-huh.

19 Q. And when you were at the hospital, Detective Tashia
20 Smith came into the hospital room?

21 A. Yes, ma'am.

22 Q. Were you under medications?

23 A. No. I hadn't had any medications.

24 Q. You'd been bruised pretty badly. Right?

25 A. Uh-huh. My nose was broke.

JARED CRANE: BY MS. BURRIS - IN CAMERA

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1 Q. Your nose was broken?

2 A. Uh-huh.

3 Q. Okay.

4 THE COURT: You need to say yes or no.

5 A. Yes, ma'am.

6 Q. Okay. So your nose was broken. Were your eyes
7 swollen at all?

8 A. Not at that time they hadn't started swelling.

9 Q. Okay. And the doctors had not given you anything to
10 alleviate the pain you were experiencing?

11 A. No. Not at that time. I don't even think I had seen
12 a doctor at that time yet. I think the nurses --

13 Q. The nurse.

14 A. Yeah, and she told me she couldn't give me anything.

15 The doctor would have to do that.

16 Q. Okay. When was the last time you actually saw Maquis
17 Robinson prior to the alleged incident?

18 A. I can't honestly answer that question. Maybe two
19 days. Maybe three days. Maybe -- I mean, it was really --
20 real close. I mean, it was -- it wasn't two weeks. I mean,
21 it was really close to the night that that happened.

22 Q. Okay. So you had seen him about two weeks prior to?

23 A. No. I said less than that.

24 Q. Less than two weeks?

25 A. Yeah.

1 Q. Okay.

2 A. Less than that. A few days.

3 Q. A few days prior to the alleged incident?

4 A. Yes, ma'am.

5 Q. Okay. Now, when you saw the person come through the
6 door and you were painting, were you able to see the
7 physical conditions of the person as in - I'm sorry, the
8 physical characteristics of the person?

9 A. Yes, ma'am.

10 Q. Did any officer ever ask you to describe the suspect
11 prior to the photographic lineup?

12 A. I believe so but I'm not a hundred percent sure
13 because I think they wanted - I think they were trying to
14 get a description to look for the person. I mean, to try
15 to apprehend suspects.

16 Q. Okay. They were trying to get --

17 A. I mean, I guess just a description of who they needed
18 to start looking for.

19 Q. Okay. And were you able to give that to them?

20 A. I - I mean, yes. Yeah.

21 Q. And that particular night you testified previously you
22 were five to eight feet away from the person who you're --

23 A. That was when he first come through the door. That's
24 how far away from him I was.

25 Q. Okay. And then the individual actually jogged past

JARED CRANE: BY MS. BURRIS - IN CAMERA

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1 you. Right?

2 A. Yes.

3 Q. Okay. Was anything blocking your view on that
4 particular night on June the 8th?

5 A. No, ma'am.

6 Q. How good is your sight?

7 A. My sight is very good.

8 Q. Do you wear corrective lens or anything?

9 A. Nope. I have 20/20 vision.

10 Q. Who called 9-1-1?

11 A. Neal.

12 Q. Did you all talk about the case prior to him calling
13 9-1-1? Did you all talk about who it was?

14 A. Are you talking about actually that night that it
15 happened?

16 Q. Yes, sir.

17 A. No. Because I had took my wife and put her in the
18 ceiling and when I heard Neal on the phone coming back in,
19 that's when I come back out. So no we didn't talk about
20 it. When he was on the phone with 9 - when he was on the
21 phone with 9-1-1, she was still in the ceiling and I went
22 back outside because I could hear the sirens for the cars
23 coming.

24 Q. Okay. Did you and Neal actually talk about the
25 incident prior to being taken to the hospital? How were

JARED CRANE: BY MS. BURRIS - IN CAMERA

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1 you taken to the hospital? By EMS?

2 A. Yes.

3 Q. Or did your wife take you?

4 A. No. We took - actually a detective took us.

5 Q. The detective took you to the hospital?

6 A. Yes, ma'am.

7 Q. Placed you in his vehicle?

8 A. Yes, ma'am. And then took us to the hospital.

9 Q. Okay. And took you to the hospital. And did you and
10 Neal talk about the incident?

11 A. Me and Neal wasn't together.

12 Q. At all?

13 A. No.

14 Q. You all were actually in separate cars, detective
15 cars?

16 A. I don't know how he got there. I just - I didn't -
17 after Neal was on the couch talking on the phone, I went
18 outside. I didn't see Neal again until we were at the
19 hospital and he was out of his room.

20 Q. Now, was there any investigation done in regards to
21 the physical characteristics? In other words, did you
22 speak to any of the detectives or the police officers and
23 give them any identifying physical characteristics of who
24 you had an encounter with?

25 A. Yes, ma'am. That night I spoke with three - a few

JARED CRANE: BY MS. BURRIS - IN CAMERA

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1 officers. I mean, because you know, it was kind of hectic
2 so I had a lot of different officers talking to me.

3 Q. Prior to going to the hospital?

4 A. Yes, ma'am. Prior to leaving and going to the
5 hospital.

6 Q. Okay. Do you remember what you told them?

7 A. Yeah. I told them what kind of - what shirts they
8 had on. That one was - I mean, I didn't - I knew
9 Maquis so I told them Maquis. I told them what he had on
10 and I told them the other one was a taller dark skinned
11 male, all black clothes. A pair of neon Nike tennis shoes
12 and I mean, I gave a brief description of his face because
13 like I say, I pulled the bandana off while we were fighting
14 so I mean I didn't know him so. I mean, I didn't know him
15 personally. Hadn't never seen him before so that's all I
16 could give them.

17 Q. And just a couple of additional questions. When you
18 were lying in the hospital, Detective Smith was there and
19 she read you the photographic lineup instructions?

20 A. Uh-huh.

21 THE COURT: Let's try to say yes or no.

22 A. Yes, ma'am.

23 Q. And when she gave you the - read, or did you read this
24 yourself?

25 A. I read it myself. I read everything myself.

1 Q. Okay. So you read through the photographic lineup
2 instructions?

3 A. Yes, ma'am.

4 Q. And then you looked at the photographic lineup?

5 A. Yes, ma'am.

6 Q. And not time did she not indicate that the person is
7 actually in this photographic lineup?

8 A. Not one time. She handed it to me and stepped back.

9 Q. And you actually placed your initials here?

10 A. I sure did.

11 Q. And you also circled here?

12 A. Yes, I did.

13 Q. And did she ask you to give her - While she was there,
14 Detective Smith, did she ask you to give her a description
15 of the person who you were alleging was there?

16 A. No, ma'am. Not that I remember because I had already
17 given that description to so many people I think she knew
18 that but not to my recollection. No, ma'am.

19 Q. And then Detective Stokes actually came into the
20 hospital room. Correct?

21 A. I do, I remember. Yes, I think he did.

22 Q. Okay. While Detective Smith was in there? .

23 A. Yes, I think he did. And that's as we were leaving.

24 As we were leaving out of --

25 Q. As you were leaving out of the hospital?

ERNEST JORDAN: BY MS. BURRIS - IN CAMERA

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1 A. Well as we were getting finished up.

2 Q. Because you didn't stay overnight?

3 A. No, ma'am.

4 Q. Okay. And he came in to supervise Detective Tashia
5 Smith and did he talk to you about the incident?

6 A. I don't remember but I don't think so that night. I
7 know I don't think he had - he asked - I believe he asked
8 her if she had already done what she was suppose to do with
9 the lineup and everything and if I had picked someone out
10 and I believe that was it.

11 Q. He asked you whether or not you had picked someone out
12 already. And you can testify under oath that you are one
13 hundred percent sure that the person who came jogging past
14 you as you were - you had the paint brush I think you said
15 in your hand or paint ---

16 A. Paint gun in my hand.

17 Q. --- paint gun in your hand is Maquis Robinson?

18 A. Yes, ma'am. I'm a million percent sure that's who
19 that was..

20 Q. One million percent sure.

21 MS. BURRIS: Your Honor, I have no further questions
22 at this time.

23 THE COURT: Mr. Smith.

24 CROSS EXAMINATION - IN CAMERA

25 JARED CRANE BY MR. SMITH:

JARED CRANE: BY MR. SMITH - IN CAMERA

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1 Q. Mr. Crane, with regards to the second lineup that you
2 were shown, ---

3 A. Yes, sir.

4 Q. --- before seeing that lineup had you been shown any
5 other pictures or anything concerning Mr. Heath or had any
6 contact with my client, Dantonyo Heath?

7 A. Other than that night, no, sir.

8 Q. And that night, how many suspects did you tell the
9 officers there were?

10 A. How many did I tell the officers? Two.

11 Q. Two.

12 MR. SMITH: Your Honor, just so I'm certain, I'm
13 assuming there will be no in-court I.D. made by this
14 witness of my client.

15 SOLICITOR SHELTON: That is true, Your Honor.

16 MR. SMITH: Okay. No further questions.

17 THE COURT: There hasn't been any in-court
18 identification of anybody yet, but go ahead.

19 THE COURT: Are these into evidence.?

20 SOLICITOR SHELTON: Just for identification at this
21 point.

22 THE COURT: The reason I'm hesitating, I've got
23 State's Exhibits Thirty-seven, Thirty-eight and Thirty-
24 nine. I only recall Thirty-seven being offered into
25 evidence to begin with. Thirty-eight and Thirty-nine also

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1 marked into evidence?

2 MADAME COURT REPORTER: Marked for ID, Judge.

3 SOLICITOR SHELTON: Marked for identification.

4 THE COURT: Marked for identification?

5 MADAME COURT REPORTER: Yes, sir.

6 SOLICITOR SHELTON: And they were marked before we
7 started to save time. And Your Honor, do you want me to
8 have the witnesses I.D. them in pretrial?

9 THE COURT: I don't want anything. I've got to rule
10 on what is presented. So I - The whole purpose of a *Neal*
11 *versus Biggers* case is to determine the reliability of in-
12 court identification of the suspect. What else can I say.

13 SOLICITOR SHELTON: I had not intended to have them
14 I.D. at pretrial but I can.

15 REDIRECT EXAMINATION - IN CAMERA

16 JARED CRANE BY SOLICITOR SHELTON:

17 Q. Do you see Mr. Maquis Robinson in the courtroom?

18 A. Yes, I do.

19 Q. And where is he?

20 A. In the purple shirt.

21 Q. And is that the same person who you identified in the
22 lineup as the same person who you've testified committed
23 the crimes against you on June 8th of 2011?

24 A. Yes, ma'am, it is.

25 Q. Thank you.

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1 SOLICITOR SHELTON: I have no further questions, Your
2 Honor.

3 THE COURT: Ms. Burris?

4 RECROSS EXAMINATION - IN CAMERA

5 JARED CRANE BY MS. BURRIS:

6 Q. And again, Maquis Robinson was the only person that
7 you actually knew in the photographic lineup. Correct?

8 A. Yes, ma'am.

9 Q. And Maquis Robinson never had any direct contact with
10 you Did he?

11 A. Yeah.

12 Q. That night.

13 A. Yeah. I mean, he spoke to me. I mean --

14 Q. Okay. So he spoke to you?

15 A. Well yeah. We had direct contact that night with both
16 of them.

17 Q. That's what you mean by direct contact, spoke to you?

18 A. Yeah. Not spoke to me as in friendly. Ordered me, I
19 mean, stuff to do.

20 Q. When the person that you're alleging is Maquis
21 Robinson, were you - basically how far away were you from
22 him?

23 A. As far as from here to that white box right there.

24 Q. The white box here?

25 A. Yes, ma'am. This box right here. That's five yards?

JARED CRANE: BY SOLICITOR SHELTON - IN CAMERA
ERNEST JORDAN: BY SOLICITOR SHELTON - IN CAMERA

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1 Q. Five yards?

2 A. Yeah.

3 Q. Thank you, Mr. Crane.

4 MS. BURRIS: No further questions.

5 MR. SMITH: No questions.

6 MR. CRANE: That it?

7 SOLICITOR SHELTON: No further questions of this
8 witness, Your Honor.

9 THE COURT: You can step down and have a seat back out
10 there.

11 (WITNESS LEAVING WITNESS STAND.)

12 SOLICITOR SHELTON: I'd like to recall Ernest Jordan.

13 THE COURT: Mr. Jordan, please come back up here.
14 You're still under oath. You'll have to tell the truth.

15 REDIRECT EXAMINATION - IN CAMERA

16 ERNEST JORDAN BY SOLICITOR SHELTON:

17 Q. Mr. Jordan, do you see Marquis Robinson in the
18 courtroom today?

19 A. Yes, ma'am.

20 Q. And where is he?

21 A. Right there with the purple shirt.

22 Q. And do you see Dantonyo Heath in the courtroom today?

23 A. Yes, ma'am.

24 Q. And where is he?

25 A. Right there with that black suit with the blue shirt.

1 Q. And in reference to Marquis Robinson, is that the same
2 person who you identified in the lineup shown to you by
3 Detective Stokes in the hospital?

4 A. Yes, ma'am.

5 Q. And is that the same person who on June 8th committed
6 the crimes of armed robbery and attempted murder and
7 kidnapping against you?

8 A. Yes, ma'am.

9 Q. And Dantonyo Heath is that the same person who you
10 picked out of the lineup that was shown to you by
11 Detective Stokes a day or so after the alleged crimes?

12 A. Yes, ma'am.

13 Q. And is that the same person who was involved in the
14 offenses committed against you on June 8th?

15 A. Yes, ma'am.

16 SOLICITOR SHELTON: I have no further questions,
17 Your Honor.

18 THE COURT: Ms. Burris?

19 MS. BURRIS: No, sir, Your Honor.

20 THE COURT: Mr. Smith?

21 MR. SMITH: No questions.

22 THE COURT: You can step down. Thank you.

23 (WITNESS LEAVING WITNESS STAND.)

24 THE COURT: Call your next witness.

25 SOLICITOR SHELTON: On the lineup, Your Honor, that

1 would be all of our witnesses.

2 THE COURT: All right. Well, I find that first as to
3 the photo lineup, I have viewed therein - I think they were
4 made Court's Exhibits rather than just for I.D. if I am
5 going to consider them.

6 SOLICITOR SHELTON: Yes, sir, Your Honor.

7 THE COURT: I need them to be made part of the record.

8 (WHEREUPON: COURT'S EXHIBIT TWO, THREE AND FOUR,
9 IDENTIFIED AND MARKED, RECEIVED INTO THE RECORD.)

10 SOLICITOR SHELTON: Your Honor, I'm going to hand up
11 what's been marked as Court's Exhibit Number Two which is
12 for identification State's Exhibit Number's Thirty-seven;
13 Court's Exhibit Number Three, for identification State's
14 Exhibit Number Thirty-eight; and Court's Exhibit Number
15 Four for identification State's Exhibit Number Thirty-nine.

16 THE COURT: Thirty-seven and Thirty-nine are the
17 photo lineups shown to Mr. Jordan?

18 SOLICITOR SHELTON: I'm sorry, Your Honor.

19 THE COURT: Thirty-seven and Thirty-nine are the photo
20 lineups shown to Mr. Jordan?

21 SOLICITOR SHELTON: Yes, sir.

22 THE COURT: And Thirty-eight was a photo lineup shown
23 to Mr. Crane?

24 SOLICITOR SHELTON: I believe so, Your Honor. Just
25 let me check on those so I'm not telling you something

1 that's not true.

2 (PAUSE.)

3 SOLICITOR SHELTON: Thirty-seven and Thirty-nine
4 should be the lineups show to Mr. Jordan; Thirty-eight is
5 the lineup to Mr. Crane.

6 THE COURT: All right as to Thirty-seven and Thirty-
7 nine, Thirty-seven is the purported identification of Mr.
8 Robinson. Thirty-nine the purported identification of Mr.
9 Heath. I find that as to these two photo lineups which
10 were shown to Mr. Jordan that the photo of the alleged
11 defendant does not stand out from the others. The size of
12 the photos are similar, facial characteristics, haircuts
13 are similar. They're all black males.

14 I'm not too good at telling ages but there is nothing
15 to distinguish there being a vast difference in age. I
16 will note, although I don't believe it makes a difference,
17 that in the bottom left hand corner of Number Thirty-seven,
18 the African American, appears to be an African American
19 with similar hair, he is a much lighter skinned individual
20 than the other five. But I find that overall as to Mr.
21 Robinson and as to Mr. Heath and their photo lineups, that
22 their photo did not stand out from the others. That the
23 individuals, with the exception of the one - the exception
24 I made are similar in appearances, age, and best I can tell
25 age and physical characteristics.

1 The photo lineups do not identify Mr. Robinson or Mr.
2 Heath. There is nothing that indicates in any way who the
3 person viewing the lineup should pick. There's nothing
4 emanating from law enforcement that expressly or implicitly
5 suggests to Mr. Jordan who he should have picked out, or,
6 whether or not the alleged subject of the investigation, or
7 the person that perpetrated the crime, is even in the
8 lineup so I find that the lineups are not suggestive.

9 I find that the identification by Mr. Jordan from the
10 lineups, and of Mr. Robinson here in the courtroom, and of
11 Mr. Heath here in the courtroom is reliable. I find that
12 he, Mr. Jordan, had an opportunity to view each of the
13 defendants at the time of the crime, that he was paying
14 attention. Based on his testimony it was very clear that
15 he was very attentive to what was going on. That he was
16 certain as to his identity of each at the photo lineup, and
17 as to each here in the courtroom, that the identification
18 particularly asked of Mr. Robinson took place very soon
19 after the event, and as to Mr. Heath, no later than twenty-
20 four hours. That it took place on the following - Well I
21 take it back. It was less than forty-eight hours but still
22 the proximity of time is very close.

23 I find also that the lighting conditions were very
24 good. That the defendants, Mr. Robinson and Mr. Heath,
25 were both known to Mr. Jordan, and I find that his in-court

1 identification is reliable not tainted by any out of court
2 identification. And again the photo lineups are not
3 suggestive so I find that the identification is admissible
4 and is reliable.

5 As to Mr. Crane's identification of Mr. Robinson,
6 again we have the same situation. We have again
7 interesting observation, we have the same six individuals
8 including Mr. Robinson who is in both top left hand
9 corners. I do not find that to be significant. As to Mr.
10 Heath, he is in the bottom right hand corner on the one Mr.
11 Jordan I.D. him from. In the photo I.D. - photo lineup
12 shown to Mr. Crane, while it is the same other five
13 individuals, their pictures, at least three of their
14 pictures had been shifted around, and the individual I
15 referenced in the left hand corner earlier is now in the
16 middle of the left.

17 Again I find that is no significance and I do not find
18 that the photo lineup given to Mr. Crane was suggestive.
19 The pictures are of competent size in competition. The
20 subjects are similar in appearance. As I said earlier, as
21 best I can tell to be similar age and have the same
22 physical characteristics, particularly hair. The photos in
23 the lineup do not identify Mr. Robinson. There is nothing
24 to indicate that any of the individuals have any type
25 record and there's nothing to indicate that law enforcement

1 expressly and implicitly suggested to Mr. Crane which photo
2 was of the defendant, Mr. Robinson, or that Mr. Robinson's
3 photo was even located within the six individuals.

4 I find that Mr. Crane's opportunity to view Mr.
5 Robinson's alleged, the defendant, Mr. Robinson, at the
6 time of the crime was face to face. That he knew prior to
7 this time Mr. Robinson. He had had at least one lengthy
8 conversation with him. That Mr. Crane's degree of
9 attention was heightened. That he with the level certainty
10 at the confrontation was clear and firm. That there had not
11 been a significant lapse of time between the crime and the
12 identification. This is some two to three or perhaps four
13 at the outside hours afterwards at the hospital.

14 I find that during the event the defendants and the -
15 the defendant Robinson was within close proximity, very
16 close proximity, to Mr. Crane and, therefore, I find as I
17 did with Mr. Jordan's identification of both Robinson and
18 Heath, that Mr. Crane's eye witness identification, in
19 court identification is reliable and will be admissible so
20 that's that on that.

21 Now, it's almost twelve o'clock. I've got the jury
22 coming back at one. Do we have other issues that we need
23 to address before we take our lunch break?

24 SOLICITOR SHELTON: Your Honor, I don't know that we
25 need to address it before break but I know that Ms. Burris

1 says that she has several and there are some things that I
2 would like to put on the record at some point in time but
3 it does need to be before the jury is sworn.

4 THE COURT: I want everybody to have a chance to - I
5 want to be to start as close to one as we can. If we end
6 up having a fifteen minute lunch break, we have a fifteen
7 minute lunch break, but I'd like to get as much done as we
8 can between now and one o'clock and it's ten till twelve 2,
9 so what needs to be done before the jury is sworn, let's do
10 it now.

11 Mr. Smith, you're standing.

12 MR. SMITH: I am, Your Honor. At the last trial there
13 was another identification of my client. Now it did not
14 involve a photo lineup being shown but I still think it
15 would be covered under *Neal v. Biggers*, that being Mrs.
16 Crane. I can wait and do it before she testifies but.

17 SOLICITOR SHELTON: There is a witness who could
18 potentially do an in-court - Well, she will do an in-court
19 identification if the court allows it. She was not shown a
20 lineup before. No law enforcement involvement with her
21 other than she gave a statement but as far as
22 identification no law enforcement involvement that she
23 would do an in-court identification. She is here and can
24 testify.

25 THE COURT: Well, I need to determine what needs to be

1 determined based on whether an in-court identification is
2 reliable. I don't know. Is she suppose to testify this
3 afternoon?

4 SOLICITOR SHELTON: She is here so either this
5 afternoon or tomorrow.

6 THE COURT: All right. Let me put that on my list.

7 All right. Ms. Burris, what else do you have before
8 we swear the jury?

9 MS. BURRIS: Your Honor, I just have just again, it's
10 in regards to Mr. Ernest Jordan's prior conviction. Also
11 the previously discussed on yesterday in regards to what
12 prior convictions will be able to be used against Maquis
13 Robinson.

14 THE COURT: What's Mr. Jordan's?

15 MS. BURRIS: Mr. Jordan has receiving stolen goods,
16 which I believe is a crime of dishonesty.

17 THE COURT: When?

18 MS. BURRIS: That was actually in...

19 SOLICITOR SHELTON: 2009, Your Honor.

20 MS. BURRIS: In 2009.

21 THE COURT: I find he can be impeached with that.

22 MS. BURRIS: Okay. I will be able to use that for
23 impeachment purposes. And he also has a, and I think this
24 also is the same issue that we have for Mr. Robinson which
25 is actually a possession of crack cocaine, and we were kind

1 of going through that on yesterday as to whether or not
2 possession of crack cocaine, whether or not it can be used
3 for impeachment value. And his possession of crack cocaine
4 was --

5 SOLICITOR SHELTON: I believe in 2004, Your Honor.

6 MS. BURRIS: Now, if Your Honor would like - well,
7 I'll just leave it like that. With possession of crack
8 cocaine, and a conviction was actually in 2003.

9 THE COURT: All right, go ahead.

10 MS. BURRIS: This was in regards to the possession. I
11 think we had the same issue in regards to Maquis Robinson.
12 Now we did discuss that and I did actually find a case. I
13 believe Ms. Shelton was referring to the *Mueller* case in
14 regards to whether or not, and I'm referring now to Maquis
15 Robinson's prior convictions, whether or not there were two
16 prior convictions that were actually on the probation sheet
17 and she indicated that he was at that time within the ten
18 year time frame and time limit.

19 THE COURT: Well, let's - let me help you on this. I
20 do not find, unless you can show me something that will
21 convince me otherwise, that indecent exposure, possession
22 of a pistol, assault and battery of a high and aggravated
23 nature, failure to stop, any involve dishonesty.

24 SOLICITOR SHELTON: Yes, Your Honor. I would agree
25 that they are not in and of themselves dishonest, but under

1 the first part of the rule, I would think that if we have
2 to go through the test, then it's not just crimes of
3 dishonesty that can be used for impeachment because then
4 there would be two parts to the rule.

5 THE COURT: Well I'm looking right now just whether or
6 not we agree that those are dishonest or not dishonest.

7 SOLICITOR SHELTON: I would agree that they do not
8 fall under the dishonesty rule. Yes, sir.

9 THE COURT: All right. How about possession of crack?
10 That's for your witness and the defendant.

11 SOLICITOR SHELTON: I think the courts are pretty
12 clear on that that possession of crack by itself is not
13 approbative to truthfulness.

14 MS. BURRIS: I agree, Your Honor. I think that - I
15 mean, of course that possession of crack is classified as a
16 - depends on what offense. So I guess my question is
17 whether or not --

18 THE COURT: Well, I think as to a witness, evidence of
19 a witness other than the accused has been convicted of a
20 crime, then it goes into punishment by death or
21 imprisonment for one year.

22 SOLICITOR SHELTON: Your Honor, I think under the rule
23 for the state's witness the charge would come in because I
24 don't think that you have to go into the five prong test
25 for state witnesses so I think it does come in.

1 THE COURT: I agree, so - but can use that.

2 MS. BURRIS: Okay. So we're referring to the
3 receiving stolen goods and possession of crack cocaine?

4 SOLICITOR SHELTON: Yes.

5 THE COURT: Yes.

6 MS. BURRIS: Okay. Thank you, Your Honor.

7 Now, if I may continue, Your Honor. In regards to
8 *State versus Mueller*, which basically talks about the
9 witness' prior conviction for purposes of impeachment, it -

10 THE COURT: Can I have a copy?

11 MS. BURRIS: Sure. I think I passed one up but I have
12 another one, Your Honor.

13 THE COURT: So far the only cases I have is *State*
14 *versus Crowe* and *State versus Samuels*.

15 MS. BURRIS: Okay. Sure. Here you go, Your Honor.

16 SOLICITOR SHELTON: We do not have a copy either.

17 MS. BURRIS: I have another copy for you.

18 (CASES RECEIVED UP BY THE COURT.)

19 MS. BURRIS: In regards to *State v. Mueller*, it talks
20 about the witnesses' prior conviction for purposes --

21 THE COURT: We're not talking about - Let's kind of
22 keep it in perspective. We're not talking about so much a
23 witness now. We're talking about the defendant. It's a
24 different rule.

25 MS. BURRIS: Right, but we're talking about whether or

1 not probation is considered --

2 THE COURT: Let's don't get to that first. Let me
3 just - I don't know. I've got to make under Rule 609(a),
4 I've got to determine whether the approbative value
5 admitting the evidence outweighs his prejudicial as to the
6 accused. I think that - to determines whether or not the
7 underlying offenses involved dishonesty. If they don't
8 involve dishonesty then they're more prejudicial than
9 approbative.

10 SOLICITOR SHELTON: Your Honor, if I could disagree.

11 The rule has to exist for a reason and the test that
12 you have to outweigh the prejudicial value versus - the
13 prejudicial effect versus the approbative value has to
14 exist for a reason. If the lawmakers only expected us to
15 keep out crimes involving dishonesty, then there would be
16 no reason to have that part of the rule. There has been a
17 five part test that the courts would --

18 THE COURT: All right. Do you want to hand me up the
19 five point test?

20 SOLICITOR SHELTON: Yes, sir.

21 THE COURT: I'm looking at *State versus Black*.

22 SOLICITOR SHELTON: I have *State versus Bryant*.

23 THE COURT: I'm looking at the annotations. It says
24 "a critical issue on approbative value of conviction, a
25 rule of thumb is the convictions that rest on dishonest

1 conduct relate to credibility whereas crimes of violence
2 generally do not." So coupled with that is that for it to
3 have some bearing as to believability of a witness the
4 underlying events or involve dishonesty, that is they're
5 not discreditable witnesses simply because they committed an
6 offense. And I understand your argument. And by the way,
7 the Legislature doesn't pass these rules. They have to
8 affirm them under the ABA, the rules are a problem for the
9 court.

10 SOLICITOR SHELTON: Yes, sir.

11 THE COURT: Something about the legislature would not
12 have done something when the legislature didn't do it.

13 SOLICITOR SHELTON: Yes, sir. I meant to say our
14 lawmakers including before. Your Honor, but --

15 THE COURT: Firearm violations are not generally
16 approbative to truthfulness. That's Bryant.

17 SOLICITOR SHELTON: Yes, sir. The rule that Bryant
18 promulgates in considering under 609(a)(1), and I'm reading
19 from Bryant on page 4, bottom of the first column, top of
20 the second column, "when considering whether to admit prior
21 convictions, a trial judge should consider the following
22 factors: the impeachment value of the prior crime; the
23 point in time of the conviction; the similarity of the past
24 crime and charged crime; the importance of the defendant's
25 testimony and then centrality of the credibility issues."

1 So I think under 609(a)(1) it would not just be crimes
2 of dishonesty. The impeachment value of the prior crime
3 would be factored in but those other factors should be
4 considered as well and impeachment doesn't necessarily just
5 mean dishonesty but other reasons why the person might be
6 more inclined to tell the truth or not tell the truth such
7 as --

8 THE COURT: Such as?

9 SOLICITOR SHELTON: Such as a disregard for the law or
10 a disregard for social morals in general.

11 THE COURT: That would include everything. Nothing
12 would be excluded under that argument.

13 SOLICITOR SHELTON: That's where the other factors
14 would come in.

15 THE COURT: Well, but why go to the other factors if
16 what you say is true that if you commit a crime, you're
17 just - that ought to be able to establish your lack of
18 credibility so --

19 SOLICITOR SHELTON: I'm not saying that it would. I'm
20 not saying that it would. I'm saying the degree of that
21 which should be a factor and then the degree of the other
22 four elements should be factored in.

23 THE COURT: Well, as to Mr. Robinson, I have looked at
24 that, looked at the annotations and I'm looking at this
25 case, and as to indecent exposure - incidently the pistol

1 charge as I see it on the NCIC is for possessing a pistol
2 when he was under twenty-one which has already been ruled
3 unconstitutional and which is not even against the law at
4 the present time.

5 SOLICITOR SHELTON: Yes, sir.

6 THE COURT: We'd be awful stretched to say he was
7 impeached because he committed an unconstitutional crime.

8 SOLICITOR SHELTON: I didn't think about - I knew it
9 was a person pivoted. I didn't look into to see under
10 which approbative --

11 THE COURT: Well, you handed it up to me and I found
12 it.

13 SOLICITOR SHELTON: Yes, sir.

14 THE COURT: AHAN, failure to stop, I find that they
15 have no impeachment value. Indecent exposure, pistol
16 charge, assault and battery of a high and aggravated nature
17 and failure to stop have no impeachment value so I don't
18 need to go to the other prongs. If they have no
19 impeachment value, they have no impeachment value.

20 Same as to the crack cocaine. Let me look a little
21 bit more. I want to look at one other case as to crack
22 cocaine, but the case of Aleksey and again I'm looking at
23 the annotations. I don't have the whole case yet.

24 MS. BURRIS: Your Honor, we also have to look at the
25 remoteness in time.

1 THE COURT: Well, I've already ruled in your way on
2 the other one. And remoteness in time, I thought - crack
3 was from when? That's 2009, isn't it?

4 SOLICITOR SHELTON: No, sir. For Mr. Robinson it is
5 much older. His probation ended in 2009. Yes, sir.

6 THE COURT: And I - subject because it's gonna be a
7 while before Mr. Robinson, if he does take the stand, takes
8 the stand, in the 2000 case of *State versus Majors*, appears
9 that it held that it was based on the problems with drugs,
10 trafficking and the addictive nature of drugs, the court in
11 1990 in *Major* found because of the war on drugs, mere
12 possession of cocaine is a crime of moral turpitude.

13 However, the *Aleksey* case which post-dates that, it's
14 a 2000 case, indicates that narcotics violations are
15 generally not indicative of truthfulness and we're dealing
16 with narcotics versus crack cocaine, so the state of the
17 law, and I'll let the state research it further, the state
18 of the law as I see it is based on *Aleksey*, A-l-e-k-s-e-y,
19 2000, which is adverse to the state's position and would
20 not allow the use of crack conviction or a finding *Aleksey*
21 would say that there is no impeachment value in narcotics
22 convictions, and unless the state can show me something
23 different, I'm going to rely on that.

24 SOLICITOR SHELTON: No, sir. I think that that would
25 be true under the second prong of 609, 609(2).

1 THE COURT: I'm not looking at 609(2). I'm look just
2 where you told me to. I'm looking at the five factors and
3 I'm at level one. It says the impeachment value of the
4 prior crime. So my first jump is to whether it has any If
5 it had zero impeachment value, then I don't go any further.

6 SOLICITOR SHELTON: The way I look at the test, Your
7 Honor, is that it's a balancing test, so you would balance
8 all five factors against each other to see if one weighs
9 out more than the other as letting the evidence in but we
10 accept the court's ruling.

11 THE COURT: Well, I know you have to. You don't have
12 a choice. And I agree it's a balancing, but when you start
13 off and it is zero on the importance, the impeachment
14 value, then there's nothing to raise above zero. I'm not
15 going to argue with you anymore. That's my ruling. All
16 right.

17 What else do we have before we have our fifty-five
18 minute lunch break?

19 Anything else, Ms. Burris in any way? I'm not pushing
20 you. I'm just saying we've got the jury and we're going to
21 start this trial sometime this year.

22 MS. BURRIS: And I think it may be something that we
23 can handle since we've handled the prior convictions and
24 the exclusion of the photos of the crime scene, Your Honor,
25 it's our position that there are lots of crime scene

1 photographs although are cumulative --

2 THE COURT: All right. Let's do this. While we take
3 a break for lunch, if the state will show Ms. Burris and
4 Mr. Smith those photos it intends to introduce.

5 SOLICITOR SHELTON: It can probably be done very
6 quickly. There's only one photo that I intend to introduce
7 of the knife which I think is the only one she is concerned
8 about and I intended to have Mr. Crane identify it as his
9 knife just so there's not a question to the jury in case
10 one of the defense brings up who had a knife. I wanted to
11 account for it but if they are not going to bring it up, I
12 can take it out completely.

13 MS. BURRIS: We have no reason to ask you to bring up
14 the fact in regards to the knife that is there at the crime
15 scene. We definitely will not bring it up so --

16 THE COURT: Well, let's back up.

17 Which photos do you want to put in?

18 MS. BURRIS: Yeah, the crime scenhe

19 Now look at those and tell me, Ms. Burris and Mr.
20 Smith, which of those, if any, you object to and why and
21 then I'll look at them.

22 MS. BURRIS: Okay. And Your Honor, also in regard --

23 THE COURT: Would you do what I asked first?

24 MS. BURRIS: Yes, sir.

25 (PAUSE.)

1 MS. BURRIS: I'm not sure what the state is alleging
2 in this at all.

3 SOLICITOR SHELTON: That's a bullet hole.

4 MS. BURRIS: There are like three pictures taken of
5 bullets, individual pictures taken of bullets. I'm sure
6 there is a better photo that actually have all of or most
7 of the bullets displayed on it.

8 THE COURT: Well let's do it this way. Regardless of
9 what you're sure of, tell me which ones you object to.

10 MS. BURRIS: I'm objecting to State's Exhibit Thirty,
11 Thirty-one and Thirty-two all coming in.

12 THE COURT: All right.

13 MS. BURRIS: And its my understanding that the state
14 will not introduce State's Exhibit forty-eight which is
15 actually a picture of the knife as long as we don't mention
16 it.

17 SOLICITOR SHELTON: That is true as long as both Mr.
18 Smith and Ms. Burris agree to not elude to the fact that
19 the state has not accounted for evidence collected at the
20 scene, then I don't have to introduce it.

21 MR. SMITH: Your Honor, I've got DNA in the case so
22 cross of the crime scene expert when all is done I don't
23 want to say that I wouldn't bring up an exhibit number so
24 I'm not comfortable saying we wouldn't do that.

25 MS. BURRIS: And as to State's Exhibit Thirty-four,

1 there's a photograph of a tee shirt?

2 SOLICITOR SHELTON: Again, Your Honor, Mr. Crane's tee
3 shirt is covered in blood and the DNA in it.

4 MS. BURRIS: Okay. All right. So the only
5 objections that I have, Your Honor, is to again as
6 previously stated State's Exhibit Thirty, Thirty-one,
7 Thirty-two as to all of them coming in. I think again it's
8 cumulative. I'm sorry.

9 May I approach, Your Honor?

10 THE COURT: Yes, ma'am. All right. These are
11 photos that have I think they call them cones, Ten, Nine
12 and Eight, showing unspent cartridges with live rounds. At
13 least it looks like to me on what appears to be Ten, one
14 numbered Thirty-two and Thirty appear to be on a tile type
15 floor. Nine, I tell what's that on but it's different.

16 And your objection is what?

17 MS. BURRIS: They are accumulative. That I think
18 they're showing --

19 THE COURT: I disagree. They are not accumulative.
20 They show - Ten shows two bullets it looks like. Eight
21 shows a bullet which is obviously in a different location
22 because of where it is positioned on the floor. Nine shows
23 a different bullet because it's on a completely different
24 background so I overrule your objection and allow the state
25 to introduce it.

1 MS. BURRIS: And Your Honor, I apologize, just in --

2 SOLICITOR SHELTON: Your Honor, if she has State's
3 Exhibit Eleven, I pulled that from my exhibits. I mean,
4 it's still with the pictures because - but you ruled on
5 State's Exhibit Eleven yesterday and I don't intend to
6 present that to the jury.

7 MS. BURRIS: You have.

8 In regards to State's Exhibit Sixteen and Seventeen,
9 which are actually two pictures - may I approach, Your
10 Honor - of Mr. Crane.

11 I think that only one picture is necessary to
12 establish the essential element as to bodily injured.

13 SOLICITOR SHELTON: I would have to actually look at
14 them but I do think one is a profile view which shows his
15 ear. I'd have to look at them to see.

16 THE COURT: You're right. Number Seventeen shows
17 nose, the eye and the ear; whereas - it's a profile showing
18 the left side. And number Sixteen is a face on showing the
19 nose, the eye, and you can't really see the ear.

20 SOLICITOR SHELTON: I wanted them for two specific
21 injuries.

22 THE COURT: I overrule the objection. I think that to
23 the approbative value of showing the degree of injury and
24 we have to keep in mind that under the current law there
25 are lesser included's of attempted murder which have to do

1 with the degree of injury to someone. It's very convoluted
2 in my opinion but it's still there. So I'm going to over
3 the objection allow both of these, Sixteen and Seventeen,
4 into evidence.

5 SOLICITOR SHELTON: And again just for the record,
6 Your Honor, I substantially cut the number of photos that I
7 intend to introduce in the case.

8 MS. BURRIS: Your Honor, I think yesterday we did
9 briefly and I did indicate to the court that it's just not
10 anything we need to address pretrial unless it becomes an
11 issue. I did actually subpoena the financial records of
12 Mr. Ernest Neal Jordan. I had him served personally with a
13 subpoena for his financial records and also had his tax
14 preparer, I also sent a subpoena. That is not an issue at
15 this time but should it ever become an issue I would like
16 to address it at the appropriate time.

17 THE COURT: All right. That's a good way to do it.

18 MS. BURRIS: And just housekeeping matters, Your
19 Honor. Not anything for Your Honor to rule on. I have one
20 witness actually traveling from Walterboro, South Carolina
21 and I have another witness who is scheduled back at work
22 tomorrow. These are essential witnesses and what I
23 communicated to them last night and also this morning is
24 that one of them actually has a small child so she needed
25 to get back to Walterboro in sufficient time, and then the

1 other one, I spoke with her supervisor. She said she would
2 be in in the morning so I just wanted to let the court know
3 about that.

4 SOLICITOR SHELTON: I think that's it.

5 THE COURT: Mr. Smith, anything before we take our
6 forty-five minute lunch.

7 MR. SMITH: No, Your Honor.

8 THE COURT: All right. We'll break until one o'clock.
9 I know that's - we've already had the jury here, had to let
10 them go but it'll be a crack and a coke lunch.

11 (COURT IN LUNCH RECESS AT 12:16 P.M..)

12 (COURT BACK IN SESSION AT 01:03 P.M..)

13 THE COURT: Thank you, you may take your seats.

14 The State ready?

15 SOLICITOR SHELTON: The State's ready, Your Honor.

16 THE COURT: Ms. Burris?

17 MS. BURRIS: Yes, sir, I am, Your Honor. On our
18 witness list we had one witness listed Kayla Higgs, she is
19 no longer going to testify, if it is okay, is she allowed
20 to come back in the courtroom?

21 THE COURT: If she's not gonna testify sure.

22 MS. BURRIS: Okay. And one other thing. The
23 solicitor and I discussed that we wanted to put the
24 negotiations of the plea on the record.

25 THE COURT: Sure.

1 SOLICITOR SHELTON: Your Honor, I knew that there were
2 things that we could take up after - I don't
3 necessarily that has to take place right now. I think we
4 could get started. That was one of the things that I --

5 MS. BURRIS: It shouldn't take that long, but...

6 THE COURT: All right. Well let's do it.

7 MS. BURRIS: Okay. In regards to the negotiations,
8 the plea negotiations, Your Honor, I was speaking with Ms.
9 Shelton back and forth in regards to plea negotiations and
10 after I spoke with my client on Friday here at the York
11 County Detention Center, I went to Ms. Shelton's office and
12 indicated - we were talking about the plea offers and the
13 question that she posed to me was, will your client take at
14 least ten?

15 And so I went on Saturday again to the York County
16 Detention Center and talked to him about it further and
17 then was able to - Heather also spoke with him on Sunday
18 and then we did get Mr. Robinson to indicate that he would
19 accept ten. And then so I sent an email to Ms. Shelton
20 asking can I take the ten back to my client and then she
21 said, well the conversation that I had with Mr. Harry Dest
22 was that the plea negotiations - or I could end up
23 somewhere at fifteen so the plea negotiations are a range
24 of ten to fifteen.

25 THE COURT: You lost me. How did Harry Dest get into

1 this equation?

2 MS. BURRIS: Because he happened to be going past the
3 office as she and I were speaking and I think he was also
4 assisting Mr. Smith.

5 And so then when I emailed her back on Sunday evening,
6 I said okay, Mr. Maquis Robinson will take ten and then she
7 emailed me back on yesterday, because she indicated she
8 didn't actually get my email on Sunday, and she emailed me
9 back yesterday and she says I'll need to talk, you know,
10 with my victims and with Betty to see if we where if we
11 could get something worked out and I then went to her
12 office on yesterday morning and she said, well it's not ten
13 anymore; it's fifteen.

14 But the original offer - and she did express to me as
15 to the charges that we were going to agree to at whatever
16 number or sentence we decide, would have been the ABHAN,
17 conspiracy and strong arm, however we didn't further
18 discuss the charges but we did the time and when I took the
19 ten back to him he says I'll accept that, it was Sunday,
20 and then she came back and says okay, well I spoke with
21 them and now it's fifteen.

22 So I just wanted to put that on the record to make
23 sure. I personally feel like the plea negotiations were
24 extremely unfair. It was unfair to me. I feel like it was
25 unfair to Maquis Robinson because the moment that I get him

1 to accept what she says, will your client take at least
2 ten, I get him to say yes finally on Sunday around noon,
3 and then she says, okay, well now I've spoken with them and
4 they're not agreeing with the ten, it's fifteen, so I just
5 wanted to put that on the record.

6 THE COURT: Anything you have to add to that?

7 SOLICITOR SHELTON: Yes, sir, Your Honor, I do.

8 Your Honor, I'm going to ask to have - I have some
9 email exchanges between Ms. Burris and I with plea
10 negotiations. There are several. I'm going to have them
11 all stapled together and marked as a Court's Exhibit if
12 there's no objection to that, Number Five.

13 THE COURT: That'll be fine.

14 (WHEREUPON: COURT'S EXHIBIT NUMBER FIVE, IDENTIFIED
15 AND MARKED, RECEIVED INTO EVIDENCE.)

16 THE COURT: Her turn.

17 MS. BURRIS: Yes, sir.

18 (COURT'S EXHIBITS NUMBER FIVE RECEIVED UP BY THE
19 COURT.)

20 SOLICITOR SHELTON: And Your Honor, if you would
21 observe those.

22 The plea negotiations, Ms. Burris and I discussed this
23 on Monday were a little odd as you can tell from the
24 emails. The one on top is the latest email from this past
25 weekend, but if you go through them, the latest email with

1 an actual offer was in May. At that time, I said my offer
2 was twenty. Where the ten came into play, and if you read
3 through all the emails it's pretty clear where the ten
4 comes into play and how I had always presented that ten,
5 was Ms. Burris was coming back to me with counteroffers of
6 two years or four years and asking me for parolable time.
7 And because I didn't want to continue to argue about things
8 that I knew that I would never even talk with the victims
9 about, I threw ten out there as what I call a legitimate
10 counteroffer to start - to start negotiations. That unless
11 she could get him willing and to a point to where he would
12 agree to do ten, no parole years, then we weren't
13 negotiating because I would not talk to my victims about
14 what their feelings and thoughts were on plea negotiations.
15 I felt that anything below that, he was not serious about
16 pleading to these charges.

17 So that is where the ten came in and where it has
18 always been and as you can see by that email that is on the
19 top, she emailed me and asked me if he would take ten. I
20 responded and said, after discussions with Mr. Dest, plea
21 negotiations were somewhere between ten and fifteen,
22 meaning ten would be the lowest that I would discuss with
23 the victims; fifteen being the lowest that we'd gotten to
24 during the previous trial. And if you read that email, I
25 say that honestly I don't know that I will go any lower

1 than fifteen, and that is before she convinced him to take
2 the ten.

3 So I think it's clear from that email that my offer
4 was never ten. That I was trying to encourage reasonable
5 negotiations.

6 THE COURT: The sentence that Ms. Shelton is eluding
7 is, fifteen is the lowest I went last time. I honestly
8 don't know if I will go any lower this time.

9 MS. BURRIS: Which email were you referring to, Your
10 Honor?

11 THE COURT: Okay. It's on July 20th, 2013 at 2:14
12 p.m., Shelton, Misti wrote apparently to you and says --

13 MS. BURRIS: Well --

14 THE COURT: Let me finish, please.

15 "Fifteen was the lowest I went the last time and I
16 honestly don't know if I will go any lower this time. Also
17 keep in mind that if we're able to work something out, one
18 of the bosses would have to approve an offer being made on
19 the eve of trial."

20 And then you come back, "conversation with Maquis -
21 I'm sorry. That's where it started. Then you come back,
22 "I may be working through something, however if I ever get
23 him to agree to ten, I do not want to come back to you and
24 respond, right now we're at fifteen." That's 2-06 and you
25 came back 2-14 p.m..

1 Go ahead, Ms. Burris.

2 MS. BURRIS: Yes, sir. Thank you, Your Honor.

3 On Sunday, July the 21st at 12:19 p.m., I said "these
4 are my conversations with Maquis Robinson" - because I
5 actually was retained on this case on February 2012 and I
6 remember specifically I was actually in the courtroom and
7 Ms. Shelton was actually working on another case and I
8 expressed to her that I needed number one, the discovery,
9 and then number two, we wanted to start - we started
10 actually talking about plea negotiations then; and we
11 actually began to talk about the number ten. And I agreed
12 with her that I was going back and forth as far as trying
13 to encourage him to come up, I was negotiating with her but
14 she also --

15 THE COURT: I don't want to go into this. Just make
16 whatever you want a part of the record. I'm not going to
17 try to negotiate. It looks to me at best she has
18 indicated, Ms. Shelton has, that they would not go lower
19 than fifteen and I don't see anywhere where anybody
20 approached a ten.

21 MS. BURRIS: Well she had me to take back to my client
22 ten.

23 THE COURT: Where is that?

24 MS. BURRIS: She'll actually admit on the record that
25 she had me to go back to him would he at least take ten.

1 SOLICITOR SHELTON: No. What our conversations were
2 which is why I always memorialized it by email were I did
3 not consider a reasonable counteroffer until he said he
4 would take ten and I would take ten back to my victims.

5 But I never offered ten because I had always said I
6 had not discussed it with the victims and I had not
7 discussed that with law enforcement. And the very latest
8 email from me was the one from the 20th which was after she
9 said - asked about the ten - where I said I don't know that
10 I will go that low. That has always been my position.

11 But from the earlier emails, I was quite clear in
12 saying that I don't even consider us negotiating until he
13 says he will take ten. That's where the ten came in. I
14 should have never done that. I should just stuck with the
15 twenty and said this is my offer; you make me my
16 counteroffer. But I was trying to give her a goal to even
17 start negotiations and I should not have done that.

18 THE COURT: All right. And at 2:06, your email to her
19 indicates, quote right now we are at fifteen years
20 according to your communication with Harry Dest. However
21 you stated to me he has not said he would do ten, therefore
22 I take ten back to my victims. But my communication with
23 Maquis is being where you said ten. And then she responded
24 saying, "I told Harry we could end up somewhere in the
25 range of ten to fifteen" and then you come back saying

1 "well, he'll take ten."

2 MS. BURRIS: Right, so if she was not going to offer
3 ten, she should not have had me take the ten back to my
4 client.

5 THE COURT: Well, --

6 MS. BURRIS: And she admitted to me I negotiated a
7 little backwards but that's not fair to my client when I
8 try to communicate the appropriate things to him. It's
9 just unfair to him when I'm trying to do the right thing in
10 communicating to him as to what the assistant solicitor
11 sharing with me in regards to plea negotiations.

12 SOLICITOR SHELTON: Your Honor, if you will flip the
13 page to the May 8th email. I think in that page I think
14 it's pretty clear where I was in my plea negotiations.

15 THE COURT: I see on April 29th --

16 SOLICITOR SHELTON: It may be behind that. I'm sorry.

17 THE COURT: Ms. Burris says, "okay, sounds like we may
18 have some agreement here can I at the least take back to
19 him ten parolable?: And then the response appears to be a
20 little further with the time. That was at 10:06. Five
21 minutes later we get a "no" which is an n. with one, two,
22 three, four, five, six, seven, eight, nine, ten, eleven,
23 twelve, perhaps thirteen zeros and an exclamation at the
24 end, which is in response to, "can I take back to him ten?"
25 Obviously that was a no at that time and then you said

1 "okay I will let him know." She was currently at twenty,
2 no parole. And you said, "okay I will let him know."

3 Then the next ones come over the weekend it looks like
4 and it looks like it was no assurance from the solicitor
5 that ten is anything that she's offering. She says "I told
6 Harry" - We're getting third parties in situations that are
7 gonna be difficult to begin with - but "I told Harry we
8 could end up somewhere in the range of ten to fifteen,
9 being the lowest number I would discuss with my victims
10 being ten. Fifteen was the lowest I went the last time and
11 I honestly don't know if I'll go any lower this time"

12 SOLICITOR SHELTON: And Your Honor, just to clarify
13 for the record, I did discuss ten with my victims and with
14 law enforcement on Monday. I didn't receive the response
15 from Ms. Burris until Monday morning. I didn't see it on
16 my phone over the weekend, that Sunday, but I did discuss
17 ten with my victims and with law enforcement and with Ms.
18 Miller. Everyone was in agreement that they did not
19 believe that that was an appropriate offer.

20 I was okayed by Ms. Miller to offer fifteen should he
21 want to plead even on the eve of trial which we don't
22 always like to do but I was given permission to extend that
23 offer as the case was being called to trial. And where Mr.
24 Dest got involved is he was talking with Mr. Heath,
25 negotiating for Mr. Heath.

1 THE COURT: Well as they say, there's many slips
2 between a cup and a lip. Is fifteen on the table now
3 because I don't want to be in the situation now where we're
4 arguing an hour from now ---

5 SOLICITOR SHELTON: No, sir.

6 THE COURT: --- where Ms. Shelton said she'd take
7 fifteen and now he says he'll take fifteen and now she says
8 she won't.

9 SOLICITOR SHELTON: No, sir. Fifteen is the lowest.

10 THE COURT: Is there anything on the table?

11 SOLICITOR SHELTON: No, sir.

12 THE COURT: Okay.

13 MS. BURRIS: It was actually a couple hours ago but I
14 assume it's probably off the table as of now.

15 THE COURT: I got it. Well it is. That's why I want
16 to make it clear.

17 Mr. Smith, do you have anything?

18 MR. SMITH: I do not, Your Honor.

19 THE COURT: Bring in the jury.

20 (JURY REENTERS COURTROOM AT 01:18 P.M..)

21 THE COURT: Now that you're comfortably seated, if
22 you'll stand the clerk will administer the oath.

23 MADAME CLERK: If you'll please raise your right hand.

24 (WHEREUPON: PETIT JURY SWORN.)

25 THE COURT: All right, you can be seated.

1 I've appointed Mr. Taylor as the foreperson of the
2 jury and he will be the liaison between the jury and
3 myself, preside over the jury's deliberations and
4 ultimately sign the jury's unanimous verdict.

5 I'm going to chat with you just a minute and then the
6 attorneys for each of the defendants and the state have a
7 right to come before you and make what we call opening
8 statements.

9 The attorneys are not witnesses so what they're doing
10 is not testifying and they're not trying to convince you of
11 anything at this time. You haven't heard the evidence or
12 the law so you are not in a position to make any kind of
13 decision as I talked to you about yesterday. They will
14 simply be at this time giving you an overview or outline of
15 the trial. They will tell you more of what the issues are
16 and what they expect to develop during the trial, but
17 they're not arguing their case and they're not giving
18 testimony.

19 To each of each charges, each of these defendants, Mr.
20 Robinson and Mr. Heath, has entered pleas of not guilty.
21 Their plea of not guilty places on the state the burden of
22 proving their guilty as to each offense, and as to each
23 element of each offense, beyond a reasonable doubt before
24 you as the trial jury in this case could convict either, or
25 both, as to one or more or all of the indictments, that is

1 they would have to prove as to an indictment, as to any
2 indictment, that defendant's guilt as to the charge beyond
3 a reasonable doubt before you could convict him to that
4 charge.

5 I have several jobs in this case. One of mine is that
6 I am the logistics person. I make sure we take breaks,
7 people are sitting in the right place. I try to make sure
8 only one person speaks at a time. The mechanical part of
9 the trial.

10 I also rule on questions of admissibility of evidence.
11 Now, the reason we didn't start until one today is we had
12 some evidentiary matters that I took up this morning, and
13 yesterday afternoon quite frankly, so that I would not have
14 to stop the trial once we got started to take up these
15 issues as we went along. We got them out of the way up
16 front and we can move quicker so that's why we are running
17 a little later today. We've been in here working on issues
18 dealing with this trial.

19 But I rule on questions of admissibility of evidence
20 and once I have ruled on admissibility of evidence whether
21 it can come in for your consideration or not, that ruling
22 is binding on the parties and on the you as the trial jury.

23 My third job is that I am the sole judge of the law in
24 this case. You must take, accept and apply the law as I
25 charge it. And this is true even if you might think the

1 law is different or even if you think I charged the law in
2 error. Your oath requires you to take, accept and apply
3 the law as I charge it.

4 You are not to infer from anything I say or do at any
5 time during this trial as being an indication or an opinion
6 of my own facts. Our law does not allow a trial judge to
7 formulate or express to a jury any opinion on the facts.
8 It is solely your job as the trial jury in this case to
9 examine the evidence and give to the evidence the effect,
10 the value, the weight, and the truth you believe the
11 evidence should have.

12 In doing this you may believe on witness as opposed to
13 several; several witnesses as opposed to one. You may
14 believe all, part or none of a witness's testimony. Use
15 your common sense. Your sense of logic. Your sense of
16 reasoning. Use your experiences in life as you analyze the
17 evidence. As judges of the facts, you necessarily must
18 judge the credibility, believability of the witnesses who
19 testify.

20 In assessing credibility, use the things I've already
21 talked about. Use the things that you find in your day to
22 day life as indicating the truthfulness in an individual
23 and you can use certain evaluators. How a witness acts on
24 the stand, their demeanor. Are they hesitant or
25 straightforward in responding to questions. Look at the

1 consistencies or inconsistencies in a witness's testimony
2 when compared to other testimony or testimony at an earlier
3 time. Consider the opportunity a witness had to know those
4 things about which the witness testified and also consider
5 any bias or prejudice. Whether a witness would wish to
6 help or hurt one side or the other. All of these things
7 you consider to determine the true facts apply the law and
8 you'll be in a position to render a verdict that speaks the
9 truth.

10 I remind you of my admonitions yesterday about not
11 making up your mind, not discussing the case, not letting
12 anyone outside the courtroom discuss the case, not
13 accessing any news coverage, not accessing any research in
14 any way either electronic or otherwise.

15 You do not need to take notes. Just please pay
16 attention. If you can't see or hear give me a voice
17 raising gesture or a nudging gesture and I'll try to
18 correct whatever the problem is. It's not fair to ask you
19 to resolve this case and not give you a full opportunity to
20 see and hear those things which is important for you to see
21 and hear.

22 We take breaks about every hour and a half. I find
23 that is a good break time. But if anybody needs a break at
24 any time, simply raise your right hand and with no
25 questions asked, we'll take a break. We want to move the

OPENING STATEMENT: BY SOLICITOR NEWKIRK

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1 case along, but if someone needs a break we'll take it and
2 I extend that to counsel and to Mr. Heath and Mr. Robinson.
3 Again, we'd like to move the case along at a good pace but
4 if you need a break, we'll take it.

5 Ms. Shelton.

6 I'm sorry. Mr. Newkirk.

7 SOLICITOR NEWKIRK: May it please the court.

8 Good afternoon, ladies and gentlemen of the jury. I
9 want to thank you for your upcoming service this week. And
10 I want to take my opportunity to talk to you and focus on
11 one day in particular, Wednesday, June 8th, 2011.

12 It's certainly not a day that I remember, but on
13 Wednesday, June 8th, 2011, there are at least three people
14 that absolutely remember where they were. Jared Crane,
15 Amanda Crane and Neal Jordan.

16 Now on this particular day, Jared Crane, who is a
17 painter by trade, an automobile painter, was working at his
18 place of employment, Five Star Customs, off of Cherry Road
19 in Rock Hill. He was doing a little overtime work. It was
20 kind of late in the evening, around ten o'clock. Jared is
21 working on a car; has a pressurized paint gun in his hand.

22 Now, as he is working, his boss, Neal Jordan, is doing
23 other administrative work in the building. He is the owner
24 of the establishment. Jared is painting; Neal is doing the
25 administrative work.

1 Now around ten o'clock, two men walk into the
2 building. One wearing a bandana on his face and one
3 holding a gun. Jared doesn't initially notice - he sees
4 the two men walk in but doesn't initially notice why they
5 are there or what they are doing. Mr. Jordan comes out of
6 the office and has a gun pointed at his face.

7 Now, initially he smiles. Kind of runs around the
8 store, thinking this may be a joke; some kind of a game
9 because he recognizes the man that's holding the gun. But
10 I can assure you on this particular night, no joke, no
11 game.

12 Now, at some point the man that's holding the gun, he
13 is in this courtroom today as well and his name is Maquis
14 Robinson, they begin to fight. Once Mr. Jordan realizes
15 this is not a joke, he enters the fight for his life with a
16 man with a gun.

17 Now, Jared who, hard working guy, kind of realizes
18 something is wrong. He hears a scuffle. He puts his paint
19 gun down, walks around the store and sees the two men
20 fighting. But before he has an opportunity to really
21 register the information do I go and help; do I call for
22 help, side swiped. Hit in the side of the head by another
23 man. The man wearing the bandana. That man is also in
24 this courtroom. The defendant, Dantonyo Heath.

25 Now, Jared like anybody loses his balance and he is

OPENING STATEMENT: BY SOLICITOR NEWKIRK

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1 also in a fight for his life and he is repeatedly hit,
2 choked almost to the point of unconsciousness.

3 Once Mr. Jordan and Mr. Crane, Jared and Neal, have
4 been roundly subdued and beaten, they're taken into the
5 bathroom of the shop where the two men demand money. Well,
6 Mr. Jordan doesn't have any money. Not with him anyway.
7 He tells them, I've got some money in the truck, we'll have
8 to go out there to get it. So Jared is bound and kept in
9 the back, bloody from the altercation he just had.

10 Now while all of this is going on, Jared's wife,
11 Amanda, had gone to the store to get him something to eat.
12 He was working late, didn't have a chance to have dinner,
13 so she had gone to the store to get him something to eat
14 and she has now returned to Five Star Customs. She's
15 trying to reach her husband. He doesn't answer. Trying to
16 get a hold of him. He's sitting in the bathroom with his
17 hands tied.

18 She - Simultaneously the defendants are coming out of
19 the store to take Mr. Jordan to his truck for the money.
20 Well, she has a brief encounter with one of them and then
21 decides to go into the store to find her husband.
22 Obviously there's something wrong. Well, she finds him.
23 She calls out to him and they are able to meet and he tells
24 her - well, he puts her up in the ceiling tile in the
25 bathroom. Smashes the ceiling tile and places his wife to

OPENING STATEMENT: BY SOLICITOR NEWKIRK
BY MS. BURRIS

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1 hide because he doesn't know what's going to happen. He
2 doesn't want her to be involved so he hides her in the
3 ceiling tile and they wait, you know, for me anyway what I
4 would imagine would be a very scary state, the waiting.

5 Well at some point, Mr. Jordan returns. Neal, the
6 owner of the shop, comes back and they're able to call the
7 police. Help is on the way. Now that is how they remember
8 June the 8th of 2011.

9 There are going to be some evidence and some testimony
10 that you're going to hear over the next couple days and
11 when that has concluded, we are going to come back up, the
12 state, and we're going to ask you to weigh heavily on it
13 and we're going to ask you to go back in the jury room and
14 return a verdict of guilty against Mr. Maquis Robinson, the
15 man with the gun, and Mr. Dantonyo Heath, the man with the
16 bandana on his face. And we're going to ask that you make
17 June the 8th of 2011 a day that they will never forget.

18 Thank you.

19 THE COURT: Ms. Burris.

20 MS. BURRIS: Thank you, Your Honor. May it please the
21 court.

22 THE COURT: Yes, ma'am.

23 MS. BURRIS: Opposing counsel and members of the jury.

24 There is always more to the story than what the covers
25 shows. There's always more within the substance of the

OPENING STATEMENT: BY MS. BURRIS

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1 book than what the cover reflects.

2 I had the honor and privilege of serving as an
3 assistant solicitor back from 2003 to 2006. I enjoyed this
4 privilege. At the end of 2006 I had the honor of
5 transitioning as a defense attorney, at the end of 2006,
6 representing those who are accused of committing crimes.
7 Sure, I often get the question as to why are you
8 representing the defense? Why are you representing the
9 defense? My answer is, there is always, always more to the
10 story than what you see.

11 I enjoy investigating cases. I enjoy working through
12 the layers to get to the truth. I enjoy working through
13 the trenches to uncover everything to get to the truth of
14 the matter. I am a strong advocate seeking justice.

15 About two weeks ago I was at the Galleria Mall in Rock
16 Hill, South Carolina. I'm from Rock Hill, South Carolina.
17 And I was having a conversation with a young lady in the
18 Galleria Mall. And we began to talk about Knowledge Park
19 and the development of the textile quarter and we were
20 having that conversation and we were very close. She was
21 sitting here and I was sitting there and we were talking
22 about DiGeorgio leaving Winthrop University and how I'd
23 miss him because he had a great vision and plan for the
24 City of Rock Hill, and as I'm talking to her she asks me,
25 do you know who you are talking to? And I said, sure

OPENING STATEMENT: BY MS. BURRIS

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1 Catherine. And I began to say to her yeah I remember your
2 mom and I remember when you were growing up and I often see
3 your mom at the school. She has a younger daughter who
4 also goes to school and who is in school with my daughter
5 and she looked at me and said, no. I'm Tonya. And I said
6 wow. You look just like Catherine. That's what I said to
7 her. And literally we were having a conversation, almost
8 side by side just having a conversation and she said, no,
9 I'm Tonya. But they had the exact same physical features.
10 Looked exactly the same.

11 Have you ever been to a store or anywhere in public,
12 at a gas station, and you think you see somebody you know
13 and you go up to them and you tap them and you say, Woo.
14 How embarrassing. You know why? Because you thought you
15 knew them. So then you had the wrong person. Have you
16 ever thought that you had the right person but you didn't?
17 I thought you were somebody else even though you were very
18 close to that person.

19 I ask you, now, while growing up I'm sure you've
20 gotten into scuffles and fights with siblings, cousins. I
21 bet we have. I have a younger sister. Fifteen years a
22 part. So we've gotten into scuffles and fights and
23 rightfully so because I'm the older sibling..

24 Now, there are times that we had some scuffles and
25 fights my parents raised some serious issues and concerns

OPENING STATEMENT: BY MS. BURRIS

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1 and rightfully so. They didn't know. They just kind of
2 walked in on it and the scuffles and fights of course again
3 raised some serious concerns as to what was really going on
4 but again, I'm the older sister.

5 Now, I have the honor and privilege of representing
6 Maquis Robinson. I am representing Maquis Robinson on some
7 serious charges of attempted murder, armed robbery,
8 criminal conspiracy, kidnapping, and possession of a weapon
9 during the commission of a violent crime. I have the honor
10 and privilege.

11 Ladies and gentlemen, it is true we do not live in a
12 black and white world. It's gray. Now the state has an
13 obligation to each of you to prove beyond a reasonable
14 doubt each element of the offenses as charged. Beyond a
15 reasonable doubt. In life, that's true. There are systems
16 that are fraught with many contradictions but one thing I
17 strongly believe in is that we have a very strong American
18 jury system. And I believe in the democratic power of each
19 juror.

20 As we go through this trial, you must find beyond a
21 reasonable doubt that the state has proven every element of
22 each offense as charged as to Maquis Robinson.

23 Now, as we go through the trial, you are all what I
24 call judges of the facts. You are clothed with a robe of -
25 you're the judges of the facts. You have on a robe and

1 you're simply judges of the facts.

2 Your Honor is the judge of the law. He's clothed with
3 that robe and you all have on a black robe and you're
4 judges of the fact.

5 As we go through the trial, I would ask that you
6 assess the testimonial evidence. Assess the evidence and
7 ask yourself, can the state prove to you beyond a
8 reasonable doubt that Maquis Robinson was at Five Star
9 Customs operated by Mr. Neal Jordan?

10 Can the state prove to each one of you beyond a
11 reasonable doubt that Maquis Robinson attempted to murder
12 Ernest Jordan?

13 Can the state prove to each of you beyond a reasonable
14 doubt that Maquis Robinson robbed Ernest Jordan?

15 Can the state prove to you beyond a reasonable doubt
16 that Maquis Robinson kidnapped Ernest Jordan?

17 What does reasonable doubt mean? Doubt that would
18 cause a reasonable person to hesitate to act. You may be
19 familiar with civil cases where the standard of proof is
20 more likely than not a preponderance of evidence because
21 you are dealing with money. Money.

22 Here, this is a criminal case. The standard of proof
23 is a lot higher. Distinctively higher because of course
24 you are dealing with people, lives, freedoms, privileges.

25 So again, I'm going to charge you to be an umpire of

OPENING STATEMENT: BY MS. BURRIS

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1 the facts, the evidentiary facts of this case, and assess
2 and weigh the credibility of the witnesses.

3 What did Ernest Jordan say when he called 9-1-1 to the
4 Rock Hill Police Department? What description is given to
5 the Rock Hill Police Department when 9-1-1 is called?

6 How many persons did Jared Crane say was at the
7 alleged crime scene?

8 What, if any, forensic or DNA evidence does the state
9 have to present against Maquis Robinson?

10 Does Ernest Jordan tell you that he had - that he was
11 robbed and \$7,000 was taken from him or \$10,000 was taken
12 from him? Not a lot of persons carry seven to ten thousand
13 dollars on their person.

14 If time, opportunity, the gun, and Maquis Robinson
15 were at Five Star Customs, what kind of injury, or if the
16 charge of attempted murder, time, opportunity, Maquis
17 Robinson, Five Star Customs, Ernest Jordan - Ernest Jordan
18 is in court today - What type of injuries did Ernest Jordan
19 have?

20 There is an old Wendy's commercial and that Wendy's
21 commercial during my time of growing up says, where's the
22 beef. I remember that commercial. I enjoyed watching TV
23 and I enjoyed watching those commercials, where's the beef,
24 where's the beef? So you ask yourself as we go through out
25 this trial, where's the evidence. You deserve that.

OPENING STATEMENT: BY MS. BURRIS
BY MR. SMITH

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1 Where's the evidence?

2 What I say is not evidence. What the assistant
3 solicitor states is not evidence, but what you hear
4 presented to you and they are able to prove to you beyond a
5 reasonable doubt, reasonable doubt is any doubt that will
6 cause a reasonable mind to hesitate to act, reasonable
7 doubt and beyond a reasonable doubt.

8 At the end of the trial, I'm going to come back before
9 you for what they call a closing argument. I am confident
10 that you are going to find that Maquis Robinson should not
11 be sitting in between Heather and I.

12 I want to thank you for your jury service. I want to
13 thank you for your time this week. And I ask that you seek
14 the truth. Thank you for staying in the trenches. Thank
15 you for accessing the credibility of the witnesses. Thank
16 you for your time. Thank you for your service.

17 Thank you.

18 THE COURT: Mr. Smith.

19 MR. SMITH: May it please the court, Your Honor.

20 THE COURT: Yes, sir.

21 MR. SMITH: With liberty and justice for ... all.

22 Now many of you as you heard that, you went ahead and
23 filled in that last word all before I said it. Why,
24 because the mind is an amazing thing. Some of you probably
25 rolled through and thought now justice for all oh and

OPENING STATEMENT: BY MR. SMITH

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1 that's a movie I've heard about that. Oh wait, did that
2 come from the constitution? And some of you said that's
3 the pledge of allegiance. That's the end of it and we have
4 to say it in school all the time.

5 You see, the mind has an ability to fill in gaps for
6 me to do that and to operate like that. But that doesn't
7 mean that the prosecution should just get to fill in gaps
8 for things that aren't there. And it's not just words
9 that the mind fills in. For instance, you make assumptions
10 about people.

11 You know I'm a lawyer. You might not want to admit it
12 but you probably make assumptions about me just from
13 hearing that I'm a lawyer and they may not all be good
14 assumptions. That may be based on an experience that you
15 had with an attorney somewhere, or something somebody has
16 told you about attorneys, or something you've heard about
17 some other lawyer somewhere, or maybe what you've seen on
18 one of those TV shows. But your mind fills in information
19 that may or may not be true. That's not what this
20 courtroom is for.

21 You may assume we are defense attorneys so what you're
22 going to do is you're going to stand up when we talk about
23 things that are good for your client, Dantonyo Heath, and
24 then you won't want to talk about something that might be
25 against him.

1 I'm going to surprise you. Okay. Something they
2 didn't mention that they've got is a video and that video
3 is startling. You are going to see it. And you would
4 think well hold on, they're saying that video shows your
5 client, Mr. Heath, beating Jared Crane. You're going to
6 tell us to look away from it or ignore it. No, I'm going
7 to tell you to look at that video over and over and over
8 again as many times as you need to, to determine what the
9 people there really would have known, really would have
10 seen, and what you would expect to be found at that scene.

11 Not just filming another bad video. That must mean so
12 and so. Take the time to look at the evidence.

13 Another example. My wife may come in here. You may
14 see her in here and she might do a gesture something like
15 this.

16 (ATTORNEY SMITH DEMONSTRATED.)

17 MR. SMITH: You might automatically think that's the
18 wife of a lawyer. She's saying you're talking too much
19 already. Could be. Or maybe it's a signal to me, wrap it
20 up, speak louder. What was she really doing? Just this.

21 (ATTORNEY SMITH DEMONSTRATED.)

22 MR. SMITH: What if her hand just has a cramp? Your
23 mind makes an assumption, makes a lead, fills in a gap.
24 Well you say that's pretty innocent, that doesn't cause a
25 problem. Well sometimes it may.

OPENING STATEMENT: BY MR. SMITH

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1 When we were just married we went to an auction,
2 Blowing Rock, North Carolina. Blowing Rock is up through
3 the mountains for those of you who don't know. It was in
4 the summertime. It was a little bit warm but not all the
5 places up there have air conditioning. We're at the
6 auction. I don't remember what's up there. A vase or
7 something that we neither needed or could afford. All of a
8 sudden I see an auctioneer look over toward my wife and
9 take her bid. I saw her move but I wasn't sure. I didn't
10 understand what was going on. A little bit later other
11 people were bidding and I look at her and she does this
12 again.

13 (ATTORNEY SMITH DEMONSTRATED.)

14 MR. SMITH: He takes her again. I turned and said
15 what are you doing? What do you mean? Why are you
16 bidding? She said, I didn't bid. It was just a wave. She
17 said there was a bug. No, no, no, you've got to understand
18 now in a certain situation a gesture is something that you
19 do is going to be perceived by somebody else based on what
20 they've seen in the past. The auctioneer makes a false
21 assumption. Thankfully we didn't win the vase or I would
22 have had it here to show you. Somebody else bid but he
23 makes an assumption. That is not what you are to do in a
24 courtroom. You need actual proof beyond a reasonable doubt
25 for every item of evidence they offer.

OPENING STATEMENT: BY MR. SMITH

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1 And I will submit to you what the prosecutors will
2 bring in their case, be it from video or be it from
3 testimony or be it from photographs, anything that they
4 have that links Dantonyo Heath to that crime, there's going
5 to be a gap. There's going to be a leak. There's going to
6 be something that you need to fill in. There's going to be
7 some sort of problem with it that they're just going to
8 hope that you just sort of overlook and fill it in with
9 something and say that's okay. No.

10 In a courtroom you don't just jump to an assumption
11 and justice for ... all. Or for anyone who comes before
12 the court, another answer. For everyone who comes through
13 these doors, another answer. You're role as a juror is to
14 wait and see and judge real evidence because the only
15 reason Dantonyo Heath got included in this case at all is
16 because he knew Mr. Robinson. So back in June a couple of
17 years ago when somebody sees Mr. Robinson and sees someone
18 else, they make an assumption. They make a leap. That's
19 the leap that you won't make because you will see there is
20 a gap in every piece of evidence. And that's why? Because
21 Dantonyo Heath is not guilty.

22 THE COURT: All right. You may call your first
23 witness.

24 SOLICITOR SHELTON: Your Honor, the state would call
25 Ernest Neal Jordan.

1 MS. BURRIS: Your Honor, may we approach?

2 THE COURT: Yes.

3 MS. BURRIS: Thank you.

4 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
5 THE JURY AT 01:52 P.M..)

6 THE COURT: All right, we'll take a short break.
7 We'll take a refresher break before we do this first
8 witness, so if you'll follow the bailiff to the jury room
9 we'll send for you when we can.

10 (JURY EXITS COURTROOM AT 01:53 P.M..)

11 THE COURT: We'll be at ease for about ten minutes.

12 SOLICITOR SHELTON: Thank you, Your Honor.

13 THE COURT: Take about a ten minute break.

14 (COURT IN RECESS AT 01:53 P.M..)

15 (COURT BACK IN SESSION AT 02:07 P.M..)

16 THE COURT: Thank you. Take your seats.

17 (WHEREUPON: COURT'S EXHIBIT NUMBERS SIX AND SEVEN
18 RECEIVED INTO THE RECORD.)

19 (DEFENDANT'S MARQUIS ROBINSON AND DANTONYO HEATH
20 REENTER COURTROOM.)

21 THE COURT: The defendants and counsel are present.
22 Bring in the jury.

23 SOLICITOR SHELTON: Your Honor, may we approach?

24 THE COURT: Yes, ma'am.

25 (BENCH CONFERENCE OFF THE RECORD AT 02:08 P.M..)

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 (JURY REENTERS COURTROOM AT 02:09 P.M..)

2 THE COURT: Call your witness.

3 SOLICITOR SHELTON: The State would call Ernest Neal
4 Jordan.

5 THE COURT: Put your left on this Bible and raise your
6 right one. You might want to take that chewing gum out
7 somehow.

8 (WITNESS DISPOSED OF GUM.)

9 (WHEREUPON: ERNEST NEAL
10 JORDAN, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS
11 FOLLOWS:)

12 MADAME CLERK: Thank you. You can have a seat.
13 being first duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 ERNEST JORDAN BY SOLICITOR SHELTON:

16 Q. State your name for the record, please.

17 A. Ernest Jordan.

18 Q. And Mr. Jordan, where do you live?

19 A. Lancaster, South Carolina.

20 Q. Where do you work?

21 A. Five Star Customs.

22 Q. Is that your business?

23 A. Yes, ma'am.

24 Q. Where is that business located?

25 A. 1257 Cherry Road, Rock Hill.

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 Q. What county is that in?

2 A. York.

3 Q. And were you working at that business on January 8th
4 of 2011?

5 A. Yes, ma'am.

6 Q. Did you own the business at that time?

7 A. Yes, ma'am.

8 Q. Did anything unusual happen that day, that evening?

9 A. Yes, ma'am.

10 Q. Tell the jury what happened on the evening of June
11 8th, 2011.

12 A. We was robbed, kidnaped.

13 Q. Let's start from the beginning of the story. You were
14 --

15 A. Start from the beginning?

16 Q. Yes. What happened from the beginning of what
17 happened that was unusual? You were working.

18 A. Okay. I was in the shop. Me and Jared was in the
19 shop kind of late that night. We was fixing to paint a
20 car. We had to have it to a customer the next day so we
21 was in there working. Amanda left out to go to the store
22 to get Jared something to eat, so as she left out, I went
23 into the bathroom and when I went into the bathroom, I kind
24 of heard the bay door come slammin up like bump.

25 Q. Okay. I'm going to stop you. Who was Amanda?

1 A. Jared Crane's wife.

2 Q. Okay. So she was not there but you and Jared that
3 were there?

4 A. Yes, ma'am.

5 Q. Okay.

6 A. So as I was coming out the bath - so as I was coming
7 out the bathroom, I heard the bay door slam up so - I mean,
8 it slammed up so hard I kind of ran up front a little bit
9 and then I turned around. I was like, hold on, Jared's
10 back here let me see what's going on. So I turned around
11 to come back around and I seen a gun pointed at my face.
12 And then I seen another individual run down and duck behind
13 a Jeep so, you know, when I seen them come in, he kind of
14 had his shirt like over his face like this right here.

15 (WITNESS DEMONSTRATED.)

16 Q. I'm going to stop you right there. When you said when
17 you saw him come in with his shirt over his face, who was
18 that, that you saw come in with his shirt over their face?

19 A. Maquis Robinson.

20 Q. And who had the gun?

21 A. Maquis Robinson.

22 Q. And the other person that you said ran by, where did
23 they go?

24 A. He kind of ducked down behind the truck just looking
25 at me and then he was ducked down right beside the Jeep.

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 Q. And what did Mr. Robinson do next?

2 A. Put the gun to my head. Told me to go in the bathroom
3 so I was like, "What that mean, go in the bathroom for
4 what?" He was like, "man go in the bathroom. Go in the
5 bathroom." I said, "man, I ain't going in no bathroom.
6 What you want me to go in the bathroom for?"

7 So he grabbed me by my shirt and started pulling me
8 towards the bathroom and as he pulled me to the bathroom,
9 he got - started to shut the door. I go for the gun and
10 the gun went off and I said, "damn you just shot me." And
11 then we started tussling over the gun. I had one hand on
12 the gun and he had his arm around my neck. I broke the
13 clip out the gun and I was trying to bring it back around
14 and it went off, the gun fell and from there he just had me
15 in a choke hold, we was tusslin.

16 Q. And when you say tussling, what does that mean,
17 tussling?

18 A. He had me from behind in a choke hold trying to choke
19 me telling me to go to sleep.

20 Q. So tussling means fighting?

21 A. Yes, ma'am.

22 Q. Now when you say you got shot, where do you think you
23 got shot at?

24 A. Right here across the face.

25 (WITNESS INDICATED TO HIS FACE.)

1 Q. The bullet grazed you?

2 A. Yes, ma'am.

3 Q. You think the bullet grazed you across your face?

4 A. Yes, ma'am.

5 Q. Where was Jared when all this was going on?

6 A. When he first came in Jared was over there in front of
7 that Jeep fixing to paint that truck.

8 Q. What about when you and Mr. Robinson - and when you
9 and the defendant were in the bathroom?

10 A. I think he was - I couldn't see him no more. I think
11 he was still over there.

12 Q. Could you ever see anything going on with Jared?

13 A. No. Not until we actually got up out the bathroom.

14 Q. Okay. What did you see once you were out of the
15 bathroom?

16 A. I seen Jared getting beat.

17 Q. Beaten up by who?

18 A. Dantonyo Robinson. I mean Dantonyo Heath.

19 Q. And after you saw Jared, Mr. Crane, getting beat up,
20 what happened after that?

21 A. After he got finished getting beat - Well, as we
22 was in the bathroom Mr. Robinson, he called Yodi, you know,
23 as we was tussling, he was calling for Yodi to come and
24 help him - to come and help him but then by that time, you
25 know what I'm saying, he was on my back and pretty much

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 running him up against the wall and stuff like that trying
2 to get him off while he was choking me. By the time I fell
3 up out the bathroom, fell up out the bathroom and started
4 trying to crawl away, he was choking me so by the time I
5 made it right there out the bathroom while he was still on
6 my back, there was some glass right there, I was trying to
7 go for the glass but I couldn't get it and at that time, he
8 grabbed the glass and he was trying to come down on my
9 throat and some kind of way when I rolled over he was
10 trying to come down on my throat but I was holding his hand
11 like that there.

12 (WITNESS DEMONSTRATED.)

13 A. I said, "man I ain't gonna to let you kill me up here
14 in like that," you know. So as I was holding him, that's
15 when I actually seen Jared. He was coming around to see
16 what was going on and about that time, that's when he got
17 cold cocked.

18 Q. Were you - Did you stay in the bath - Were you left in
19 the bathroom the whole time?

20 A. No, ma'am.

21 Q. What happened after you were taken out of the bathroom
22 and how did that happen? How did you get taken out the
23 bathroom?

24 A. With him on my back. When he was choking me, kind of
25 bent down and was just dragin him out the bathroom when he

1 was choking me.

2 Q. And how did this all stop, the fight?

3 A. How did it all stop?

4 Q. Yes. I mean, you're here, so how did it all stop?

5 A. I think - I just think like, you know what I'm saying,
6 we was in the bath - like when we was in the um, I was
7 like, "man I ain't going to let you kill me here." You
8 know what I'm saying? "I ain't gonna to let you kill me
9 like this." I was like, "man I got some money in the
10 truck. I got money in the truck." But he - And Dantonyo
11 was like "man, let's get this money and go. Man, let's get
12 this money and go." And that's pretty much what stopped
13 the whole altercation.

14 Q. So you told him you had money in the truck?

15 A. Yes, ma'am.

16 Q. At that point did you go to the truck with him?

17 A. No. At first they tied Jared up. They put another
18 bullet in the head of the gun, in the chamber of the gun
19 cause the clip was broke out. So they put another bullet
20 in the head of the gun then he told me not to try to make
21 no sudden moves. You know what I'm saying. Put it to my
22 back and they walked me outside.

23 Q. And was there anyone else outside when you went
24 outside?

25 A. Yeah. Amanda.

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 Q. And what happened after they walked you outside?

2 A. She was sittin in the car. Dantonyo - Maquis told
3 Dantonyo to get her cell phone.

4 Q. And did he go over there at that time?

5 A. Yes, ma'am.

6 Q. To the car where Ms. Crane was?

7 A. Yes, ma'am.

8 Q. How long had you known Maquis Robinson?

9 A. About four or five years.

10 Q. How did you know him?

11 A. Through my wife's brother.

12 Q. How often did you see him?

13 A. He was at the shop pretty much every other day.

14 Q. Did he do any kind of jobs for you or anything like
15 that at the shop?

16 A. Like when he come around, you know what I'm saying,
17 like if I need a hand with something, I'd pretty much tell
18 him, you know what I'm saying, help me out on this or
19 something like that there.

20 Q. Did you know Dantonyo Heath?

21 A. No, ma'am.

22 Q. Had you ever seen him before this night?

23 A. Yes, ma'am.

24 Q. How often had you seen him before this night?

25 A. I had seen him about three or four times.

1 Q. And who had he been with when you would see him?

2 A. Maquis Robinson.

3 Q. You did not know him by name at that time?

4 A. No, ma'am.

5 Q. Did you know him by his nickname?

6 A. Yeah. By Yodi.

7 Q. What were you thinking or feeling during the assault?

8 A. I was bleeding so bad, you know. Like when I was in
9 the bathroom - Actually after I got shot across the face I
10 was bleeding so bad, you know I was pretty much telling
11 him, "man just let me go. Let me go." You know what I'm
12 saying. I ain't trying to die up in here. Let me get to
13 the, you know what I'm saying, let me get to the hospital
14 but he still refused.

15 Q. Were you scared?

16 A. A little bit.

17 Q. But you thought you were going to die?

18 A. Yeah.

19 Q. That didn't make you scared?

20 A. I mean I really wasn't - I was scared, but I, you know
21 what I saying, I was more scared for my life than anything.
22 I thought I was going to bleed to death really.

23 Q. Mr. Robinson, I'm going to ask you about your prior
24 criminal record - I mean, Mr. Jordan. You have a
25 conviction for possession of crack from 2003?

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 A. No, ma'am. Actually happened in 2000.

2 Q. But was the conviction in 2003?

3 A. Yes, ma'am.

4 Q. And a conviction for receiving stolen goods from 2009?

5 A. Yes, ma'am.

6 Q. I'm going to show you three exhibits that have been
7 marked for identification. I'm going to show you State's
8 Exhibit Number Seven. Can you look at that?

9 A. Yes, ma'am.

10 Q. Do you recognize that?

11 A. Yes, ma'am.

12 Q. How do you recognize it?

13 A. It's a video that I was shown.

14 Q. How do you know you were shown that video?

15 Is there any marks on it that would indicate you've
16 seen that video?

17 A. Yes, ma'am.

18 Q. And what is that?

19 A. My initials.

20 Q. And what is that video of?

21 A. The assault that happened.

22 Q. A particular camera?

23 A. Bay door.

24 Q. And have you watched that video?

25 A. Yes, ma'am.

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1 Q. And does it accurately reflect what happened that
2 night?

3 A. Yes, ma'am.

4 Q. From the video angle of the bay door?

5 A. Yes, ma'am.

6 SOLICITOR SHELTON: Your Honor, at this time I would
7 ask to move State's Exhibit Number Seven into evidence.

8 MS. BURRIS: No objection, Your Honor.

9 MR. SMITH: No objection.

10 THE COURT: In without objection.

11 (WHEREUPON: STATE'S EXHIBIT NUMBER SEVEN, IDENTIFIED
12 AND MARKED, RECEIVED INTO THE RECORD.)

13 BY SOLICITOR SHELTON:

14 Q. I'm going to show you what's marked as State's Exhibit
15 Number Eight. Do you recognize that?

16 A. Yes, ma'am.

17 Q. What is it?

18 A. Camera five.

19 Q. And what is that a camera angle of?

20 A. Of the shop.

21 Q. And have you watched that video?

22 A. Yes, ma'am.

23 Q. How do you know?

24 A. Because of my initials.

25 Q. And when watching that video, does it also accurately

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 reflect the events that happened that night?

2 A. Yes, ma'am.

3 Q. And are these surveillance cameras from your business?

4 A. Yes, ma'am.

5 SOLICITOR SHELTON: Your Honor, I'd ask to move

6 State's Exhibit Number Eight into evidence.

7 MS. BURRIS: No objection, Your Honor.

8 MR. SMITH: No objection.

9 THE COURT: In without objection.

10 (WHEREUPON: STATE'S EXHIBIT NUMBER EIGHT, IDENTIFIED

11 AND MARKED, RECEIVED INTO EVIDENCE.)

12 BY SOLICITOR SHELTON:

13 Q. I'm going to give you what's been marked as State's
14 Exhibit Number Nine. Could you identify that, please.

15 A. Yes, ma'am.

16 Q. What is that?

17 A. Camera eight.

18 Q. And what is that a camera angle of?

19 A. Out back.

20 Q. Out back of your shop?

21 A. Yes, ma'am.

22 Q. And have you watched that video?

23 A. Yes, ma'am.

24 Q. How do you know you've watched it?

25 A. I put my initials on it after I watched it.

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 Q. And in watching that video, does it accurately reflect
2 the events that occurred on the evening of June 8th?

3 A. Yes, ma'am.

4 SOLICITOR SHELTON: Your Honor, I'd ask to move
5 State's Exhibit Number Nine --

6 MS. BURRIS: No objection, Your Honor.

7 MR. SMITH: No objection.

8 THE COURT: In without objection.

9 (WHEREUPON: STATE'S EXHIBIT NUMBER NINE, IDENTIFIED
10 AND MARKED, RECEIVED INTO EVIDENCE.)

11 SOLICITOR SHELTON: Your Honor, I request permission
12 to publish a portion of State's Exhibit Number Seven.

13 THE COURT: All right.

14 MS. BURRIS: Your Honor, I object to the Assistant
15 Solicitor publishing a portion. I would like for the jury
16 to see it in it's entirety but I understand that I am
17 allowed to cross examine Mr. Jordan.

18 SOLICITOR SHELTON: Your Honor, just because of the
19 length, it's over an hour and a half total, it's in
20 evidence in it's entirety.

21 THE COURT: I'm going to let her show what she wants
22 to show. If you want to show more during your cross
23 examination ---

24 MS. BURRIS: Thank you, Your Honor.

25 THE COURT: --- feel free to do it.

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 MS. BURRIS: Thank you, Your Honor.

2 (STATE'S EXHIBIT NUMBER SEVEN, PUBLISHED TO THE JURY
3 AT 02:22 P.M..)

4 Q. And the first person that entered on that clip in that
5 black shirt, who was that?

6 A. Maquis Robinson.

7 Q. And he had his face covered up then?

8 A. Yes, ma'am.

9 Q. And the second person who entered, who was that?

10 A. Dantonyo Heath.

11 Q. And when Maquis Robinson goes off camera, what is he
12 doing?

13 A. Actually got me hold on gun point.

14 SOLICITOR SHELTON: Your Honor, at this time I'd ask
15 to publish two portions of State's Exhibit Number Eight.

16 THE COURT: You may.

17 (STATE'S EXHIBIT EIGHT PUBLISHED TO THE JURY/COURT AT
18 02:25 P.M..)

19 Q. And in this clip, where are you in this clip?

20 A. In the back of the shop.

21 Q. And is that you walking across the screen?

22 A. Yes, ma'am.

23 Q. And then what else is going on? What happens next?

24 A. Actually I was coming out the bathroom and I heard the
25 bay door come up so I kind of ran to the front a little

1 bit, then I turned around and started back, walking back,
2 when I seen Mr. Robinson walking in, you know I kind of
3 greeted him with a smile cause I know who he is and he was
4 saying, "go in the bathroom".

5 Q. So you turned around and saw him and smiled?

6 A. Yes, ma'am.

7 (STATE'S EXHIBIT EIGHT CONTINUES TO BE PUBLISHED TO
8 THE JURY/COURT.)

9 Q. Where are you at this point?

10 A. In the bathroom.

11 Q. And who was in there with you?

12 A. Jared Crane.

13 Q. And who else?

14 A. Maquis Robinson and Dantonyo.

15 Q. What is going on at this point?

16 A. They tying Jared up.

17 Q. Are you all talking about anything?

18 A. No. They pretty much telling me don't try to make no
19 sudden moves, make no sudden moves, trying to clean me up
20 so I can walk outside to the car.

21 Q. And who is that?

22 A. Dantonyo.

23 Q. What is he doing there?

24 A. Getting some speaker wire.

25 Q. And who is this?

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 A. Maquis.

2 Q. His face is uncovered there?

3 A. Yes, ma'am.

4 Q. Where is he taking you?

5 A. Outside to the car.

6 Q. How are you feeling at this point?

7 A. I'm out of it. Right now, I'm just out of it.

8 SOLICITOR SHELTON: Your Honor, I ask to publish
9 another clip from State's Exhibit Number Eight.

10 THE COURT: All right.

11 Q. And who is this on the video?

12 A. Jared Crane.

13 (STATE'S EXHIBIT EIGHT CONTINUED TO BE PUBLISHED TO
14 THE JURY/COURT.)

15 Q. Where is he taking him now?

16 A. To the bathroom.

17 Q. And who was that taking Jared to the bathroom, Mr.
18 Crane to the bathroom?

19 A. Dantonyo Heath.

20 Q. And Mr. Crane was crawling at that point?

21 A. Yes, ma'am.

22 (STATE'S EXHIBIT EIGHT CONTINUED TO BE PUBLISHED TO
23 THE JURY/COURT.)

24 Q. And where are you going here?

25 A. Right here they're taking everything out of my

1 pockets. I was taking everything out of my pockets getting
2 ready to go to the car.

3 Q. And who is that with you?

4 A. Maquis Robinson and Dantonyo Heath.

5 Q. Does Mr. Heath have his mask off at any point?

6 A. Yes, ma'am.

7 Q. So you were able to see his face at some point?

8 A. Yes, ma'am.

9 Q. Is that when you go outside?

10 A. Yeah, he took it off when we went outside.

11 (STATE'S EXHIBIT EIGHT CONTINUED TO BE PUBLISHED TO
12 THE JURY/COURT.)

13 Q. Who is that in that car?

14 A. That's Amanda Crane.

15 Q. And the road that we can see there, which road is
16 that?

17 A. Cherry Road.

18 Q. Is the front part of your shop --

19 A. Yeah, facing --

20 Q. Okay.

21 A. Yes, ma'am. Facing Cherry Road.

22 Q. And then the bay door is off - is down the side of --

23 A. Yeah. Right down the side facing Cherry Road.

24 (STATE'S EXHIBIT EIGHT CONTINUED TO BE PUBLISHED TO
25 THE JURY/COURT.)

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 Q. Who is that?

2 A. That's me and Maquis Robinson.

3 Q. Who is that?

4 A. Dantonyo.

5 (STATE'S EXHIBIT EIGHT CONTINUED TO BE PUBLISHED TO
6 THE JURY/COURT.)

7 Q. Where are they taking you at this point?

8 A. Out to the car,

9 Q. Why were they taking you to the car?

10 A. To get the money.

11 Q. Why did you have money in your car?

12 A. Because in the wheel business - In the wheel
13 business we pretty much like a lot of the cash and carry,
14 like people come in and spend cash on wheels and stuff,
15 stuff like that so we have to put a deposit down on wheels
16 and most wheel companies if you ain't signed up with like a
17 automatic bank draft through that company you pretty much
18 got to have cash to pay for that stuff when it come in.

19 Q. And when you say wheels, you don't mean tires. You
20 mean ---

21 A. Yeah, tires and --

22 Q. Tires and rims?

23 A. Yes, ma'am.

24 Q. What were you going to do with that money?

25 A. Actually it was for - Actually a customer had paid

1 me actually for two sets of wheels, Ashanta wheels.

2 Actually the wheels were about Fourteen Thousand Dollars
3 but you got to put a Five Thousand Dollar deposit down on
4 them before they start making them.

5 Q. Okay. So what were you going to do with the money?

6 Why was it in your truck as opposed to being in the
7 bank or in your shop?

8 A. Because I ain't had time to deposit it yet.

9 Q. You had it there to take to the bank?

10 A. Yes, ma'am.

11 Q. When did you last see Maquis before June 8th - Mr.
12 Robinson?

13 A. About two or three days before that.

14 Q. Anything happen when you saw him?

15 A. Something about his cousin with a tire or something.
16 Like asked me something about the tire was the wrong size
17 or something like that.

18 Q. Had an argument?

19 A. No. Wasn't no argument but just something, she was
20 saying like people's had called me and told me it was a two
21 25/30, 35/20 but I ordered a two 25/32 inch tire.

22 Q. So what's that mean? Was he asking you to refund it?

23 A. No. It was just like - he say, he told me to order
24 the right size tire but I was like naw, that's the size
25 tire y'all told me to order so I would just have to reorder

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 the tire.

2 Q. So it was a disagreement. You all were - when I say
3 disagreement, you all weren't agreeing about what you all
4 ordered?

5 A. Oh, no. No, ma'am.

6 Q. Okay. I'm going to show you what's been marked for
7 identification as State's Exhibit Number Twelve.

8 Can you identify that, please?

9 A. Yes, ma'am.

10 Q. Who is in that photo?

11 A. It's a picture of me.

12 Q. And is that how you normally look?

13 A. No, ma'am.

14 Q. What is different?

15 A. The laceration on my face.

16 Q. And where did you receive those injuries?

17 A. The night of the incident.

18 Q. And is that an accurate reflection of how you looked
19 on the evening of June 8th after the incident?

20 A. Yes, ma'am.

21 SOLICITOR SHELTON: Your Honor, at this time I'd ask
22 to move State's Exhibit Number Twelve into evidence.

23 THE COURT: Any objection?

24 MS. BURRIS: No objection, Your Honor.

25 MR. SMITH: No objection.

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 THE COURT: In without objection.

2 (WHEREUPON: STATE'S EXHIBIT NUMBER TWELVE, IDENTIFIED
3 AND MARKED, RECEIVED INTO EVIDENCE.)

4 SOLICITOR SHELTON: And we ask to publish it to the
5 jury.

6 THE COURT: You may.

7 (STATE'S EXHIBIT TWELVE PUBLISHED TO THE JURY AT 02:46
8 P.M..)

9 Q. And again, Mr. Jordan, if you could describe the
10 injuries. Where are your injuries?

11 A. Right above my right eye.

12 Q. And then underneath your nose ---

13 A. Yes, ma'am.

14 Q. --- where did that come from?

15 A. That fight that took --

16 Q. Had your nose been bleeding?

17 A. Yes, ma'am.

18 Q. And where was this picture taken?

19 A. At the hospital.

20 Q. I want to show you what's been marked for
21 identification as State's Exhibit Eighteen, Nineteen,
22 Twenty, Twenty-one, Twenty-two, Twenty-three, Twenty-four,
23 Twenty-five, Twenty-six, Twenty-seven, Forty-nine and
24 Forty-seven.

25 I ask you to look at those pictures, please.

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 (WITNESS REVIEWING EXHIBITS.)

2 Q. Do you recognize those photos?

3 A. Yes, ma'am.

4 Q. Where are those photos of?

5 A. At the shop.

6 Q. Do each of those photos accurately reflect the way
7 your shop looked on the evening of June 8th, 2011, after
8 the incident?

9 A. Yes, ma'am.

10 Q. And there referring to, the numbers are on the back,
11 referring to State's Exhibit Forty-seven and Forty-nine.

12 A. Yes, ma'am.

13 Q. Do you recognize those two items?

14 A. Yes, ma'am.

15 Q. What is State's Exhibit Number Forty-seven?

16 A. That's the dew rag I had on my head.

17 Q. That's your's?

18 A. Yes, ma'am.

19 Q. And State's Exhibit Number Forty-nine, what is that?

20 A. That was a hat I had on.

21 Q. Both of those were items that you were wearing?

22 A. Yes, ma'am.

23 Q. And did you take these pictures?

24 A. No, ma'am.

25 Q. But you have looked at them and they accurately

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 represent the way everything looked that evening?

2 A. Yes, ma'am.

3 SOLICITOR SHELTON: Your Honor, at this time State
4 would ask to move State's Exhibit Eighteen through Twenty-
5 seven and Exhibits Forty-seven and Forty-nine into
6 evidence.

7 THE COURT: Any objection?

8 MS. BURRIS: No objection, Your Honor.

9 MR. SMITH: No objection.

10 THE COURT: In without objection.

11 (WHEREUPON: STATE'S EXHIBITS EIGHTEEN THROUGH TWENTY-
12 SEVEN AND STATE'S EXHIBITS FORTY-SEVEN AND FORTY-NINE,
13 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

14 SOLICITOR SHELTON: And I would ask to publish to the
15 jury at this time.

16 THE COURT: You may.

17 Q. If we could see State's Exhibit Number Eighteen.

18 (STATE'S EXHIBIT EIGHTEEN THROUGH TWENTY-SEVEN AND
19 STATE'S EXHIBITS FORTY-SEVEN AND FORTY-NINE PUBLISHED TO
20 THE JURY/COURT AT 02:50 P.M..)

21 Q. Mr. Jordan, what is this?

22 A. Picture of the front of the shop.

23 Q. And to the side, what is - On the far side of the
24 screen where - the white door. What is that?

25 A. The bay door.

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 Q. And is that the bay door where Mr. Robinson and Mr.
2 Heath entered?

3 A. Yes, ma'am.

4 SOLICITOR SHELTON: If I could see State's Exhibit
5 Number Nineteen.

6 (STATE'S EXHIBIT NINETEEN PUBLISHED TO THE
7 JURY/COURT.)

8 Q. What is in this picture?

9 A. That's Amanda Crane coming in the bay door.

10 SOLICITOR SHELTON: State's Exhibit Number Twenty.

11 (STATES EXHIBIT TWENTY PUBLISHED TO JURY/COURT.)

12 Q. Closer up of the bay door?

13 A. Yes, ma'am.

14 SOLICITOR SHELTON: State's Exhibit Number Twenty-one.

15 (STATE'S EXHIBIT TWENTY-ONE PUBLISHED TO JURY/COURT.)

16 Q. Is that inside the bay door?

17 A. Yes, ma'am.

18 SOLICITOR SHELTON: State's Exhibit Number Twenty-two.

19 Q. What's this of?

20 A. Of the back of the shop.

21 Q. And if you were taking this picture, where would you
22 be standing?

23 A. Right in the garage area.

24 Q. Right out after you go through the bay door?

25 A. Yes, ma'am.

1 SOLICITOR SHELTON: State's Exhibit Number Twenty-
2 three.

3 Q. What's this a picture of?

4 A. Facing the garage area,

5 Q. So if you were taking the picture, you would be
6 standing on the opposite side of the bay door?

7 A. Yes, ma'am.

8 Q. State's Exhibit Number Twenty-four.

9 (STATE'S EXHIBIT TWENTY-FOUR PUBLISHED TO JURY/COURT.

10 Q. Where is this?

11 A. Picture of the bathroom.

12 Q. And did the bathroom look like this before 10:00 p.m.
13 on June 8th?

14 A. No, ma'am.

15 Q. How was it different?

16 A. It was all cleaned up and nice.

17 Q. The sink was on the wall?

18 A. Yes, ma'am.

19 Q. Were those tires in there?

20 A. No, ma'am.

21 Q. Do you call those tires or wheels?

22 A. Wheels.

23 Q. State's Exhibit Number Twenty-five.

24 (STATE'S EXHIBIT TWENTY-FIVE PUBLISHED TO JURY/COURT.)

25 Q. What's this a photo of?

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 A. Inside of the shop.

2 SOLICITOR SHELTON: State's Exhibit Number Twenty-six.

3 Q. Do you recall what this is?

4 A. A bullet hole.

5 Q. Where is that located?

6 A. In the bathroom.

7 Q. Was that there before 10:00 p.m. on June 8th of 2011?

8 A. No, ma'am.

9 SOLICITOR SHELTON: State's Exhibit Number Twenty-
10 seven.

11 Q. Do you know what this is?

12 A. It's a picture of my cell phone.

13 Q. Did you put that number 3 by it?

14 A. No, ma'am.

15 Q. But that is a picture of your cell phone?

16 A. Yes, ma'am.

17 SOLICITOR SHELTON: And State's Exhibit Number Forty-
18 seven.

19 (STATE'S EXHIBIT FORTY-SEVEN PUBLISHED TO JURY/COURT.)

20 Q. What's that?

21 A. A picture of a dew rag.

22 Q. What's a dew rag?

23 A. Like a thing you tie your hair down with.

24 Q. And whose is that?

25 A. It belongs to me.

1 Q. Were you wearing it that evening?

2 A. Yes, ma'am.

3 Q. Did you put that number beside it?

4 A. No, ma'am.

5 SOLICITOR SHELTON: And State's Exhibit Number Forty-
6 eight.

7 Q. What's that a picture of?

8 A. A black hat I had on.

9 Q. That's your hat?

10 A. Yes, ma'am.

11 Q. Where is it? Where is it when this picture was taken?

12 A. In the bathroom.

13 Q. On the floor?

14 A. Yes, ma'am. On the floor.

15 Q. Did you put that number beside it?

16 A. No, ma'am.

17 Q. Did you call 9-1-1, or the police, or how did the
18 police arrive at the store?

19 A. Actually, I walked back in and I dialed 9-1-1. I
20 dialed 9-1-1.

21 Q. And you talked to 9-1-1?

22 A. Yes, ma'am.

23 Q. And then law enforcement came?

24 A. Yes, ma'am.

25 Q. What happened after law enforcement got there?

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 A. I don't really know because I had passed out.

2 Q. Did you ever talk to law enforcement while you were
3 still at the shop?

4 A. I think I -- I might have. I don't know. I don't
5 think I did. I think I talked to them when I was on 9-1-1.
6 I did tell the officer -- yeah, I did talk to one officer
7 there, yeah.

8 Q. What makes you think you talked to an officer there?

9 A. Because I remember he was the first one got there and
10 I was like, "man I ain't going to die." He say, "Hold on.
11 I don't think you gonna die. It don't look that serious"
12 you know.

13 Q. Did you tell him what happened?

14 A. Yes, ma'am.

15 Q. Did you tell him who you thought was involved?

16 A. Yes, ma'am.

17 Q. Who did you tell him was involved?

18 A. Maquis Robinson and Yodi.

19 Q. Did you give a description of either person?

20 A. Yeah. Think I gave a description of --

21 Q. If you don't remember, just say you don't remember.
22 But if you do remember, did you give a description of
23 either one of them?

24 A. I can't recall.

25 Q. But you named Maquis Robinson as one of the suspects?

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 A. Yes, ma'am.

2 Q. Did you at any time tell them there was a third
3 suspect?

4 A. Yeah. I told them I thought it might a been a third
5 suspect and they driving the get away car.

6 Q. Did you ever see anybody else in the shop?

7 A. No, ma'am.

8 Q. Did you ever see anybody else with a gun?

9 A. No, ma'am.

10 Q. Did anyone else ever strike you?

11 A. No, ma'am.

12 Q. Did you ever actually see someone driving the car?

13 A. No, ma'am.

14 Q. Were you able to give a description of a third
15 suspect?

16 A. No, ma'am.

17 Q. Were you ever shown a lineup of a third suspect?

18 A. No, ma'am.

19 Q. Did you know a name of a third suspect?

20 A. No, ma'am.

21 Q. And you gave this information - How would you describe
22 how you were feeling and what you were thinking at the time
23 when you were talking to law enforcement?

24 A. The way I was feeling, I was just, you know, like I
25 was telling them, I was telling them to get me to the

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 hospital cause I couldn't hardly catch my breath and I
2 couldn't hardly breath. And I was still bleeding so I
3 pretty much just wanted to get to the hospital.

4 Q. And did you get to the hospital?

5 A. Yes, ma'am.

6 Q. And while at the hospital, did you meet with any
7 detectives?

8 A. Yes, ma'am.

9 Q. Did they - Meeting with the detectives at the
10 hospital, did they show you a photo lineup, photo display?

11 A. Yes, ma'am.

12 Q. Do you remember how long after the incident that you
13 were shown the first photo lineup?

14 A. Probably about - it could have probably been about
15 thirty minutes to an hour.

16 Q. But it was immediately after?

17 A. Yes, ma'am.

18 Q. Where were you at the time?

19 A. Laying in the hospital bed.

20 Q. Was anybody with you?

21 A. My wife.

22 Q. Who showed you the lineup, the display?

23 A. Detective Stokes.

24 Q. Did he tell you anything before or read anything to
25 you before showing you?

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 A. Yes, ma'am.

2 Q. What did he say to you or read to you?

3 A. He read me this paper just saying it could or could
4 not be the suspects, you know what I'm saying, in the
5 lineup.

6 Q. And at this point you had only named Maquis Robinson?

7 A. Yes, ma'am.

8 Q. How many pictures did they show to you?

9 A. Six.

10 Q. Were they shown to you one at a time?

11 A. No, ma'am.

12 Q. How were they shown to you?

13 A. In like three squares - well there was six pictures on
14 one page.

15 Q. And were they marked in any way?

16 A. No, ma'am.

17 Q. Did anybody say anything to you to tell you who to
18 pick out?

19 A. No, ma'am.

20 Q. Did your wife say anything to you?

21 A. No, ma'am.

22 Q. Did the police officers or your wife point to
23 anything, to either one of them?

24 A. No, ma'am.

25 Q. Were you provided with any information about any of

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 the photos?

2 A. No, ma'am.

3 Q. Did anybody show you a picture of Maquis Robinson
4 first and say this is Maquis Robinson; now look at this
5 lineup?

6 A. No, ma'am.

7 Q. During the time period of the assault and robbery, how
8 long did you have to look at Mr. Robinson?

9 A. Pretty much throughout the whole altercation.

10 Q. And about how long was that? And again, if you don't
11 remember, you don't remember.

12 A. I don't know. It seemed like it lasted about two
13 hours, but it was - I don't know, probably about thirty
14 minutes.

15 Q. And how close were you to him?

16 A. We was hands to hands. We was face to face really.

17 Q. Were you able to get a good look at him?

18 A. Yes, ma'am.

19 Q. How was the lights in your shop?

20 A. It was bright.

21 Q. Were you under the influence of anything?

22 A. No, ma'am.

23 Q. Drugs or alcohol at the time?

24 A. No, ma'am. I don't do no kind of drugs.

25 Q. How tall are you?

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 A. Five, six.

2 Q. How much do you weigh? How much did you weigh back
3 then?

4 A. One forty-nine.

5 Q. One forty-nine?

6 A. Yes, ma'am.

7 Q. How much do you weigh now?

8 A. One ninety-nine.

9 Q. I want to show you what's been marked for
10 identification as State's Exhibit Number Thirty-seven.

11 (WITNESS REVIEWING STATE'S EXHIBIT THIRTY-SEVEN.)

12 Q. Do you recognize that?

13 A. Yes, ma'am.

14 Q. What is it?

15 A. It's the photographic lineup Detective Stokes showed
16 to me.

17 Q. And what's that on the front of the photo lineup?

18 A. My signature.

19 Q. What did you sign there? What is that form?

20 A. Just the photo lineup he was reading to me just
21 letting me know, you know what I'm saying, he may or may
22 not be in this photograph.

23 Q. Okay. And were you able to select a picture?

24 A. Yes, ma'am.

25 Q. What made you pick that one?

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 A. As soon as I seen it, I knew who it was.

2 Q. How did you know who it was?

3 A. I had just had an altercation with him.

4 Q. And are you sure that was Maquis Robinson?

5 A. Yes, ma'am.

6 Q. Is the picture of Maquis Robinson there a fair
7 representation of what he looked like back on June 8th of
8 2011?

9 A. Yes, ma'am.

10 Q. Did law enforcement change it or alter it in any way
11 that you can see to make it - before they showed it to you?

12 A. No, ma'am.

13 Q. And how do you know that you - How do you recognize
14 that as the lineup that you were shown?

15 A. My signature.

16 Q. And what about the photo that you selected?

17 A. I circled it and initial it.

18 Q. And is that - The photo that you circled and
19 initialed, who is that?

20 A. Maquis Robinson.

21 Q. And do you see Mr. Robinson in the courtroom today?

22 A. Yes, ma'am.

23 Q. And does he look any different today than he did back
24 on June 8th of 2011?

25 A. No. Just cut his hair. Lost a little weight.

1 Q. He's lost some weight and cut his hair?

2 A. Yes, ma'am.

3 Q. And even though the person sitting in the courtroom
4 today you say has lost a little weight and cut his hair,
5 are you still completely sure that that is Maquis Robinson
6 and that is the same person who committed these crimes
7 against you on June 8th of 2011?

8 A. Yes, ma'am.

9 Q. And what is he wearing?

10 A. A purple shirt.

11 Q. And where is he sitting again?

12 A. Sitting right there.

13 Q. Sitting right where? Indicate.

14 (WITNESS INDICATED TO DEFENSE TABLE.)

15 A. Beside Twana, his lawyer.

16 Q. I'm going to show you what's been marked for
17 identification as State's Exhibit Number Thirty-nine.

18 (WITNESS REVIEWING STATE'S EXHIBIT THIRTY-NINE.)

19 Q. Do you recognize that?

20 A. Yes, ma'am.

21 Q. What is it?

22 A. Photo lineup.

23 Q. Photo lineup of who? Who is in that photo lineup
24 there?

25 A. Dantonyo Heath.

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 Q. And where were you when that lineup was shown to you?

2 A. In Bojangles's parking lot in Lancaster.

3 Q. Who showed it to you?

4 A. Officer Stokes. Detective.

5 Q. And Detective Stokes. Was anyone with you when
6 Detective Stokes showed you the lineup?

7 A. My wife.

8 Q. Did Detective Stokes have anyone with him, if you
9 remember?

10 A. No, ma'am.

11 Q. How did you know to meet Detective Stokes at
12 Bojangles's?

13 A. He had called me.

14 Q. And what did he tell you when he called you?

15 A. Asked me did I have time to meet him.

16 Q. Did he tell you why?

17 A. He told me he had a lineup he wanted me to look at.

18 Q. And then when you met with him at the Bojangles's --
19 Where, Bojangles's where?

20 A. In Lancaster.

21 Q. When he met with you there, did he show you a picture
22 of Dantonyo Heath and say this is Dantonyo Heath?

23 A. No, ma'am.

24 Q. Did he tell you that they figured out who Yodi is and
25 that's Dantonyo Heath and here he is?

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 A. No, ma'am.

2 Q. Did he do anything to influence your selection of
3 whoever you picked out of the lineup?

4 MR. SMITH: Objection. Leading.

5 A. No, ma'am.

6 THE COURT: Rephrase your question. They are leading.

7 SOLICITOR SHELTON: Yes, sir, Your Honor.

8 Q. How did Detective Stokes show you that lineup?

9 A. He just pretty much just asked me, it may or may not
10 be anybody on this paper but you know what I'm saying, I
11 just got to show you this lineup just to see if you can
12 identify anybody.

13 Q. What if anything did he do to suggest to you who was
14 in the lineup?

15 MR. SMITH: Objection. Leading.

16 THE COURT: Rephrase it.

17 BY SOLICITOR SHELTON:

18 Q. Did he suggest to you who was in the lineup?

19 A. No, ma'am.

20 Q. Did he point to anyone in the lineup?

21 A. No, ma'am.

22 MR. SMITH: Objection. Leading.

23 THE COURT: I overrule the objection.

24 BY SOLICITOR SHELTON:

25 Q. Was there any markings on the lineup suggesting ---

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 A. No, ma'am.

2 Q. --- who to select? Were you provided any information
3 about the people that were in the picture as to who they
4 were?

5 A. No, ma'am.

6 Q. Did your wife do or say anything to you to suggest who
7 you should pick?

8 A. No, ma'am.

9 Q. Did anyone say anything to you to influence your pick?

10 A. No, ma'am.

11 Q. Were you able to pick someone out out of the lineup?

12 A. Yeah, soon as I seen him.

13 Q. And who was that?

14 A. Dantonyo Heath.

15 Q. And did you do anything to indicate on that form who
16 that is?

17 A. Circle and initial it.

18 Q. And is that still your testimony that that's who you
19 picked out?

20 A. Yes, ma'am.

21 Q. Do you see Mr. Heath in the courtroom today?

22 A. Yes, ma'am.

23 Q. And where do you see him?

24 A. Sitting right there with glasses on in the blue shirt.

25 SOLICITOR SHELTON: Your Honor, let the record reflect

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 that Mr. Jordan has indicated to both Mr. Maquis Robinson
2 present in the courtroom and Dantonyo Heath present in the
3 courtroom.

4 (WITNESS INDICATED TO DEFENDANT'S MARQUIS ROBINSON AND
5 DANTONYO HEATH AT DEFENSE TABLES.)

6 Q. Thank you, Mr. Jordan.

7 A. All right.

8 SOLICITOR SHELTON: I have no further questions, Your
9 Honor.

10 THE COURT: Ms. Burris.

11 MS. BURRIS: Thank you, Your Honor. May we approach
12 real quickly?

13 THE COURT: Yes.

14 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
15 THE JURY AT 03:05 P.M..)

16 THE COURT: We'll take another about ten minute
17 refresher break.

18 (JURY EXITS COURTROOM AT 03:05 P.M..)

19 THE COURT: Mr. Jordan, you can step down and use the
20 restroom and get some water, but don't discuss the case or
21 your testimony with anybody.

22 MR. JORDAN: Okay.

23 (WITNESS LEAVING WITNESS STAND.)

24 THE COURT: We'll take a ten minute break.

25 (COURT IN RECESS AT 03:06 P.M..)

ERNEST JORDAN: BY MS. BURRIS

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1 (COURT BACK IN SESSION AT 03:18 P.M..)

2 THE COURT: Take your seats.

3 Get the defendants in.

4 (DEFENDANT'S MARQUIS ROBINSON AND DANTONYO HEATH,
5 REENTER COURTROOM.)

6 THE COURT: The defendant's are present with counsel.
7 Bring in the jury.

8 (JURY REENTERS COURTROOM AT 03:19 P.M..)

9 THE COURT: You may proceed, Ms. Burris.

10 MS. BURRIS: Thank you, Your Honor.

11 THE COURT: Oh, we need the witness. Sorry.

12 I let the witness step out to use the restroom and
13 have some water if he wanted some, so we'll get him back up
14 here.

15 (WITNESS REENTERS COURTROOM AND RETAKES THE STAND.)

16 THE COURT: Of course, he's still under oath and he
17 knows that.

18 MR. JORDAN: Yes, sir.

19 CROSS EXAMINATION

20 ERNEST JORDAN BY MS. BURRIS:

21 Q. Mr. Jordan, ---

22 A. Yes, ma'am.

23 Q. --- would you prefer me to call you Ernest or
24 Mr. Jordan? Ernest?

25 A. Just call me Mr. Jordan.

1 Q. Mr. Jordan. Okay. Now, the first question that the
2 Assistant Solicitor ask you what happened, the first
3 thing you said "robbed and kidnaped". So you sound a
4 little rehearsed. Have you actually had the opportunity to
6 meet with the Assistant Solicitor?

7 A. That's something you'll never forget.

8 Q. You've never met with her in regards to this case?

9 A. What you mean never met?

10 Q. Did you actually sit down with her in the conference
11 room of the solicitor's office?

12 A. I mean, what you --

13 Q. Let me make it clear. Did you, Mr. Jordan, sit down
14 with Assistant Solicitor, Misti Shelton, or co-counsel,
15 Ryan Newkirk, in regards to your case?

16 A. Yes, ma'am.

17 Q. And how to prepare your case?

18 A. No, ma'am.

19 Q. You didn't actually review anything?

20 A. No. We went over a couple things but not nothing to
21 prepare it. That's been over three or four months ago.

22 Q. And so you did not, you have not spoken with Ms.
23 Shelton over the last couple of days or last week in
24 regards to how you would testify?

25 A. No, ma'am.

1 Q. She did not say anything to you about how you would

ERNEST JORDAN: BY MS. BURRIS

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1 testify? .

2 A. What do you mean by how would I testify?

3 Q. What do I mean? I mean did she have a conversation
4 with you in regards to how you would testify today during
5 this trial?

6 A. Just, she say I had to take the stand.

7 Q. Right. That you had to take the stand. You had to
8 testify under oath.

9 A. Yes, ma'am.

10 Q. And she discussed the details of the case?

11 A. Yes, ma'am.

12 Q. And she told you exactly how to answer each question
13 didn't she?

14 A. No, ma'am.

15 Q. She did not try to prepare you for this trial?

16 A. No, ma'am.

17 Q. Now, one of the things that the Assistant Solicitor
18 asked you was, and I'm not sure. You indicated that, "I
19 didn't do or I don't do any drugs". Isn't it true that you
20 have a conviction for possession of crack cocaine?

21 A. Yeah, but that's a long story.

22 Q. That's a long story?

23 A. Yes, ma'am.

24 Q. But you do have a conviction for possession of crack
25 cocaine?

ERNEST JORDAN: BY MS. BURRIS

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1 A. Yes, ma'am.

2 Q. And you in fact pled guilty to possession of --

3 SOLICITOR SHELTON: Objection, Your Honor.

4 THE COURT: He's admitted it. That's where the
5 inquiry ends.

6 BY MS. BURRIS:

7 Q. Now Mr. Jordan, when the Assistant Solicitor asked you
8 just to basically describe what happened after the alleged
9 incident in which you say you saw Maquis Robinson and she
10 asked you did you call 9-1-1. Correct?

11 A. Yes, ma'am.

12 Q. And you did?

13 A. Yes, ma'am.

14 Q. Okay. And in regards to actually calling 9-1-1 she
15 asked you about the physical did you give 9-1-1 or the
16 taker of the call, the dispatcher.

17 A. Yes, ma'am.

18 Q. What happened and gave them the physical descriptions
19 and you were about to answer and then you kind of stopped.

20 A. Yes, ma'am.

21 Q. You did give the dispatcher physical descriptions
22 didn't you?

23 A. I don't know. I can't recall.

24 Q. You cannot recall?

25 A. No, ma'am.

ERNEST JORDAN: BY MS. BURRIS

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1 Q. What can you recall in regards to what you told the
2 dispatcher?

3 A. I gave them names.

4 Q. You gave them names? And what else?

5 A. I gave them a name and a nickname.

6 Q. Names and a nickname?

7 A. Yeah. And what kind of car they was driving.

8 Q. And you had the opportunity to speak to the initial
9 responding officer, and that's for Rock Hill Police
10 Department, and you told them what?

11 A. I can't recall everything I told them. That's two and
12 a half years ago.

13 THE COURT: Keep your voice level up, please.

14 A. Okay.

15 MS. BURRIS: If you could please speak up.

16 A. Yeah. I can't recall everything I said to them then
17 but that's been two and a half years ago.

18 Q. Okay. Can you remember anything you said to them?

19 A. Yeah. I just remember telling, you know, saying like
20 you all hurry up and get the ambulance here I feel like I'm
21 fixing to die.

22 Q. Okay. So you remember telling the officers that or
23 9-1-1?

24 A. The officer

25 Q. The police officer who came to the scene?

ERNEST JORDAN: BY MS. BURRIS

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1 A. I told 9-1-1 that too, plus I told the officers too
2 cause they arrived before the ambulance did.

3 Q. Okay. Now you testified earlier that the lights were
4 bright. You don't mean they were bright. You mean they
5 were actually fluorescent. Right?

6 A. Yeah, but they bright.

7 Q. Okay. So fluorescent lights that were actually in
8 your shop?

9 A. Yes, ma'am.

10 Q. Okay. Now, you testified earlier in regards to the
11 photographic lineup, that when you saw the photographic
12 lineup, when Detective Stokes actually presented it to you
13 that you picked out Maquis Robinson.

14 A. Yes, ma'am.

15 Q. Did you know any other persons that were actually
16 presented in the photographic lineup?

17 A. No, ma'am.

18 Q. Did they have all the same physical characteristics

19 ---

20 A. Yes.

21 Q. --- with - I'm sorry. Within the photographic lineup?

22 A. Yes, ma'am.

23 Q. Did they all have similar hair styles in the
24 photographic lineup?

25 A. Yes, ma'am.

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1 Q. Were they all the same complexion in the photographic
2 lineup?

3 A. Yes, ma'am.

4 Q. Did they all look somewhat similar, age, I guess
5 facial structure. Did they all look the same in the
6 physical - the photographic lineup?

7 A. Yeah. All of them had similarities. All of them.

8 Q. Well, Maquis Robinson was the only one that you
9 actually knew?

10 A. Yes, ma'am.

11 Q. Now, let's talk about - You told the initial
12 responding officer that there were three suspects.
13 Correct?

14 A. Yeah. I said think it was three suspects.

15 Q. And you testified in prior testimony that you believed
16 that there was a third car parked up on a hill of a
17 location that was a couple of doors down from your
18 location. Right?

19 A. A third car?

20 Q. Or a car. The get away car.

21 A. Yes, ma'am.

22 Q. Okay. And you are testifying here under oath that the
23 title loan place was not actually right beside your
24 building or the shop?

25 A. Yeah. It's a pay day loan store next door and then

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1 like right - the next parking lot is the title loan.

2 Q. Okay. So it is your testimony that there was a car
3 parked at the title loan place and you thought a third
4 person may have been in there?

5 A. Yeah.

6 Q. Okay. Now, you had the opportunity to write a
7 statement for the Rock Hill Police Department didn't you?

8 A. Yes, ma'am.

9 Q. And you indicated that Maquis Robinson, or you just
10 said "Maquis, I been with you since day one when you
11 started painting these cars and you could have looked out
12 for me" --

13 MADAME COURT REPORTER: I'm sorry, Ms. Burris. You've
14 going so fast I can't - I'm sorry.

15 MS. BURRIS: I apologize.

16 THE COURT: And also, don't turn your back to
17 everyone.

18 MS. BURRIS: Yes, sir. Thank you.

19 Q. You in your statement indicated that - now, let me
20 just make sure I'm clear. You didn't actually hand write a
21 statement for the Rock Hill Police Department did you?

22 A. No, ma'am.

23 Q. So the Rock Hill Police Department, who was it who
24 actually interviewed you?

25 A. I believe it was - I think it was Detective Stokes.

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1 Q. Detective Stokes?

2 A. Yes, ma'am.

3 Q. So Detective Stokes actually typed up the statement.
4 Not you. Right?

5 A. Yes, ma'am.

6 Q. Okay. And did you - you didn't - Did you actually
7 read over the statement?

8 A. Yes, ma'am.

9 Q. Okay. In detail?

10 A. Yes, ma'am.

11 Q. And you signed it?

12 A. Yes, ma'am.

13 Q. Now according to the statement, you indicate that
14 Maquis Robinson said something about he ask you to borrow
15 Eight Hundred Dollars for the truck.

16 A. Yeah. He did come in about - maybe about three weeks
17 before that happened and asked me could he borrow Eight
18 Hundred Dollars, give him a title loan on his truck. I
19 said, "I don't loan people money." You know what I'm
20 saying, "the title loan next door, I'll call over there and
21 tell them you work over here they might give you one. I
22 know the people over there next door."

23 Q. Okay. Let's talk a little bit about the money. And
24 you said that Maquis Robinson would have come basically
25 asking you for money. And in your statement you indicate

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1 that you told Maquis Robinson you're about to kill me over
2 some BS?

3 A. Yeah.

4 Q. What BS were you talking about, money?

5 A. I reckon. I mean, to me it felt like it was a
6 jealousy thing like because when they come in they didn't
7 ask for no money. Pretty much just say go to the bathroom.
8 I think if it wasn't for Yodi I think it probably would
9 have been over.

10 Q. Let's talk about the money and let me make sure I'm
11 clear. You think that Maquis Robinson actually came - and
12 was jealous, jealous of you because of some money? A money
13 situation?

14 A. Naw, I just think it was more jealousy because once I
15 hired Jared to start painting, I pretty much, you know what
16 I'm saying, he was around there helping but once I pretty
17 much got Jared, I pretty much didn't need him no more.

18 Q. Okay. So he was actually around there. Was he
19 helping you? He was working?

20 A. No. If he was actually around there, you know what
21 I'm saying, like a car come in if I - cause we had just
22 started painting cars probably about maybe about five
23 months before that, and when he come in, you know what I'm
24 saying, cars come in, he'd come up there. I'm like "Man,
25 sand this car down for me. I'll give you a couple dollars"

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1 you know.

2 Q. Yow long had he actually, Maquis Robinson actually
3 been working for you?

4 A. He ain't been working for me. He just come up there
5 and help out.

6 Q. So he would come up there and help out. So you would
7 pay him. Right?

8 A. Yeah. I would look out for him.

9 Q. You'd look out for him. So that means you actually
10 paid him money. Right?

11 A. Yeah.

12 Q. Okay. Right. So the money - About how much money do
13 you think that you've actually paid Maquis Robinson --

14 A. Like he'd go back there and help me sand a car down,
15 help me sand a car down or something after hours, I'd give
16 him a hundred dollars.

17 Q. A hundred dollars. And he helped you sand about how
18 many cars now?

19 A. Well he probably helped with about five.

20 Q. About five.

21 A. Yeah.

22 Q. Okay. So you're saying that Maquis Robinson, you've
23 given him about a total of about Five Hundred total?

24 A. Yes, ma'am.

25 Q. Okay. And he worked for you for how long?

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1 A. He didn't work for me. He just used to hang around
2 the shop.

3 Q. You gave him Five Hundred Dollars over what period of
4 time?

5 A. Like, we had just started painting cars so pretty much
6 he was hanging around. He still used to just come up there
7 and hang around. Like I used to let him work on his own
8 car when he come up there.

9 Q. Okay. And that was over what period of time? Answer
10 the question.

11 A. About over a five period - a five month period.

12 Q. Five months?

13 A. Yeah.

14 Q. So he only got a Hundred Dollars a month from you?

15 A. Naw, I mean, I used to let him work on his car for
16 free.

17 Q. So --

18 A. I even put rims on his car. You know what I'm saying,
19 just let him make me payments on it and never got paid for.

20 Q. Okay. So, he got Five Hundred Dollars from you and
21 you placed rims on his car?

22 A. Yes, ma'am.

23 Q. Do you have a rim business right now?

24 A. No, ma'am.

25 Q. Okay. Let's talk a little about that. You talk about

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1 the value of the rims.

2 A. Yes, ma'am.

3 Q. And you said these rims are not cheap. Right?

4 A. No, they ain't.

5 Q. Pretty expensive rims aren't they?

6 A. Yes, ma'am.

7 Q. But you had said that you bargained what, more than
8 Five Hundred Dollars with him because the rims - What kind
9 of rims did you actually give him to put on his car?

10 A. A set of 26 inch red sports 33.

11 Q. Give me the average cost of 26 inch - those rims.

12 A. About Twenty-one Hundred.

13 Q. Twenty-one hundred?

14 A. Yes, ma'am.

15 Q. Okay. In regards to the jealousy thing and the
16 monies, you testified that the Asanti wheels, is that what
17 you call it?

18 A. Yes, ma'am.

19 Q. Okay. Now, you said they cost about how much?

20 A. They cost about - let me see, it was a set of 24's
21 instead of 26's. It was about - On both sets of wheels
22 about Fourteen Thousand.

23 Q. They're Fourteen Thousand for two?

24 A. Yes, ma'am.

25 Q. Okay. And you had just, according to your previous

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1 testimony, you had just sold some Asanti wheels. Correct?

2 A. Yes, ma'am.

3 Q. Okay. And a set of two. Correct?

4 A. Yes, ma'am.

5 Q. Okay. So you are talking about Fourteen Thousand
6 Dollars. Right?

7 A. Yeah. Well, Seven Thousand Dollar deposit.

8 Q. Seven thousand dollar deposit. So you had to special
9 order them?

10 A. Yes, ma'am.

11 Q. Okay. So someone had actually come in and they gave
12 you Seven Thousand Dollars and --

13 A. No, they didn't give me Seven Thousand Dollars. It
14 was actually two people.

15 Q. I'm sorry?

16 A. Actually they was home boys. Actually it was two
17 peoples that came in. I gave them a deal because they got
18 two together.

19 Q. They got two together. So you sold a set of Fourteen
20 Thousand Dollar rims for - I guess they put a deposit down
21 of Thirty-five Hundred ---

22 A. Yes, ma'am.

23 Q. --- a piece? So actually you were willing to lose
24 money on the Asanti wheels?

25 A. No. I wasn't losing money. I mean, I really wasn't

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1 making that much but I still was making something.

2 Q. How were you able to make it when you had to special
3 order them? And not only did you have to special order
4 them, but you indicated that when you special ordered them
5 that they're Fourteen Thousand Dollars for two, but yet you
6 were giving your home boys a discount so they actually came
7 in and paid half, which would have been Thirty-five
8 Hundred, but yet you were still making money?

9 A. Yes, ma'am.

10 Q. Really?

11 A. Yes, ma'am.

12 Q. Okay. Do you have another way to do the math?

13 A. What do you mean?

14 Q. Let me just strike that question.

15 Now, if I came up there and told you that I wanted
16 rims for my Ford 150, 26 inch rims, what's the average cost
17 of them?

18 A. About twenty-one hundred.

19 Q. And you would say for 20 inch rims, tires and
20 installation, about what?

21 A. Twenty-one hundred plus tax.

22 Q. For 32 inch rims, tires and installation, how much?

23 A. Thirty-two.

24 SOLICITOR SHELTON: I'm going to objection to
25 relevance.

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1 THE COURT: Well, it's cross examination, but I hope
2 this is going somewhere.

3 MS. BURRIS: Yes, sir, Your Honor. Thank you.

4 A. You say 32's?

5 Q. Yes, sir.

6 A. About Ninety-five Hundred.

7 Q. About Ninety-five Hundred?

8 A. Yes, ma'am.

9 Q. And one of the most expensive sets of rims is
10 Ford G Auto?

11 A. Yes, ma'am.

12 Q. And they range from?

13 A. They go all the way to like Twenty Thousand Dollars
14 for a set of wheels.

15 Q. So they're not Five to Seven Thousand?

16 A. I mean, you might start at about Five.

17 Q. So they go from five --

18 A. Yeah, you can go all the way up to Twenty Thousand
19 Dollars for a set of wheels.

20 Q. It depends on what, the size?

21 A. The size. I mean, they stagger wheels so it depends
22 on whether you going two piece or three piece wheels.

23 Q. And you don't keep them in stock. You just have to
24 order them?

25 A. No, I have to order that.

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1 Q. Now, Mr. Jordan --

2 A. Yes, ma'am.

3 Q. Now, you indicated you have a rim business.

4 A. Yes, ma'am.

5 Q. You've been in this rim business for how long?

6 A. Twelve years now.

7 Q. Twelve years you've been selling rims.

8 A. Yes, ma'am.

9 Q. Right?

10 A. Yes, ma'am.

11 Q. You also did landscaping before didn't you?

12 A. Yes, ma'am.

13 Q. And during the time that you were doing landscaping,
14 were you also selling rims?

15 A. No, ma'am.

16 Q. You were not?

17 A. No, ma'am.

18 Q. Now, isn't it true that in regards to your rim shop,
19 you used to have a business where you have persons go --

20 SOLICITOR SHELTON: Objection, Your Honor. Can we
21 approach?

22 THE COURT: Let's let the jury go in the jury room for
23 just a minute and we'll take this up outside the jury's
24 presence.

25 (JURY EXITS COURTROOM AT 03:39 P.M..)

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1 THE COURT: Ms. Burris, this is cross examination and
2 I'm giving you some leeway but I have to know kind of where
3 the relevancy is ---

4 MS. BURRIS: Yes, sir.

5 THE COURT: --- in all of this.

6 MS. BURRIS: I was just going to ask him on the prior
7 convictions in which you ruled that I could bring in, just
8 the possession of stolen goods.

9 THE COURT: Well, but I told you before in regard to
10 the other one, all you can do is ask him. Once he admits
11 it, that ends the inquiry. You can't --

12 MS. BURRIS: Yes, sir, Your Honor. Okay. I'll just
13 ask him in regards and that's what --

14 THE COURT: I think he has already admitted it.

15 SOLICITOR SHELTON: He's been asked and he's admitted
16 it and --

17 THE COURT: Well, I'll let her ask again, didn't you
18 admit that you did this, but once he says I admit it, then
19 that ends it.

20 MS. BURRIS: Yes, sir. That wasn't that charge. That
21 was another charge.

22 THE COURT: I thought it was receiving stolen goods.

23 SOLICITOR SHELTON: I asked him to both on direct. I
24 ask him on direct.

25 THE COURT: Well, regardless you can ask him. You can

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1 ask him again had he got a conviction for receiving stolen
2 goods in whatever year it was.

3 MS. BURRIS: Thank you, Your Honor.

4 THE COURT: Then that's it. The inquiry ends then.

5 MS. BURRIS: Okay. Yes, sir.

6 SOLICITOR SHELTON: My concern, Your Honor, is the
7 way that she is asking it, she is leading in - she is
8 asking about I think alleging facts that were eluded to in
9 that case that involved his rim shop and that's where those
10 questions were going and I would say that that's
11 objectionable. She just needs to ask if he was convicted
12 and if he says, that ends the talk about that situation.

13 THE COURT: I don't know where it was going. Where
14 was it going because I'd like to know?

15 MS. BURRIS: Your Honor, I was just going to ask him
16 in regards to, he has two charges which involves crimes of
17 dishonesty, receiving stolen goods and also possession of
18 stolen goods. And one of them actually doesn't involve his
19 rim shop. It involves --

20 THE COURT: I know but what are you asking all about
21 the price of these tires and that tires and these tires and
22 that tires, doing the math and all that? What has that got
23 to do with --

24 MS. BURRIS: Sure.

25 THE COURT: He got convicted and he said it. If he

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1 hadn't already said it, you can ask him about it and
2 that's where it stops.

3 MS. BURRIS: Your Honor, in regards to the direct
4 examination as to the monies that Mr. Jordan had on him as
5 to where he got the monies from, so since it was asked on
6 direct, I would like to be able to ask him that on cross,
7 you know, in regards to the monies and the amounts because
8 he has testified two different things. One minute he says
9 seven thousand; the next minute he says ten thousand.

10 THE COURT: Yeah, but you can stick to that.

11 MS. BURRIS: Okay.

12 THE COURT: I mean, you're going back to all kinds of
13 stuff that - I mean, you've got folders there with tires
14 prices I guess and I don't - I mean you're well prepared,
15 there's no question about that, but I just don't see that
16 as an issue in this case.

17 Now what happens on that day is but the price of tires
18 or wheels or hubs or whatever they are at other times and
19 what he did for his home boys and that sort of thing, I
20 just don't follow it.

21 MS. BURRIS: Okay, Your Honor. I'm get past that but
22 again, I think we ruled that the crime of dishonesty is up.
23 I'll just ask him about those two, which is the possession
24 so he doesn't receive the stolen goods.

25 SOLICITOR SHELTON: The possession was from 1998.

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1 MS. BURRIS: It's still a crime of dishonesty.

2 THE COURT: I'd say possession - I'll allow her to ask
3 about that because I don't think there's any time limit on
4 dishonesty.

5 SOLICITOR SHELTON: Your Honor, I do think the rule
6 still has a time limit on that.

7 THE COURT: Let me see, 609. It says "evidence for a
8 conviction under this rule is not admissible when a period
9 of more than ten years has elapsed since the date of the
10 conviction or the release from confinement. Unless the
11 court determines that an injustice of approbative value of
12 the conviction supported by specific facts and
13 circumstances substantially outweighs the prejudicial
14 effect. And it's not admissible unless you've given ten
15 days notice to the adverse party by written notice of
16 intent to use that evidence.

17 Did you do that?

18 MS. BURRIS: Your Honor, it is evident that any
19 witness who has been convicted of a crime shall be admitted
20 if it involved dishonesty or false statement regardless of
21 the punishment, so that's under 609(a)(2).

22 SOLICITOR SHELTON: I think your book is from --

23 THE COURT: Okay, but then it's looking at B. B has
24 the time limit.

25 MS. BURRIS: 2013.

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1 THE COURT: Well look under - What ever book, I don't
2 now. Rule 609(b).

3 MS. BURRIS: We would have to actually conduct a
4 balancing test. Your Honor, I'll just ask him about the
5 receiving stolen goods which is actually within the ten
6 year time frame.

7 THE COURT: He's already admitted that but that's
8 fine, I'll let you ask it again. Are we through with tires
9 for a while?

10 MS. BURRIS: Yes, sir.

11 THE COURT: Okay. All right.

12 Bring in the jury.

13 Don't get me wrong. You can still ask him about the
14 money he had that night and how it ties in and that's fair
15 game.

16 MS. BURRIS: Right. Thank you, Your Honor.

17 (JURY REENTERS COURTROOM AT 03:45 P.M..)

18 THE COURT: You may proceed.

19 MS. BURRIS: Thank you, Your Honor.

20 CROSS EXAMINATION

21 ERNEST JORDAN BY MS. BURRIS:

22 Q. Now, Mr. Jordan, isn't it true that you plead guilty
23 to receiving stolen goods in 2009?

24 A. Yes, ma'am.

25 Q. And the value was Five Thousand Dollars or more?

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1 A. Yes, ma'am.

2 Q. All right. Let's talk about your statement. In
3 regards to the statement that you actually wrote for
4 Detective Stokes two days after the alleged incident.

5 A. Yes, ma'am.

6 Q. Okay. You were where? Where were you? Up at the
7 police department or where?

8 A. I think I had to meet with him at the police
9 department.

10 Q. You went up to Rock Hill Police Department?

11 A. Yes, ma'am.

12 Q. Okay. And you told Detective Stokes that the gun had
13 fallen and you kept trying to pull Maquis Robinson, you
14 just said him, out of the bathroom?

15 A. Yes, ma'am.

16 Q. And you also told Detective Stokes that we wrestle
17 over the gun, you, broke the clip and the bullets fell out.

18 A. Yes, ma'am.

19 Q. So you were able during - You all were where during
20 this particular time in your shop?

21 A. In the bathroom.

22 Q. In the bathroom?

23 A. Yes, ma'am.

24 Q. And you were able to hit the gun and it fell out, the
25 clip fell out?

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1 A. No, ma'am. Actually once he put the gun to my head, I
2 reached for it. I grabbed it and it went off and I was
3 like "Damn, you done shot me" and I had the gun, I had his
4 wrist right there.

5 (WITNESS DEMONSTRATED.)

6 A. And while I had his wrist right there, he wrapped his
7 other arm around my neck. I took this hand ---

8 (WITNESS INDICATED.)

9 A. --- and broke the bottom of the clip off the gun and
10 the spring popped out and all the bullets fell out and
11 while he had the gun in his hand I was trying to bring it
12 back around and it went off again.

13 Q. That's not what you told Detective Stokes, though
14 right?

15 A. Yeah, that's what I told him.

16 Q. And you read your statement?

17 A. No, not since then.

18 Q. You haven't read the statement since ---

19 A. No.

20 Q. --- June?

21 A. No, ma'am.

22 Q. During one period of time that you were actually in
23 the bathroom ---

24 A. Yes, ma'am.

25 Q. --- you were holding this person's hand. Right?

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1 A. Yes, ma'am.

2 Q. Okay. And then you told Detective Stokes finally I
3 think he ran out of gas and I said, "now look I got about
4 Ten Thousand Dollars in my truck, just let me live".

5 A. Yes, ma'am.

6 Q. And the person that you allege to be Maquis Robinson,
7 he didn't ask you about the money but according to your
8 previous testimony, Dantonyo Heath, the person you are
9 claiming to be Dantonyo Heath, asked you about the money.
10 Right?

11 A. Yes, ma'am.

12 Q. Okay. So --

13 A. He didn't ask me for the money. He just said let's
14 get this money and go.

15 Q. Okay. So Dantonyo Heath said, let's get this money?

16 A. Yes, ma'am.

17 Q. Okay. And your testimony is not Maquis Robinson?

18 A. It's both of 'em.

19 Q. But the voice of Dantonyo Heath said let's get this
20 money?

21 A. Yes, ma'am.

22 Q. Okay. And is there any reason why you told them that,
23 "look I got about ten thousand dollars in my truck" any
24 reason why you told them that just right off the bat?

25 A. Because I felt like that was the only way I was gonna

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1 to live. You know, when you got a gun to your head you'll
2 do anything to get a person out the way and I was just
3 trying to get them out the shop.

4 Q. They'd not asked you for any specific type of money or
5 amount of money had they?

6 A. No, but it was only - my money was right there in my
7 console. It was all together so that's why I told them.

8 Q. Was it in your console in an envelope or was it
9 actually in your console just lying out there?

10 A. Just laying out there.

11 Q. So it was loose?

12 A. Yes, ma'am.

13 Q. And you just - You placed Ten Thousand Dollars in your
14 - the center console of your car just lying loose?

15 A. Yes, ma'am.

16 Q. You do? Do you do that often?

17 A. No, I don't do that often. But I mean I had money on
18 me.

19 Q. Ten Thousand Dollars?

20 A. No. I don't keep no Ten Thousand Dollars on me but,
21 you know, that's just what I made.

22 Q. That's what you made?

23 A. Yes, ma'am. Plus the - that Seven Thousand Dollars
24 for that - I had put that deposit down on them wheels and
25 plus the money I already had in my pocket.

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1 Q. Okay. So you had Seven plus Three Thousand Dollars?

2 A. Yes, ma'am. It might have been a little over.

3 Q. So you may have had Seven plus Three plus a little
4 more maybe?

5 A. Could have been, yeah.

6 Q. Could a been. Go ahead.

7 A. It could have been more cause I had about Three or
8 Four Hundred in my pocket.

9 Q. So it could have been over Ten Thousand Dollars ---

10 A. Yes, ma'am.

11 Q. --- that you actually had in the center console?

12 A. Yes, ma'am.

13 Q. Now, you remember testifying under oath previously.
14 Right?

15 A. Yes, ma'am.

16 Q. And the question was asked, "did you normally keep
17 your truck locked"? And you said "yes, sir.."

18 A. Yes, ma'am.

19 Q. Next question was "how much cash did you have in your
20 truck that evening"? And you said "Seven Thousand."

21 A. Yes, ma'am.

22 Q. And the question was asked, "Seven thousand in cash?"
23 And you said, "yes, sir."

24 A. I don't remember that comment. I don't remember
25 exactly how much I said in the official statement but I

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1 know how much I had in there.

2 Q. Okay.

3 MS. BURRIS: Your Honor, may I approach the witness.

4 THE COURT: Yes.

5 MS. BURRIS: Thank you.

6 Q. If you could please start where Line 6, I'm reflecting
7 your previous testimony, Page 2.

8 THE COURT: Keep your voice up so the people can hear
9 you.

10 Q. And starting at - from Line 6 to the next page down to
11 and the next page down to --

12 SOLICITOR SHELTON: Your Honor, I'm going to objection
13 to her just having him read from something without laying
14 any kind of foundation for it.

15 THE COURT: Well, you've got to lay a better
16 foundation.

17 MS. BURRIS: Okay. Sure. Okay.

18 Q. Do you remember testifying in a previous --

19 THE COURT: A previous time.

20 Q. Time?

21 A. Yes, ma'am.

22 Q. Okay. And you were actually on the stand and you had
23 taken the stand and you raised your hand to tell the truth
24 and nothing but the truth so help you God.

25 A. Yes, ma'am.

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1 Q. Okay. And you were questioned by I assume the
2 Assistant Solicitor in regards to the facts of this case
3 and what happened?

4 A. Yes, ma'am.

5 Q. And as a result of being questioned on the stand, you
6 answered those questions truthfully?

7 A. Yes, ma'am.

8 Q. Okay.

9 MS. BURRIS: Your Honor, may I approach now?

10 Q. And so if you could please read --

11 SOLICITOR SHELTON: Your Honor, she still hasn't --

12 THE COURT: This is not a question for him to read.
13 It's whether or not his answer at that time is inconsistent
14 with his answer today. Just point out where - If that's
15 what it's being used for, you ask him just point out what
16 his testimony was and where's the difference.

17 MS. BURRIS: Okay.

18 Q. And you testified today that you may have had Seven
19 Thousand plus Three Thousand plus maybe Four or Five
20 Hundred Dollars, so it may have been over Ten Thousand
21 Dollars just lying in your car, vehicle, in the center
22 console. Right?

23 A. No. I told you I had Three or Four Hundred in my
24 pocket.

25 Q. Right.

ERNEST JORDAN: BY MS. BURRIS

300

1 A. That's what they took out as they went out the bay
2 door.

3 Q. Okay. So you had Three to Four Hundred Dollars in
4 your pocket and you are alleging that somebody took that
5 money additionally when going out of the back door?

6 A. Yes, ma'am.

7 Q. But it was your testimony - prior testimony that it
8 was Seven Thousand Dollars in cash. and today your
9 testimony, it was about Ten Thousand Dollars in cash?

10 A. It was.

11 Q. It was what?

12 A. I told her about Seven to Ten but it was Ten.

13 Q. It was Ten Thousand?

14 A. Yes, ma'am.

15 Q. So you agree that your testimony is inconsistent
16 today?

17 A. I mean, from the record of what I said the last time,
18 I said it was between Seven to Ten Thousand.

19 Q. Okay. You said Seven - you testified as to Seven to
20 Ten thousand?

21 A. Yes, ma'am.

22 Q. So you're alleging that the prior testimony under
23 oath, the transcript is wrong?

24 A. Yeah. I mean if you read the police report I even --

25 Q. Just answer the question, please, Mr. Jordan.

ERNEST JORDAN: BY MS. BURRIS

301

1 A. Yes, ma'am.

2 Q. Okay. So you're alleging that this transcript is
3 wrong. Okay.

4 Mr. Jordan, do you remember the question being asked
5 as to that's how much money you had made that day and your
6 answer was two days before that?

7 A. Yes, ma'am.

8 Q. And you remember being asked the question "what kind
9 of job pays seven thousand dollars?" And you said "I sell
10 rims and tires. I mean, I can sell one set of rims that
11 could cost Ten Thousand." And then the question was "and
12 those people pay you cash"? and you said, "yes, sir. Some
13 people don't. Some people run their cards up. A lot of
14 people run their credit card." Right?

15 A. Yes, ma'am.

16 Q. And you remember testifying that whoever paid you that
17 Seven - The question, I apologize. The question asked was
18 "whoever paid you that Seven Thousand didn't pay with a
19 credit card?" And your answer was, "no, sir."

20 A. Yes, ma'am.

21 Q. Okay. And then the question was asked "was that from
22 one job or several jobs, do you remember?" And you said
23 "that was from one job." Right?

24 A. Yes, ma'am.

25 Q. And then they further went and asked in prior

ERNEST JORDAN: BY MS. BURRIS

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1 testimony "had you reported that to the IRS" and you said,
2 "yes." Correct?

3 A. Yes, ma'am. No, I hadn't tell them I had reported
4 nothing to the IRS.

5 Q. You did not tell them that?

6 A. No, ma'am.

7 Q. And you remember giving your testimony?

8 A. Yes, ma'am.

9 Q. All right.

10 (ATTORNEY BURRIS REVIEWING PRIOR TESTIMONY WITH
11 WITNESS.)

12 SOLICITOR SHELTON: Again, Your Honor, I'm going to
13 objection to him just reading from something without the
14 foundation being laid as to what he is reading from.

15 THE COURT: Well, I haven't heard the question yet, so
16 I can't enter an objection until the question.

17 BY MS. BURRIS:

18 Q. And you remember giving that prior testimony?

19 A. Yes, ma'am. I don't remember about the dollar amount
20 that I gave the last time.

21 MS. BURRIS: The question that I asked him, Your
22 Honor, was that - The first question I asked him was
23 whether or not he had ---

24 THE COURT: Well ask him.

25 MS. BURRIS: I apologize.

ERNEST JORDAN: BY MS. BURRIS

303

1 Q. Okay. So you remember giving your testimony in
2 regards to having Seven Thousand Dollars loose in the
3 center console during a prior time?

4 A. Seven to Ten thousand.

5 Q. You said Seven to Tten and not Seven Thousand?

6 A. No, ma'am. Like if you'd read the police report you
7 can see it was mostly --

8 Q. Let me - Let me, let me continue.

9 MS. BURRIS: Your Honor, the transcript is actually
10 inconsistent to the witness' answer.

11 THE COURT: That's what you can talk to the jury about
12 later. You've asked him.

13 Q. So Mr. Jordan, when the person asked you had you
14 reported that money to the IRS, you said, yes, sir. Right?

15 A. No, ma'am.

16 Q. You did not say, yes, sir?

17 A. No, ma'am. I don't remember that.

18 Q. You don't remember?

19 A. No.

20 Q. And one of the questions - Strike that.

21 Now, you do remember giving testimony prior. Right?

22 A. Yes, ma'am.

23 Q. But according to what I just read from the transcript,
24 of course, which is recorded testimony, your answer today
25 is that you didn't say this?

ERNEST JORDAN: BY MS. BURRIS

304

1 A. I mean I didn't say nothing about - I said Seven to
2 Ten thousand and if you read the initial police report,
3 it's in there.

4 Q. Mr. Jordan, I'll get to that.

5 THE COURT: Let's move on. I think we've got the
6 picture.

7 MS. BURRIS: Yes

8 Q. During what you believe to have been, as has been
9 previously stated a scuffle or a fight, you asked who you
10 believed to be Maquis Robinson "Man, help me up. Help me
11 up, man".

12 A. Yes, ma'am.

13 Q. That was according to your statement that you shared
14 with Detective Stokes?

15 A. Yes, ma'am.

16 Q. And isn't it true that who you believe to be Maquis
17 Robinson, that person helped you up. Right?

18 A. Yes, ma'am.

19 Q. In fact, you were given some lemonade during this
20 scuffle. Right?

21 A. Yeah because I couldn't catch my breath and I asked at
22 the time Yodi to - "Man, give me something to drink, give
23 me something to drink. I can't breath. I can't breath."

24 Q. And Yodi gave you something to drink?

25 A. He hesitated but he did.

ERNEST JORDAN: BY MS. BURRIS

305

1 Q. Now, it was your previous testimony that this money,
2 whatever amount it was, was actually lying loose in the
3 console. Right?

4 A. It wasn't laying loose. I mean, it had a band around
5 it.

6 Q. It had a band around it. So just basically the money
7 in the console had a rubber band?

8 A. Yes, ma'am.

9 Q. Okay. And the statement that you actually wrote for
10 the police, Detective Stokes, you said that you reached in
11 your car and gave, you just said "him, the envelope".

12 A. Yeah. Well it was the money.

13 Q. So was the - okay. So --

14 A. Basically what he said, "give me your keys." I said,
15 "Man I ain't giving you my keys. I'll unlock the door
16 myself." And when I reached in, they was on top of me and
17 I just handed them the money.

18 Q. Was it in an envelope or loose?

19 A. I think it was - I don't - I can't recall but I think
20 it was loose. I think it just had a band around it.

21 Q. You would agree that at some point while who you
22 believed to be Maquis Robinson and Yodi, at some point you
23 and who you believed to be Maquis Robinson actually had
24 their arm around you and you had your arm around him?

25 A. Yes, ma'am. Trying to hold myself up I was so weak.

ERNEST JORDAN: BY MS. BURRIS

306

1 Q. But there was not at that time nobody had actually
2 placed a gun at your head. You were just holding yourself
3 up on that person?

4 A. Yeah.

5 Q. Yes?

6 A. Not until we get outside and they put the gun - I
7 mean, at that point in time I actually was just holding
8 myself up till we walked to the car. And then after we got
9 out there, he actually pulled the gun back out. Once we
10 got from around where Amanda was, he pulled the gun back
11 out, told me don't try nothing.

12 Q. Okay. So when you got outside they pulled the gun
13 back out?

14 A. Yes, ma'am.

15 Q. Okay. And according to what you say, there wouldn't
16 have been any bullets in that gun though. Right?

17 A. Yeah. He put a bullet back in the chamber in the
18 bathroom. After they tied Jared --

19 Q. So they took --

20 A. Yeah. After they tied Jared up and I told them about
21 the money, they actually put a bullet, they actually pulled
22 the hammer back on the gun and dropped a bullet in the
23 head.

24 Q. So they had time to do all that?

25 A. Yeah.

ERNEST JORDAN: BY MS. BURRIS

307

1 Q. With you? While dealing with you - I'm sorry - and
2 with Jared?

3 A. Ain't nothing more I could do. I was out of breath.
4 I mean my main objective was just to get to the hospital.

5 Q. Okay. Is it your testimony that the person that
6 you're alleging as Maquis Robinson was primarily dealing
7 with you?

8 A. Yes, ma'am.

9 Q. And the person that Yodi, Yodi was dealing with Jared
10 Crane?

11 A. Yes, because Jared was coming - That's just because
12 Jared was coming in and he caught Jared from the blind
13 side.

14 Q. So Yodi caught Jared from the blind side?

15 A. Yeah.

16 Q. So primarily you're alleging that the person you
17 believe to be Maquis Robinson was just primarily dealing
18 with you. Correct?

19 A. Yes, ma'am.

20 Q. Okay. Now you wrote in your statement that you gave
21 to Detective Stokes, you said "he". You didn't indicate
22 who he was, you said "he asked me, man are we good? Are we
23 good?" And I said, "yeah we good." And he said "Man, you
24 better not call the police" and you keep saying, "we're
25 good. We're good."

ERNEST JORDAN: BY MS. BURRIS

308

1 A. Yeah.

2 Q. That's what you told the police?

3 A. Yes, ma'am.

4 Q. And then you also indicated you went back in and
5 grabbed the phone and called 9-1-1?

6 A. Yes, ma'am.

7 Q. Now, you testified at previous testimony that when
8 asked about him taking you to the bathroom, you testified
9 that, under oath, that he took you to the bathroom. He
10 said, "go in the bathroom". I said, "Man I ain't going in
11 no bathroom. You think I'm gonna to let you kill me in the
12 bathroom."

13 A. Exactly.

14 Q. You at one point thought you had been shot but isn't
15 it true that you had not actually been shot?

16 A. I don't - I mean, I don't know. That's what they say.
17 You know what I'm saying.

18 Q. They who?

19 A. At the hospital.

20 Q. The hospital said you'd been shot?

21 A. No. I mean, they say, you know what I'm saying, like
22 it been like a laceration.

23 Q. Laceration.

24 A. But the only thing I remember the gun going off and
25 I'm bleeding.

ERNEST JORDAN: BY MS. BURRIS

309

1 Q. Right. Okay. So you remember the gun going off but
2 you would have known if you had been shot in your face or
3 your head. Right? You would have known that?

4 A. I mean, if you get grazed how you going know? If a
5 bullet graze you, it ain't gonna to do nothing but pierce
6 the skin.

7 Q. Okay. Well how did your face feel?

8 A. It was burning.

9 Q. It was burning?

10 A. Yes, ma'am.

11 Q. Okay. But you indicated it was a laceration. Right?

12 A. No. To this day I still think I got shot.

13 Q. At the time that you and Maquis Robinson was actually
14 in the bathroom, Yodi and Jared Crane was off somewhere in
15 another room?

16 A. They was right there in the little - like the
17 bathroom is back here, and then the room right here, well
18 the room right here in the back and you just go out to the
19 bathroom. Like while we in the bathroom, well it actually
20 took a minute. I reckon Jared - They didn't actually start
21 getting - I reckon they didn't actually start out fighting
22 till he heard the gun shots.

23 Q. Okay. So you mean Yodi and Jared Crane ---

24 A. Yes, ma'am.

25 Q. --- did not actually start fighting at all until they

ERNEST JORDAN: BY MS. BURRIS

310

1 heard --

2 A. Yeah. I reckon when Jared heard the gun shots, I
3 reckon that when he started walked towards us to see what
4 was going on.

5 Q. Okay. That's when Jared actually went towards Yodi to
6 see what was going on?

7 A. No. He was actually coming towards the bathroom.

8 Q. Okay.

9 A. And Yodi I think, he must have been ducked down behind
10 the car.

11 Q. And that's when Yodi came up and grabbed Jared Crane?

12 A. Yes, ma'am.

13 Q. Okay. While you were in the bathroom?

14 A. Yes, ma'am.

15 Q. Is there a wall, I'm sure there's a door because it's
16 a rest room.

17 A. It's a door yes, ma'am.

18 Q. Yes. Okay. So you have a bathroom. You have a door.

19 And so they were on the outside of that door?

20 A. Yes, ma'am.

21 Q. Were they also on the outside of that brick wall?

22 A. No, ma'am.

23 Q. Okay. Just outside of the door?

24 A. Yes, ma'am.

25 Q. Okay. And you couldn't really see them. Right?

ERNEST JORDAN: BY MS. BURRIS

311

1 A. Not until we got out of the bathroom.

2 Q. Not until you came out of the bathroom. Right?

3 A. Yes, ma'am.

4 Q. And your testimony is you've known Mr. Robinson how
5 long?

6 A. About four to five years.

7 Q. And you remember testifying previously that you said
8 when asked the question as to Mr. Robinson "how long have
9 you known him" and you said "five to seven years."

10 Correct?

11 A. Yes, ma'am.

12 Q. And you met him how?

13 A. Through my wife's brother.

14 Q. Now you testified earlier that he was coming to the
15 shop how often?

16 A. Pretty much every other day at least. Just pretty
17 much every other day he'd stop in.

18 Q. So it's your testimony that you had a laceration on
19 your face. Right?

20 A. Yes, ma'am.

21 Q. Okay. And a couple of scars on your - According to
22 your previous testimony, a couple of scars - I apologize -
23 scars on your chest and arm?

24 A. Yes, ma'am.

25 Q. Now, you described in your previous testimony, at a

ERNEST JORDAN: BY MS. BURRIS

312

1 prior time, when you were asked about the bathroom and how
2 the sink gets to be down, you're testimony was that we were
3 tussling.

4 A. Yes, ma'am.

5 Q. Then you also testified that when he was in there
6 tussling, he was choking me and I was running him against
7 the sink and stuff, trying to probably get a loose?

8 A. Yes, ma'am.

9 Q. At any time during this incident - Now I understand
10 that in regards to your shop,---

11 A. Yes, ma'am.

12 Q. --- Five Customs - Is it called Five Customs?

13 A. Five Star Customs.

14 Q. Five Star Customs.

15 A. Yes, ma'am.

16 Q. There's a bay door that you can come through. Right?

17 A. Yes, ma'am.

18 Q. Okay. And then there's like a main area there?

19 A. Yes, ma'am.

20 Q. Okay. And then there's a bay area?

21 A. Yes, ma'am.

22 Q. Okay. It's your testimony that when you and who you
23 believe to have been Maquis Robinson were in either the
24 main area or the bay area, Jared and Dantonyo Heath were
25 off somewhere or close by but not where you were?

ERNEST JORDAN: BY MS. BURRIS

313

1 A. Yeah. When we was in the bathroom and they was in the
2 main - the main little shop area. The bathroom is in the
3 shop area.

4 Q. Do you have a lot of traffic coming to your shop
5 after ten o'clock?

6 A. No, ma'am. I mean, probably after six or seven we
7 ain't got no traffic.

8 Q. This is not the first time something like this has
9 happened is it?

10 A. Yes, it's the first time.

11 Q. Now, law enforcement actually took a picture of your
12 cell phone.

13 A. Yes, ma'am.

14 Q. Okay. And took your phone. Right?

15 A. Yes, ma'am.

16 Q. And they actually downloaded your text messages.
17 Right?

18 A. I don't know. I ain't see none of it.

19 Q. You haven't seen your text messages that they
20 downloaded?

21 A. No, ma'am.

22 Q. Now, you would be familiar with your own content of
23 your own phone. What type of phone did you have?

24 A. A Boost mobile.

25 Q. You had a Boost mobile. Model, do you remember the

ERNEST JORDAN: BY MS. BURRIS

314

1 model?

2 A. No, ma'am.

3 Q. Was it Sanyo?

4 A. I don't remember what the model was.

5 Q. What was your phone number?

6 A. -1693.

7 Q. -1693?

8 A. Yes, ma'am.

9 Q. User code 1693?

10 A. Say what now?

11 Q. You're user code, 1693?

12 A. Not sure.

13 Q. Not sure. Okay. Now, the State actually showed you -
14 State's Exhibit Twenty-seven they actually showed you and
15 admitted into evidence with the marker on it three. Is
16 that your phone?

17 A. Yes, ma'am.

18 Q. And you remember what was actually on that phone.

19 Right?

20 A. You said what was on it?

21 Q. Yes, sir. As in what was in your phone, your own
22 phone. Your cell phone.

23 A. Back then no. That's been two and a half years ago.

24 I can't tell you what was in that phone by now.

25 Q. It wouldn't surprise if I said there were pictures of

ERNEST JORDAN: BY MS. BURRIS

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1 cars. Right? In the phone.

2 A. Yeah, it probably was pictures of cars cause I take
3 pictures of all the cars we do.

4 Q. It wouldn't surprise you if I told you there were
5 pictures of rims?

6 A. No, ma'am.

7 Q. And it wouldn't surprise you if I told you that -
8 pictures of yourself?

9 A. No, ma'am.

10 Q. And it wouldn't surprise you that if I told you that
11 you have pictures displaying lots of money?

12 A. No, ma'am.

13 Q. You and Jared talked, you and Jared Crane actually
14 talked after this incident didn't you?

15 A. Yes, ma'am. He was still working for me

16 Q. No, no. I mean, like, I'm sorry, on the date of the
17 incident. Like when it first happened.

18 A. No, because I picked - I mean, I talked to him, you
19 know what I'm saying, when he left the hospital - I mean,
20 when we was at the hospital.

21 Q. Okay. So you and Jared Crane did not actually talk
22 while the two of you were there at your shop?

23 A. At the shop. What do you mean?

24 Q. I'm sorry. Let me make my questions clear. After
25 this alleged incident, these two or three persons are gone.

1 Right?

2 A. Yeah.

3 Q. And you were there at your shop. Right?

4 A. Yeah.

5 Q. Okay. And you were in which area, the bay area, the
6 main area, outside?

7 A. In the front lobby, or in the front area.

8 Q. Okay. So you were in the front area?

9 A. Yeah.

10 Q. Okay. And Jared Crane was?

11 A. He had threw his wife in the ceiling and then he fell
12 through the ceiling and then he came - When I sat down he
13 come running back in there. He was like, "you alright?
14 You alright?" And pretty much I just pretty much told him,
15 "Man if I die tell my kids I love him." He was like "Man
16 you ain't going to die. You ain't going to die."

17 Q. And you all talked about the case and what happened?

18 A. No.

19 Q. You all didn't talk about the case and what happened?

20 A. What do you mean the case?

21 Q. You guys didn't actually just discuss what had just
22 happened?

23 A. No. I mean, I was out of it. I wasn't worried about
24 the case then. I was just trying to get to the hospital.

25 Q. So you didn't discuss what had just happened?

ERNEST JORDAN: BY MS. BURRIS

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1 A. We both knew what had just happened. We had just got
2 robbed.

3 Q. You told Jared Crane who you thought had actually
4 robbed you. Right?

5 A. No. Jared already knew who had robbed us. Only thing
6 he kept saying "I can't believe Maquis did that".

7 Q. And he knew Maquis by name?

8 A. Yeah.

9 Q. And he spent about how much time with Maquis?

10 A. He had been working there about two months and Maquis
11 was coming to the shop. You know, he - you know what I'm
12 saying. He was pretty much - I mean he was pretty much
13 trying to get through to learn him how to paint.

14 Q. In your previous testimony you said, "when he grabbed
15 me around my neck I just kind of ran him up against the
16 wall and everything" and the person asked you - I apologize
17 - In the prior testimony was asked, "so you were fighting"
18 and you said "yes, ma'am."

19 A. Yes, ma'am.

20 Q. And you also told him that "I'm not shutting the
21 door," right, of the bathroom?

22 A. Yeah.

23 Q. And you have a truck?

24 A. Yes, ma'am.

25 Q. You have what type of truck?

ERNEST JORDAN: BY MS. BURRIS

318

1 A. Excursion.

2 Q. Excursion?

3 A. Yes, ma'am.

4 Q. Okay. And in regards to the lineup that Detective
5 Stokes showed you while you were actually at Piedmont
6 Medical Center, that would be State's Exhibit Thirty-seven,
7 Court's Exhibit Two, Detective Stokes showed you this
8 lineup and he told you what?

9 A. He just pretty much read the front of the paper and
10 just told me --

11 THE COURT: Keep your voice up.

12 A. He just pretty much read the front of that paper and
13 just, you know saying, told me if I don't see nobody in
14 there don't pick out nobody that I don't know. But as soon
15 as he handed me the paper I just circled and initialed.

16 Q. So he told you if you don't know anyone in the
17 photographic lineup that you know then don't pick anyone
18 out?

19 A. No. If you don't know any of these suspects that did
20 the crime, don't pick none of them out, you know.

21 Q. Okay. And you didn't know any of these persons that
22 are actually in the photographic lineup except you did know
23 Maquis Robinson?

24 A. No, I mean, he done been in the shop. This guy here.
25 You know what I say, I know him.

ERNEST JORDAN: BY MS. BURRIS

319

1 Q. Okay. And so the photograph that's actually under, in
2 Court Exhibit Number Two, State's Exhibit Thirty-seven, the
3 photograph that is actually under Maquis Robinson's photo,
4 you've seen that guy. He's actually been to the rim shop?

5 A. Yes, ma'am.

6 Q. And you've had previous dealings with him?

7 A. No, ma'am.

8 Q. Well, how do you know he came to the rim shop?

9 A. I mean, he never been in the shop. We put rims on his
10 car. I mean, once you see someone's face you don't forget
11 it.

12 Q. Now typically when a person actually comes to inquire
13 about rims, they talk about the type of rims they want on
14 their car. They talk about the wheels. They talk about
15 the installation and the cost, of course. Right?

16 A. Yes, ma'am.

17 Q. Okay. And so this person would have had more than one
18 dealing or encounter with you because nobody comes to the
19 rim shop to talk about wheels, talk about the rims and the
20 size rims they need and just buy them right off. Right?
21 And you never see them again?

22 A. Many people do that.

23 Q. Really?

24 A. Yes, ma'am.

25 Q. And it is your testimony that the person whose

1 photograph is actually under Maquis Robinson, he came one
2 time and you never saw him again?

3 A. Yeah, I done saw him somewhere else. Yeah. I mean,
4 plenty people done come in the shop and I don't see them no
5 more.

6 Q. Right. So you sold him some wheels?

7 A. Yes, ma'am.

8 Q. He came in one time?

9 A. Yes, ma'am. I mean, I ain't at the shop everyday so I
10 can't say if he came back in there since then or not. I
11 mean, I ain't at the shop every day. I ain't there. I got
12 other people who work for me.

13 Q. Right, but it's your testimony that he came in one
14 time and during that particular time, you sold him some
15 wheels and you never saw him again?

16 A. Yes, ma'am. But I mean this after the case. This
17 ain't got nothing - this after the case, you know.

18 Q. How much longer after the case did this person come
19 in?

20 A. This could have been almost - about a year ago.

21 Q. So you're saying he came in a year ago one time to buy
22 some --

23 A. I'm just saying that I done seen the guy. I done seen
24 the guy on the photo. He done been in the shop.

25 Q. Right.

ERNEST JORDAN: BY MS. BURRIS

321

1 A. But he ain't got nothing to do with this case.

2 Q. You see somebody one time and you remember them?

3 A. Yeah. I seen you one time and I remember you.

4 Q. Well, I'm a frequent flyer around here. So but
5 showing you this photographic lineup, you saw the guy whose
6 picture is actually under Maquis Robinson ---

7 A. Yes, ma'am.

8 Q. --- one time and you remember him?

9 A. Yes, ma'am.

10 Q. And you remember his name? How much money did he
11 spend with you?

12 A. I don't remember all that. I can't tell you how much
13 money he spent with me.

14 Q. He bought some wheels from you though. Right?

15 A. Yeah, but I can't tell you how much money he spent
16 with me though.

17 Q. And his name is?

18 A. I don't - I mean, I don't know everybody's name.

19 Q. While at the hospital when you got there you were
20 checked into a room?

21 A. Yes, ma'am.

22 Q. And the nurse gave you some medication or something to
23 alleviate the pain?

24 A. No, ma'am.

25 Q. She didn't give you anything or he didn't give you

ERNEST JORDAN: BY MS. BURRIS

322

1 anything?

2 A. No, ma'am.

3 Q. Now, you testified in previous testimony that Maquis
4 Robinson owed you Twenty-four Hundred Dollars?

5 A. Yes, ma'am.

6 SOLICITOR SHELTON: Objection, Your Honor. Can we
7 approach?

8 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
9 THE JURY AT 04:27 P.M..)

10 BY MS. BURRIS:

11 Q. Now, you testified earlier that you and Maquis
12 Robinson had previous dealings in regards to some rims.

13 Right?

14 A. Yes, ma'am.

15 Q. And you had testified that he owed you money. Right?

16 A. Yes, ma'am.

17 Q. Okay. Now, you also remember - you testified - How
18 much money did he actually owe you?

19 A. I don't remember exactly how much it was but I know we
20 had put some 26's on his car and I was letting him make me
21 payments on it but I never did get it.

22 Q. But he did actually give you Eighteen Hundred Dollars.
23 Right?

24 A. Yes, ma'am.

25 Q. According to your testimony he only owed you Six

ERNEST JORDAN: BY MS. BURRIS

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1 Hundred. Right?

2 A. I don't recall.

3 Q. You remember testifying during a previous time.
4 Right?

5 A. Yes, ma'am.

6 Q. And the question was asked is "how much money did he
7 owe you." Right?

8 A. Yes, ma'am.

9 Q. And you testified "the rims was Twenty-four Hundred
10 Dollars and he gave me eighteen" so he owed you Six Hundred
11 Dollars and you said, "yes, sir."

12 A. Yes, ma'am.

13 THE COURT: That's just what he testified to, isn't
14 it?

15 SOLICITOR SHELTON: Yes, sir.

16 MS. BURRIS: Well he didn't know. He said he didn't
17 know.

18 Q. Now, Mr. Jordan, you testified a few minutes ago in
19 regards to that Maquis Robinson fought you over a piece of
20 - I think there was a piece of glass involved in the
21 bathroom?

22 A. Yes, ma'am.

23 Q. Okay. And it was a broken piece of glass?

24 A. Actually like when I was running him up against the
25 bathroom wall the mirror broke. The mirror broke and while

ERNEST JORDAN: BY MS. BURRIS

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1 he was on my back I was trying to grab it and I was about
2 out of breath so he ended up grabbing it somehow. By the
3 time I caught that second we ended up rolling over some
4 kind of way and he actually tried to come down. He was
5 actually trying to come down at me but I was just holdin
6 his hand and telling him, "you ain't going to kill me in
7 this bathroom."

8 Q. And you would say that you all were tussling pretty
9 hard. Right?

10 A. Yes, ma'am.

11 Q. Okay. And not at any time do you remember this person
12 bleeding at all?

13 A. No, ma'am. I mean, I was the one bleeding.

14 Q. No cuts or scratches from this person?

15 A. Oh, I don't know.

16 Q. Now you mentioned when asked on direct examination
17 from the Assistant Solicitor when asked whether or not you
18 were scared, you said a "little bit". Right?

19 A. Yeah. Yeah I was scared.

20 Q. Your testimony was that you were only scared a little
21 bit. Yes?

22 A. I was scared for my life.

23 Q. You never had to stay overnight at the hospital did
24 you?

25 A. No, ma'am.

ERNEST JORDAN: BY MS. BURRIS

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1 Q. You were out within how many hours?

2 A. I think I stayed there after they stitched my face up
3 probably about four or five hours.

4 Q. About four to five hours. Never given any medication?

5 A. No, ma'am.

6 Q. And you had definitely testified that when you were
7 actually there in the hospital bed on State's Exhibit
8 Twelve, eyes were closed on State's Exhibit Twelve?

9 A. Yes, ma'am.

10 Q. You were tired. Tired?

11 A. Yeah, I was tired.

12 Q. Pretty much out of it. Right?

13 A. Yeah.

14 Q. Okay. Sort of dazed. Not doing a lot talking.
15 Right?

16 A. I mean, I wasn't dazed or nothin. I was alert.

17 Q. Who you believed to be Maquis Robinson never left out
18 of the bathroom with you to go fight with Jared did he?

19 A. No, ma'am.

20 Q. Okay. Thank you.

21 When you testified earlier when the Assistant
22 Solicitor asked you on direct that the officer said that it
23 didn't look that serious. What was the officer referring
24 to?

25 A. I don't know. I mean, you know what I'm saying, when

ERNEST JORDAN: BY MS. BURRIS

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1 I told him I felt like I was fixing to die, you know he
2 looked at my face, he said I don't think no bullet there.
3 It don't look like there no bullet there so it don't look
4 that serious.

5 Q. You're a pretty strong guy. Right?

6 A. I think so.

7 Q. Pretty good body strength. Right?

8 A. Yes, ma'am.

9 Q. In fact, body strength strong enough to have pushed
10 your alleged offender back against the wall. Right?

11 A. Yeah. I mean, he was choking me so yeah, I mean I had
12 enough strength to push him back and forth, you know what
13 I'm saying. If I wouldn't have, I probably wouldn't be
14 here now.

15 Q. And you had enough strength to be able to take the gun
16 and pull the clip out. Right?

17 A. Yes, ma'am.

18 Q. Even as you were tussling with your alleged offender.
19 Right?

20 A. Yes, ma'am.

21 Q. At no time did you ever feel like you were confined in
22 a room and couldn't get out because you had enough body
23 strength to fight didn't you?

24 A. Yeah. I mean, at one point in time I did felt like
25 that. I mean, once I fell on my stomach yeah I did feel

ERNEST JORDAN: BY MS. BURRIS

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1 like that.

2 Q. When did you fall on your stomach?

3 A. As he was choking me.

4 Q. Where was that?

5 A. Pretty much once we run up against the bathroom but we
6 fell and I was trying to grab the glass and pretty much my
7 circulation had cut off but pretty much like something must
8 have gave me a second wind and that's when I pretty much
9 rolled up on my stomach.

10 Q. So you felt like you just couldn't move?

11 A. I couldn't. I mean, there was something that gave me
12 a second wind. I don't know what it was, you know, when he
13 was saying go to sleep, it was something. I reckon it was
14 the Lord.. I mean, it was something, you know, that gave me
15 a second wind.

16 Q. You weren't tied up or anything. Right?

17 A. No, ma'am.

18 Q. This was during the time period in which you allege
19 that you were tussling with this person?

20 A. Yes, ma'am.

21 Q. And you'd seen Yodi how many times?

22 A. About like four or five times.

23 Q. Four or five times. Do you know Yodi?

24 A. No, ma'am. I know him by coming to the shop with
25 Maquis. He be coming up there talking to Maquis. That's

ERNEST JORDAN: BY MS. BURRIS

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1 how I met him.

2 Q. You never told the police that before did you?

3 A. Yeah I told them that.

4 Q. When?

5 A. At the initial thing. I told them it was Yodi.

6 Q. Did you ever tell them that Yodi was coming to --

7 A. I mean, he never been up there but about four or five
8 times. Yeah I told them that. We had suppose to have put
9 some rims on his car, on that Cadillac.

10 Q. Did Yodi ever actually come up there with Maquis
11 Robinson?

12 A. Yeah.

13 Q. And you told the police that?

14 A. Oh, I don't know. I mean, I think I did. I don't
15 know.

16 Q. When do you think you told the police that?

17 A. I don't know. I was asked some many questions I can't
18 recall. I don't know.

19 Q. You mean the night it happened?

20 A. After it happened too. You know, I gave my statement
21 but I can't recall everything I told them.

22 Q. Well you should know whether or not he's ever actually
23 been to your shop with Maquis Robinson.

24 A. Yeah. He done been up there to the shop.

25 Q. Now, in regards to - Mr. Jordan, in regards to -

ERNEST JORDAN: BY MS. BURRIS

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1 You've indicated that you were being choked by this person.
2 Right?

3 A. Yes, ma'am.

4 Q. What kind of bar was it?

5 A. It was long.

6 Q. A long bar.

7 A. You talking about -- I mean, that's a separate -- I
8 mean, he got that crow bar, that crow bar that's what he
9 tried to pry on my neck but in the meantime when we was in
10 the bathroom he had his arm wrapped around my neck.

11 Q. Okay. So --

12 A. I mean, it went on for a minute.

13 Q. Where did the crow bar come from?

14 A. Off the shop floor.

15 Q. Off the shop floor?

16 A. Yeah.

17 Q. And the police collected that into evidence?

18 A. Yes, ma'am.

19 Q. They did?

20 A. I think so. I ain't sure. I ain't sure.

21 Q. Okay.

22 A. I ain't sure if they --

23 Q. They actually came to the scene on the night of the
24 alleged incident which was June 8, 2011, and they were able
25 to take pictures of the scene?

ERNEST JORDAN: BY MS. BURRIS

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1 A. Yes, ma'am.

2 Q. And the crow bar would have actually been left in the

3 --

4 A. I reckon in the shop area. I mean, I don't know. I
5 had went to the hospital.

6 Q. In the shop area. So, but the crow bar and you and
7 who you believe to be Maquis Robinson, you all were in the
8 bathroom?

9 A. Yes, ma'am.

10 Q. Okay.

11 A. I mean, we came out the bathroom too, you know.

12 Q. In the bathroom with the crow bar?

13 A. Yes, ma'am.

14 Q. And then came out of the bathroom with the crow bar
15 left in the bathroom?

16 A. No. The crow bar would have been in the shop area.

17 Q. It would have been in the main shop area.

18 A. And then once we came out the shop area, when he was
19 still on my back choking me, and I was trying to run him up
20 against the tires and stuff, and when I hit the floor, when
21 I hit the floor that's actually -- you know I was about out
22 of it and for some reason that's when I grabbed the glass
23 and he was trying to come down, trying to come down on my
24 neck, and I was holding it, but he knocked the glass
25 though, I was trying to grab the crow bar when he was

ERNEST JORDAN: BY MS. BURRIS

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1 trying to press down on my neck with it once he got it he
2 was trying to press down with it.

3 Q. Was there any time that you were able to actually get
4 control of the gun?

5 A. No, ma'am.

6 Q. Do you know anything about anyone taking any money
7 from Jared Crane?

8 A. Yeah. They went in his pocket once they got rid of
9 me. They went in his pocket.

10 Q. Where were you guys at?

11 A. In the back back there by the bathroom.

12 Q. In the back near the bathroom?

13 A. Yeah. Right before I got ready to go out.

14 Q. Right before you got ready to go out where?

15 A. Out the bay door.

16 Q. Out the back door; not the bay door?

17 A. Yeah, the bay door.

18 Q. Okay. Right before --

19 A. They took me to the car.

20 Q. Okay. So right before you, and who you believe to be
21 Maquis Robinson, and the other person, and Jared Crane, you
22 guys were there at the bay door. Right?

23 A. Yes, ma'am. Right before they got ready to tie him
24 up.

25 Q. Right before they got ready to tie up?

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1 A. Jared.

2 Q. You mean as in Yodi got ready to tie up Jared Crane.

3 Correct?

4 A. Yeah. Dantonyo Heath.

5 Q. Okay. You answered - let me make sure I answered this
6 question ---- you mean as in Yodi or Dantonyo Heath got
7 ready to tie Jared Crane up. Right?

8 A. Well, Maquis the one told Yodi to tie him up.

9 Q. Okay. So all four of them were at the bay door - all
10 four of you were at the bay door. Right?

11 A. No. We was back there towards the bathroom.

12 Q. Okay. So you were at the bathroom?

13 A. Yeah.

14 Q. Towards the bathroom?

15 A. Yes, ma'am.

16 Q. And you said there was money taken out of Jared
17 Crane's pocket?

18 A. Yes, ma'am.

19 Q. And the money was taken out of Jared Crane's pocket
20 by?

21 A. Dantonyo Heath.

22 Q. Dantonyo Heath, okay. Do you know how much money it
23 was?

24 A. No, ma'am.

25 Q. Now, I'm going to show you what's been previously --

ERNEST JORDAN: BY MS. BURRIS

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1 As we're waiting for this video to play, we talked a
2 little bit about just, you know, your strength and you
3 hitting the gun.

4 A. Yes, ma'am.

5 Q. And it's your testimony that when he tried to shut
6 the door I hit the gun - you hit the gun and it went off.

7 A. As he trying to shut the door, as he tried to shut
8 the door I reached for the gun ---

9 Q. You reach for the gun?

10 A. --- and the gun goes off. Yeah.

11 Q. And it went off?

12 A. Yes, ma'am.

13 Q. Now let's talk a little bit about this video. Let's
14 pause it right here.

15 THE COURT: Can all the jurors see?

16 MS. BURRIS: I apologize.

17 (VIDEO PUBLISHED TO THE JURY/COURT.)

18 Q. Can you see that video, Mr. Jordan?

19 A. Yes, ma'am.

20 MS. BURRIS: Okay, can you back it up a little bit.

21 Thank you. Okay, pause it right there.

22 Q. So at that time, Mr. Jordan, where are you?

23 A. Right there at the bay door.

24 Q. So you're at the bay door?

25 A. Yes, ma'am.

1 Q. And beside you is who you believe to be?

2 A. Maquis Robinson.

3 Q. Maquis Robinson. And walking here with this shirt on,
4 I guess this dark colored shirt, you believe to be?

5 A. Dantonyo.

6 Q. Okay. So at some point - at some point there was you
7 and who you believed to be Robinson and Dantonyo standing
8 there together?

9 A. Yes, ma'am.

10 Q. They never tried to attack you? Right there.

11 A. No, ma'am. They're actually fixin to walk me out to
12 the car now.

13 Q. About to walk you out to the car.

14 A. Yes, ma'am.

15 Q. Okay. Did you ever pull out - pull out anything out
16 of your pocket?

17 A. Yeah. I pulled out my money.

18 Q. Your money?

19 A. The money I had in my pocket.

20 Q. Okay. And where was Jared during this time?

21 A. In the bathroom tied up.

22 Q. So at this time you, and who you believe to be
23 Robinson and Yodi, you're outside in the dark?

24 A. Yeah. Pretty much they said walk out the door, we'll
25 play it cool, you know.

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1 MS. BURRIS: Thank you.

2 SOLICITOR SHELTON: Your Honor, for the record that
3 was State's Exhibit Number Seven.

4 THE COURT: Thank you.

5 SOLICITOR SHELTON: And I'm about to show State's
6 Exhibit Number Eight.

7 THE COURT: Okay.

8 (STATE'S EXHIBIT EIGHT PUBLISHED TO THE JURY/COURT.)

9 (PAUSE.)

10 THE COURT: Ms. Burris.

11 MS. BURRIS: Yes, sir.

12 (PAUSE.)

13 MS. BURRIS: Okay. Stop it right there please.

14 Q. All right. So at this time you, and who you believe
15 to be Mr., Robinson, basically you're placing your arm
16 around this person. Right?

17 A. Trying to hold myself up.

18 Q. Trying to hold yourself up. And this person looked
19 like also has their arm basically around you?

20 A. Yes, ma'am.

21 Q. Okay.

22 (STATE'S EXHIBIT EIGHT CONTINUED TO BE PUBLISHED TO
23 THE JURY/COURT.)

24 MS. BURRIS: Stop it right there.

25 Q. Now it looks like on this particular picture

ERNEST JORDAN: BY MS. BURRIS

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1 that you, and who you believe to be Mr. Robinson, looks
2 like on this picture there was a conversation going on.
3 Right?

4 A. No, ma'am.

5 Q. No conversation?

6 A. Actually he was telling me to move my arm.

7 Q. So this person was basically saying move your arm,
8 man, move your arm.

9 A. Yeah.

10 Q. Okay. And you were saying?

11 A. I was telling him to hold me up.

12 Q. Hold you up?

13 A. I told him I was going to pass out.

14 (STATE'S EXHIBIT EIGHT CONTINUED TO BE PUBLISHED TO
15 THE JURY/COURT.)

16 MS. BURRIS: Stop right there.

17 Q. And then you actually go to try to put your arm back
18 around him?

19 A. Yes, ma'am.

20 Q. Okay. And during this particular time, there is no
21 gun displayed.

22 A. No. By that time he done, I mean, he put the gun in
23 his pocket.

24 Q. The gun was actually in the pocket?

25 A. Yeah.

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1 Q. Now you mentioned -- I had asked you previously -- I
2 just have a couple more questions and I'll be done. You
3 were previously asked -- We were talking about a gun. Did
4 you, Mr. Jordan, ever have a gun in your possession?

5 A. No, ma'am. I actually had my hand up around his --

6 Q. You had your hand around the gun?

7 A. Yeah. I had my hand on this end, on this end and then
8 I broke the clip of the gun and I was trying to bring it
9 back around and it just went off.

10 Q. Okay. So you had your hand on the gun and then you
11 took your other hand and broke the clip out?

12 A. Yes, ma'am.

13 Q. And that was in the bathroom?

14 A. Yes, ma'am.

15 MS. BURRIS: At this time I have no further questions.
16 Thank you.

17 THE COURT: Mr. Smith.

18 MR. SMITH: Thank you, Your Honor. May it please the
19 court.

20 SOLICITOR SHELTON: Your Honor, I hate to drag it out
21 by he's been on the stand --

22 THE COURT: We'll go take another break. We'll take
23 about a ten minute break and have a refresher break.

24 (JURY EXITS COURTROOM AT 04:55 P.M..)

25 THE COURT: We'll take about a ten minute refresher

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1 break. The witness can step down.

2 MS. BURRIS: Your Honor, may my client use the rest
3 room as well?

4 THE COURT: Yeah, we'll do that.

5 MS. BURRIS: Thank you.

6 (DEFENDANT'S EXIT COURTROOM.)

7 (COURT IN RECESS AT 04:55 P.M..)

8 (COURT BACK IN SESSION AT 05:11 P.M..)

9 THE COURT: Thank you. Take your seats.

10 And we'll get the defendant's in.

11 (DEFENDANT'S MARQUIS ROBINSON AND DANTONYO HEATH,
12 REENTER COURTROOM.)

13 THE COURT: Everybody is where they should be so bring
14 in the jury.

15 (JURY REENTERS COURTROOM AT 05:13 P.M..)

16 THE COURT: All right, Mr. Smith.

17 MR. SMITH: Thank you, Your Honor. May it please the
18 court.

19 CROSS EXAMINATION

20 ERNEST JORDAN BY MR. SMITH:

21 Q. Mr. Jordan, the business, Five Star Customs, it's now
22 moved; is that right?

23 A. Yes, sir.

24 Q. So it's across Cherry Road sort of near the same
25 location but across the street?

ERNEST JORDAN: BY MR. SMITH

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1 A. Yes, sir.

2 Q. All right. But the videos and all that we've seen
3 are obviously as it existed back in June of 2010; is that
4 right?

5 A. Yes, sir.

6 Q. The - You said that when your attention was first
7 brought to something going on and you saw someone coming
8 towards you and I believe someone ducked down behind a
9 vehicle; is that right?

10 A. Yes, sir.

11 Q. And did you indicate that, that at that point you
12 immediately knew that to be the person you had heard called
13 Yodi?

14 A. Yes, sir.

15 Q. Okay. And at some point you were discussing what went
16 on in the bathroom, and I may have gotten it wrong, but did
17 you say a gun went off on two separate occasions?

18 A. Yes, sir.

19 Q. Okay. And once you believe is when you were shot in
20 the face?

21 A. Yes, sir.

22 Q. And where did the bullet go or what was the gun aimed
23 at the second time it went off?

24 A. Actually when I grabbed his hand and broke the clip, I
25 was actually trying to bring it back around and it just

ERNEST JORDAN: BY MR. SMITH

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1 went off.

2 Q. Okay. But it was in the bathroom somewhere as well?

3 A. Yes, sir.

4 Q. The whole time that this went on, you only saw one
5 gun; is that right?

6 A. Yes, sir.

7 Q. And who was in possession of that gun the whole time?

8 A. Maquis Robinson.

9 Q. Now, you talked about some monies being in your car.

10 A. Yes, sir.

11 Q. And you said that they left with the money or they
12 took the money. Specifically who took that money?

13 A. Well, both of them were standing there and when I
14 opened the door and opened the console, Maquis got on me
15 and he is the one that actually grabbed the money.

16 Q. And you also talked about a couple lineups that you
17 had been shown. I believe that's State's Exhibit Number
18 Thirty-seven and Number Thirty-nine; is that right?

19 A. Yes, sir.

20 Q. Okay. And you were shown both those by Detective
21 Stokes; is that correct?

22 A. Yes, sir.

23 Q. The first one I believe is Number THirty-seven, is the
24 one which contains Mr. Robinson's photo?

25 A. Yes, sir.

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1 Q. And you were shown that one at the hospital; is that
2 right?

3 A. Yes, sir.

4 Q. And you talked about the first form on there or the
5 cover sheet, that first page; is that right?

6 A. Yes, sir.

7 Q. And you indicated that Detective Stokes read that
8 whole sheet to you before he showed you that form?

9 A. Yes, sir.

10 Q. Okay. And then you initialed that ---

11 A. Yes, sir.

12 Q. --- lineup on the picture side; is that right?

13 A. Yes, sir.

14 Q. And then the second lineup that you were shown, I
15 believe at a Bojangles parking lot.

16 A. Yes, sir.

17 Q. Is there an attached cover sheet with it?

18 A. No, sir.

19 Q. Were you shown a cover sheet with that lineup?

20 A. No. He just advised me of -He just read it off to me
21 and just told me, you know, if I see anybody on there, you
22 know, that I can make a positive I.D., just circle and
23 initial..

24 Q. Do you remember testifying earlier today that you
25 thought he did show you the sheet but you just didn't sign

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1 it?

2 A. Yes, sir.

3 Q. Okay. So did something change over the break that
4 made you testify differently now?

5 A. No, sir.

6 Q. Okay. So do you think he did show you a sheet or he
7 didn't show you a sheet?

8 A. Yeah. I think he read me the sheet.

9 Q. Okay. The second time he did?

10 A. Yes, sir.

11 Q. And the first time you were read the sheet, you
12 actually signed and initialed it?

13 A. Yes, sir.

14 Q. And he signed it as well?

15 A. Yes, sir.

16 Q. But there is no signed copy of the sheet with the
17 second lineup; is that right?

18 A. No, sir.

19 Q. Now, the person who was wearing the bandana over their
20 face.

21 A. Yes, sir.

22 Q. They never hit you; is that right?

23 A. No, sir.

24 Q. And they never pointed a gun at you; is that right?

25 A. No, sir.

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1 Q. All right. Do you know the color of the bandana?

2 A. Yeah. It was black.

3 Q. Okay. Are you sure it was black?

4 A. Yeah.

5 Q. Do you remember testifying earlier and you said it was
6 blue or black?

7 A. Yes, sir.

8 Q. Has something changed since you testified earlier that
9 makes you more confident now with the color?

10 A. Yeah because I know it was blue. I meant, black
11 bandana. Black with like little white dots on it.

12 Q. Okay. So what made you not able to know the color
13 back when you testified before but able to know the color
14 today?

15 A. I'm in a better mind frame.

16 Q. Okay. Now, when the video was being shown to you by
17 Ms. Burris, at one point you came walking and it appeared
18 that you had a cup in your hand; is that right?

19 A. Yes, sir.

20 Q. Where did that cup come from?

21 A. I had went to Wendy's earlier that day and I had a
22 sweet tea and actually Dantonyo, after I told him I
23 couldn't breath, I was like man, give me something to
24 drink. I can't breath. And actually he hesitated for a
25 minute but he got it.

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BY SOLICITOR SHELTON

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1 Q. Okay. So the man in the bandana actually went and got
2 your drink for you and handed it to you; is that right?

3 A. Yes, sir.

4 Q. And I believe you said that he - well, obviously he
5 helped you out in getting you that; is that right?

6 A. Yes, sir.

7 Q. And you mentioned another time when he helped you out
8 in the bathroom. You said if it wasn't for him, you
9 thought it would be over; is that correct?

10 A. Yes, sir.

11 Q. All right. And what did he do to help you then?

12 A. He pretty much just saying, "man let's get this money
13 and go. Let's get this money and go."

14 Q. So you believe he stopped some violence that was going
15 to occur to you?

16 A. Yes, sir.

17 MR. SMITH: No further questions.

18 THE COURT: Redirect?

19 SOLICITOR SHELTON: Just very briefly, Your Honor.

20 REDIRECT EXAMINATION

21 ERNEST JORDAN BY SOLICITOR SHELTON:

22 Q. When Ms. Burris had you watch the video and showed you
23 walking with your arm around Mr. Robinson and she said you
24 all were having a conversation.

25 A. Yes, ma'am.

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 Q. What did you say he was saying to you?

2 A. Telling me to move my arm.

3 Q. And right after he said that to you, what did he
4 immediately do next?

5 A. Pushed my arm down.

6 Q. So he wasn't really helping you out?

7 A. No, ma'am.

8 Q. But why did you keep putting your arm around him?

9 A. Trying to hold myself up.

10 Q. You weren't doing it because you all are such good
11 friends?

12 A. No, ma'am.

13 Q. Why did you need to hold yourself up?

14 A. Because I was out of breath.

15 Q. Why were you out of breath?

16 A. Being choked.

17 Q. Who choked you?

18 A. Maquis Robinson.

19 Q. Where were you going with him?

20 A. To the car.

21 Q. Why were you going to the car?

22 A. Because I told him I had some money in the truck.

23 Q. Were you willingly going there?

24 A. No, ma'am.

25 Q. What was making you go?

1 A. He had pretty much put a bullet back in the gun and
2 told me, don't try nothing to walk out there.

3 Q. Now did you - Ms. Burris asked you about your
4 statement several times. She never actually gave you a
5 copy of your statement to help you refresh your memory.
6 Would looking at your statement help refresh your memory?

7 A. Huh?

8 Q. The statement that you gave two years ago, would
9 looking at it help you remember what you put in that
10 statement two years ago?

11 A. Yes, ma'am.

12 (WITNESS REVIEWING DOCUMENT.)

13 Q. Now, you testified previously I believe that you and
14 Mr. Robinson were wresting and tussling around. That you
15 grabbed his wrist and in fighting over the gun, the clip -
16 you broke off the clip?

17 A. Yes, ma'am.

18 Q. In that statement, what did you tell law enforcement
19 about what happened to the clip? On that first page.

20 A. You said what did I tell them what happened to it?

21 Q. Yeah, what happened to the clip.

22 (WITNESS REVIEWING DOCUMENT.)

23 A. Right there? Right there by the part when I say I
24 kept trying to pull him out the bathroom?

25 Q. Yes.

ERNEST JORDAN: BY SOLICITOR SHELTON

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1 A. I broke the clip out the gun.

2 Q. But read the whole sentence.

3 Or don't read it but what did you say there?

4 A. "I broke the clip out the gun and then the bullets
5 fell onto the floor."

6 Q. But that sentence doesn't begin with "And I broke the
7 clip out of the gun" does it? Where does the sentence
8 begin?

9 A. No, it don't begin with it.

10 Q. How does it begin.

11 A. To my right here where it say I pulled him out the
12 bathroom. "We was wrestling over the gun"?

13 Q. Yes. So you told - Back in 2011, you told the
14 detectives that you were wrestling over the gun and that
15 you broke the clip?

16 A. Yes, ma'am.

17 Q. And then what if anything did you tell the detectives
18 talking about when you were being taken out of the
19 bathroom? First off, when you were being taking into the
20 bathroom, did you willingly go into the bathroom?

21 A. No, ma'am.

22 Q. Were you free to leave your shop at that point?

23 A. No, ma'am.

24 Q. How did you end up in the bathroom?

25 A. He pulled me in there.

1 Q. Who pulled you in there?

2 A. Maquis Robinson.

3 Q. And did you at that time feel like you could leave?

4 A. No, ma'am.

5 Q. When you met with the detectives back two years ago, a
6 little over two years ago, referring back to the part of
7 the video that Ms. Burris showed where you all were arm in
8 arm, did you feel safe at that point?

9 A. No, ma'am.

10 Q. Had Mr. Robinson threatened you in any way, and if you
11 need to refer to your statement, did he say anything
12 threatening to you? Just up prior to that part of the clip
13 did he threaten you in any way?

14 A. Just told me, don't try nothin.

15 Q. Did he do any additional threats? What would happen
16 if you tried something? Did he tell you what he would do
17 if you tried something?

18 A. He still had a bullet in the chamber he'd shoot.

19 Q. If you want to look at your statement, did he say
20 anything to you or did you tell the detectives he said
21 anything to you?

22 It would be at the top part of the statement.

23 A. Right here when I said, "you're about to kill me over
24 some bullshit?"

25 Q. Now on the second page of your statement, you were

ERNEST JORDAN: BY SOLICITOR SHELTON
BY MS. BURRIS

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1 talking to the detectives about what happened after the
2 wresting in the bathroom and right around the time that Ms.
3 Burris showed you that clip of you walking off arm and arm,
4 she asked you if you see a gun at that point; you do not,
5 but were there any threats made to you about the gun and
6 what would happen to you prior to that clip that she
7 showed?

8 A. Right there where he said, "you try anything?"

9 Q. Right.

10 A. "You try anything, Neal, I swear I'll kill you."

11 Q. And who said that to you?

12 A. Maquis Robinson.

13 Q. And is that what you told detectives back in June of
14 2011?

15 A. Yes, ma'am.

16 SOLICITOR SHELTON: Thank you, Mr. Jordan.

17 I have no further questions, Your Honor.

18 MS. BURRIS: I do have a couple questions, Your Honor.

19 RECROSS EXAMINATION

20 ERNEST JORDAN BY MS. BURRIS:

21 Q. Now you just testified that when you - and I think it
22 was two other additional persons outside - you testified
23 earlier that you gave him the money and then one point you
24 testified that he grabbed the money out of the car.
25 Reached over and grabbed the money out of the car.

1 A. He asked me for my keys as I opened the door and I
2 opened the console to get the money out of there, he
3 reached in and he grabbed the money out my hand.

4 Q. So he reached in. You didn't give and offer the
5 money?

6 A. He took it out my hand.

7 Q. Okay, so now he took it out your hand?

8 A. Yeah.

9 Q. Okay. And in regards to - You testified to earlier in
10 regards to wrestling and tussling in the bathroom. Right?

11 A. Yes, ma'am.

12 Q. How big is the bathroom?

13 A. It's probably right about six by five.

14 Q. Six by five?

15 A. Yes, ma'am.

16 Q. That's fairly small.

17 A. Yes, ma'am.

18 Q. In a small room?

19 A. Yes, ma'am.

20 Q. Mirror broken?

21 A. Yes, ma'am.

22 Q. How big was the mirror?

23 A. It was just like a little medicine cabinet mirror.

24 Q. Okay. Glass from the mirror?

25 A. Yes, ma'am.

ERNEST JORDAN: BY MS. BURRIS

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1 Q. Blood?

2 A. Yes, ma'am.

3 Q. And you would say that you and this person was
4 tussling pretty heavily. Right?

5 A. I was tussling. He just had me around my neck. I
6 mean --

7 Q. But at some point, you all were in a small room.
8 There was glass broken and there was bleeding. Correct?

9 A. Yeah. I was already bleeding before all the glass and
10 stuff was broken. Before we even started tussling.

11 Q. Okay. You testified also that both you and this
12 person were grabbing for the glass at the same time.
13 Right?

14 SOLICITOR SHELTON: Objection, Your Honor. That was
15 not subject to redirect.

16 THE COURT: I sustain the objection. Let's go over
17 what was brought up new and on redirect.

18 MS. BURRIS: Okay.

19 Q. And about how many pieces of broken glass were
20 actually in --

21 SOLICITOR SHELTON: Again, I'm going to object. We
22 didn't discuss the glass at all on redirect.

23 THE COURT: I sustain the objection.

24 BY MS. BURRIS:

25 Q. But at some point, you, this other person, the mirror

1 was broken, in a very small bathroom and there was blood?

2 A. Yes, ma'am.

3 MS. BURRIS: I have no further questions at this
4 time. Thank you.

5 THE COURT: Mr. Smith.

6 MR. SMITH: Nothing further, Your Honor.

7 THE COURT: You can step down. We appreciate your
8 time. Thank you.

9 MR. JORDAN: You're welcome.

10 (WITNESS LEAVING WITNESS STAND.)

11 THE COURT: Jury panel, it's about 5:30 so we're going
12 to quit for the day and start back at 9:30 in the morning.
13 Unlike this morning where I had a book of business so to
14 speak that I had to take care of regarding this trial,
15 tomorrow we should be able to start right around 9:30 so
16 please be here at 9:30 ready to go; keeping in mind my
17 admonitions about what not to do.

18 I'm not going to repeat them every day so we can tell
19 by doing that but it is very important that you recall
20 those. So we'll see you at 9:30 in the morning. Have a
21 pleasant evening.

22 (JURY EXITS COURTROOM AT 05:30 P.M..) .

23 THE COURT: Anything from the State before we stop?

24 SOLICITOR SHELTON: No, sir, Your Honor. And I'll
25 leave it up to the court. It does not matter to me. I

1 have Ms. Crane here. I know that Mr. Smith would like an
2 in-camera hearing on her testimony if there is going to be
3 an in court identification and we'll take that up whenever
4 the court wants to.

5 THE COURT: When is she going to testify?

6 SOLICITOR SHELTON: She would be my second witness
7 tomorrow.

8 THE COURT: Well, let's not do anything else today.
9 It's 5:30. I imagine your next witness will be Mr. Crane?

10 SOLICITOR SHELTON: Actually, I'm going to call Tim
11 Buchanan from forensics next. I think that he would still
12 be a fairly lengthy witness because he collected most of
13 the evidence.

14 THE COURT: Okay. And then she is going to be your
15 second witness. We'll take a little longer break and -
16 Well, why don't we - How long do you think it would take to
17 do the in-camera?

18 SOLICITOR SHELTON: I have twenty questions for her.
19 I don't know how long cross from either Ms. Burris or Mr.
20 Smith --

21 THE COURT: Why don't we start at nine and then the
22 jury is coming in at 9:30 if they have to wait a little bit
23 we'll start at nine and do the in-camera on Ms. Craine even
24 though the jury will have to wait a little longer.

25 MS. BURRIS: Your Honor, if I may I just wanted to ask

1 in regards to the State's witnesses simply because I do
2 have one of the witnesses driving down from Walterboro and
3 she does have a small child and she needs to be back to
4 pick up her small child. She is one of the police officers
5 who was actually involved in the case, so I guess I'm just
6 trying to get an idea as to when we'll actually start our
7 case so I can further notify her but I did tell her that I
8 would keep her posted.

9 THE COURT: Well, based on the way we've gone today, I
10 don't know that we'll reach your case tomorrow.

11 SOLICITOR SHELTON: I would just think that we would
12 not, Your Honor. We have Investigator Buchanan, Amanda
13 Crane, Jared Crane, Betty Butler from SLED, Lily Galman
14 from SLED. I have Patricia Crooks under subpoena. She is
15 an internal chain. Ms. Burris has not told if she is going
16 to object to her absence or not but she is on standby. Ray
17 Hamilton from Rock Hill PD who was in the chain. Detective
18 Stokes and Sargent Smith.

19 THE COURT: I would think that your witness wouldn't
20 be needed until Thursday.

21 MS. BURRIS: Okay. Thank you, Your Honor. I'll let
22 her know. Thank you.

23 THE COURT: Mr. Smith, anything before we stop for the
24 day?

25 MR. SMITH: No, Your Honor.

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1 THE COURT: All right. Nine a.m.

2 (COURT IN RECESS AT 05:35 P.M..)

3 (COURT BACK IN SESSION IN THE MATTER OF STATE V.
4 MARQUIS ROBINSON AND DANTONYO HEATH WEDNESDAY, JULY 24,
5 2013 AT 09:32 A.M..)

6 THE COURT: Thank you. Take your seats.

7 We can get the defendants in.

8 (DEFENDANT'S MARQUIS ROBINSON AND DANTONYO HEATH
9 REENTER COURTROOM.)

10 THE COURT: We're back on the record in *State versus*
11 *Robinson and Heath* and it's my understanding we need to
12 have a *Neil versus Biggers* concerning an identification
13 from Amanda Crane so the State can proceed.

14 SOLICITOR SHELTON: Your Honor, the State at this
15 time would call Amanda Crane. And Your Honor, just to be
16 clear there was no out of court identification for Mrs.
17 Crane.

18 THE COURT: If you'll come up here and put your left
19 hand on the Bible and raise your right.

20 (WHEREUPON: AMANDA CRANE,
21 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

22 MADAME CLERK: Please have a seat.

23 DIRECT EXAMINATION - IN CAMERA

24 AMANDA CRANE BY SOLICITOR SHELTON:

25 Q. State your name for the record, please.

AMANDA CRANE: BY SOLICITOR SHELTON

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1 A. My name is Amanda Crane.

2 Q. And Mrs. Crane, where do you live?

3 A. I live in Lancaster, South Carolina.

4 Q. Are you married?

5 A. Yes, ma'am, I am.

6 Q. Who is your husband?

7 A. Jared Crane.

8 Q. And was Mr. Crane the victim of a crime on June 8th of
9 2011?

10 A. Yes, ma'am, he was.

11 Q. Did you witness any part of that crime?

12 A. Yes, ma'am, I did.

13 Q. Describe what you witnessed just briefly for pretrial.

14 A. I witnessed the suspects carrying Neal Jordan out of
15 the business and my husband coming out of the bathroom tied
16 up, bleeding from his face and I then crawled into a
17 ceiling until the police arrived.

18 Q. And when you witnessed - How many suspects did you see
19 with Mr. Jordan?

20 A. Two.

21 Q. When you saw Mr. Jordan with two suspects, did you get
22 a close look at either one of them?

23 A. Only one when he approached my car and asked for my
24 cell phone.

25 Q. And who was that that approached your car and asked

AMANDA CRANE: BY SOLICITOR SHELTON

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1 for your cell phone?

2 A. Mr. Heath.

3 Q. Did you know him?

4 A. I'd never seen him before. No, ma'am.

5 Q. You had never seen him before in your life?

6 A. The first time I saw him is when they opened the bay
7 doors and brought Mr. Jordan out of the building.

8 Q. Was his face covered when he came up to your window?

9 A. No, ma'am.

10 Q. And what about lights?

11 A. My car light, interior light was on because the
12 driver's side door was open and the store next to us was
13 lit up pretty well.

14 Q. But it wasn't like broad daylight?

15 A. It wasn't broad - no, ma'am. It was night time.

16 Q. How close were you to the person that you believed to
17 be Mr. Heath?

18 A. Closer than her and I are.

19 (WITNESS INDICATED TO COURT REPORTER.)

20 Q. Were you able to get a look at him?

21 A. Yes, ma'am.

22 Q. Were you ever shown a lineup of Mr. Heath?

23 A. No, ma'am.

24 Q. Why not?

25 A. Because they offered - They asked me the night of the

AMANDA CRANE: BY SOLICITOR SHELTON

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1 incident at the hospital and my husband really was scared
2 for what had happened and didn't want me to do a photo
3 lineup at that time.

4 Q. Did you give a statement?

5 A. Yes, ma'am.

6 Q. And what, if anything, in your statement did you tell
7 officers about the encounter that you had with that
8 suspect?

9 A. That he approached my car and leaned up against it
10 where my driver's side door was open and asked me if I had
11 a phone he could use and I told him that mine was dead. It
12 was laying on the center console of the car. And I then
13 said that my husband is inside he has a phone I can go get
14 it for you. And I exited my vehicle and walked into the
15 business.

16 Q. And you testified that you have not seen a photo
17 lineup, but have you seen a picture or anything of this -
18 of Mr. Heath since the incident?

19 A. I saw him just on the website of the Moss Justice
20 Center.

21 Q. When was that?

22 A. It was after the incident.

23 Q. And for pretrial purposes, you've seen him in this
24 courtroom before?

25 A. Yes, ma'am, I have.

AMANDA CRANE: BY SOLICITOR SHELTON

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1 Q. And is the person that approached your car that
2 evening in the courtroom today?

3 A. Yes, ma'am.

4 Q. And where is he?

5 A. He's sitting right over there.

6 Q. And did you --

7 THE COURT: Why don't you give us a little better
8 description than just sitting right over there. There are
9 several people sitting over there.

10 A. He is sitting over here with the blue shirt and button
11 up - blue button up shirt with a tie on.

12 SOLICITOR SHELTON: Your Honor, let the record reflect
13 that she has indicated to Dantonyo Heath.

14 (WITNESS INDICATED TO DEFENDANT DANTONYO HEATH AT
15 DEFENSE TABLE.)

16 Q. And you previously identified him in court?

17 A. Yes, ma'am, I have.

18 Q. Would either that previous in-court identification or
19 previously seeing him on the detention center website, is
20 that why you're picking him out today?

21 A. No, ma'am. I've seen him in dreams since this
22 happened. I mean, I remember his face from that night.

23 Q. And are you absolutely certain that that is - that
24 the person that you've indicated in the courtroom sitting
25 in the dark suit with the blue shirt is the same person

AMANDA CRANE: BY SOLICITOR SHELTON - IN CAMERA
BY MR. SMITH - IN CAMERA

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1 that approached your car on June 8th of 2011?

2 A. I'm very positive. Yes, ma'am.

3 Q. Just briefly, you did not get a good look at Maquis
4 Robinson?

5 A. No, ma'am, I did not.

6 Q. And you never picked him out of a lineup?

7 A. No, ma'am, I haven't.

8 Q. And there will be no in-court identification. You
9 won't point to him and say this is Maquis Robinson in court
10 today?

11 A. No, ma'am.

12 SOLICITOR SHELTON: I have no further questions, Your
13 Honor.

14 THE COURT: Ms. Burris.

15 MS. BURRIS: No, sir, Your Honor. I have no questions
16 for this witness.

17 THE COURT: Mr. Smith.

18 MR. SMITH: Thank you, Your Honor.

19 CROSS EXAMINATION - IN CAMERA

20 AMANDA CRANE BY MR. SMITH:

21 Q. Mrs. Crane, how long did you see the individual
22 outside the store, the shop?

23 A. Maybe - Well maybe he stood there maybe three, four
24 minutes.

25 Q. Okay. Would it surprise you to learn that it was

AMANDA CRANE: BY MR. SMITH - IN CAMERA

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1 thirty-five seconds?

2 A. No, sir.

3 Q. No. So could it be less?

4 A. He was there for a few minutes because I looked for my
5 phone and told him that it was dead and he - I didn't have
6 one he could use and that my husband was inside the
7 building with one that he could use.

8 Q. Okay. So if the video were to show it to be thirty-
9 five seconds, obviously your memory is inaccurate; is that
10 right?

11 A. It's been a long time.

12 Q. And thirty-five seconds wouldn't be enough for you to
13 remember as well as you claim you're remembering. Right?

14 A. It's pretty - I have a pretty good remembrance of who
15 I saw.

16 Q. Okay. Now, the lighting today, you said it was pretty
17 good. Do you remember testifying prior at a trial of this
18 case and do you remember saying that the lighting was kind
19 of dark?

20 A. It was night time outside and there was no business -
21 there was no lights on outside the business that we were
22 at. My car interior light was on and so was the store's ,
23 light beside of us.

24 Q. Okay. And the individual that you're claiming to be
25 Mr. Heath never got inside the car while you were in the

1 car did he?

2 A. He didn't get inside the car. He leaned down into
3 where he could see my face and where I could see his face
4 in the car.

5 Q. Okay. And were you face to face with him the entire
6 time he was outside?

7 A. No. At first he come and leaned up against the side
8 of my car out of breath and couldn't talk. It took him a
9 few minutes to catch his breath even to ask me for the
10 phone.

11 Q. Okay. And at that point was he standing or was he
12 kneeling?

13 A. He was standing at that point.

14 Q. All right. And you were seated in your car; is that
15 correct?

16 A. Yes, sir.

17 Q. So you weren't face to face looking him at that point?

18 A. I was turned looking up at him.

19 Q. And then at some point did you walk off or did he walk
20 off?

21 A. I walked off. I got out of my car and - After I said
22 my husband's inside, he has a phone you could use, I got
23 out of my car and walked in the building.

24 Q. You indicated that you had seen a picture of Dantonyo
25 Heath on the Moss Justice Center website; is that right?

AMANDA CRANE: BY MR. SMITH - IN CAMERA

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1 A. Yes.

2 Q. How did you know to pull his picture up?

3 A. After this incident had occurred, I looked, we had
4 looked to see if they had been arrested.

5 Q. But how did you ever know the name Dantonyo Heath?

6 A. I didn't. I searched the recent bookings and saw his
7 face.

8 Q. Did you see the newspaper article of who had been
9 arrested?

10 A. No, sir, I did not.

11 Q. And how many people had been arrested?

12 A. Two.

13 Q. What day was he arrested?

14 A. I believe it was July. I'm not sure of the date.

15 Q. So you searched every day from the date of the
16 incident?

17 A. Yes, sir.

18 Q. Okay. And what charges was he arrested for?

19 A. I didn't - After I saw his face I dropped my phone and
20 I didn't look again.

21 Q. And was there a bond hearing?

22 A. Yes, sir.

23 Q. Were you at that bond hearing?

24 A. Yes, sir.

25 Q. And was Mr. Heath at that bond hearing?

AMANDA CRANE: BY MR. SMITH - IN CAMERA

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1 A. Yes, sir.

2 Q. How was he dressed at that bond hearing?

3 A. I believe he was still in his orange jumpsuit then.

4 Q. Where was that bond hearing?

5 A. It was held here, I believe. I don't remember.

6 Q. And was he named as Dantonyo Heath and the charges
7 that he was charged with read out?

8 A. I'm not sure if they were before I test - I mean, I'm
9 not sure.

10 Q. But there was no doubt in your mind that that was the
11 person they had arrested; is that correct?

12 A. Yes, sir.

13 Q. And both that bond hearing and that viewing on the
14 Moss Justice Center website occurred before you made your
15 first in-court identification; is that right?

16 A. Yes, sir.

17 MR. SMITH: I have no further questions.

18 THE COURT: Redirect?

19 SOLICITOR SPRINGS: Nothing, Your Honor.

20 THE COURT: You may step down.

21 (WITNESS LEAVING WITNESS STAND.)

22 THE COURT: I find that Mrs. Crane's identification is
23 reliable. Of course all the things such as weight and
24 credibility is for the jury, but as far as admissibility, I
25 find that her identification is reliable based on the

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1 testimony presented by her during this hearing.

2 She had a very good opportunity to view the individual
3 she identified at the time of the event, basically face to
4 face with his face not covered, through the window of her
5 automobile. Her interior light and the store light next
6 door if I remember correct, on the surveillance, which was
7 not presented during this hearing, but that surveillance
8 video does show the interior light of her car being on.
9 But she said she got a good look and said that she was very
10 positive that this is the individual that looked into her
11 car on the night in question. So I find that her
12 identification is reliable and is admissible.

13 All right, anything else before we bring the jury in?

14 SOLICITOR SHELTON: Nothing on the record, Your Honor,
15 but may I have a short restroom break?

16 THE COURT: All right. We'll all take a short
17 restroom break. That way when we get started we can go for
18 a good while. The jury is already there so we'll do five
19 minutes.

20 SOLICITOR SHELTON: Yes, sir.

21 THE COURT: We'll start at a quarter of ten by my
22 clock.

23 (COURT IN RECESS AT 09:40 A.M..)

24 (COURT BACK IN SESSION AT 09:50 A.M..)

25 THE COURT: Thank you. Take your seats.

1 Is the State ready?

2 SOLICITOR SHELTON: State's ready, Your Honor.

3 THE COURT: Ms. Burris?

4 MS. BURRIS: Yes, sir, Your Honor.

5 THE COURT: Mr. Smith?

6 MR. SMITH: Yes, Your Honor.

7 THE COURT: Bring in the jury.

8 (JURY REENTERS COURTROOM AT 09:51 A.M..)

9 THE COURT: When you look at the clock, you might
10 think I missed that class in kindergarten that taught you
11 how to tell time. I really didn't. We had some matters to
12 take up not dealing with this trial. I had something else
13 I had to do quite frankly I had forgot about. And we just
14 got through doing that so now we're starting to do this.
15 And I apologize for getting here a little earlier but we're
16 still pretty close to on time.

17 You may proceed.

18 SOLICITOR SHELTON: Thank you, Your Honor.

19 Can I get Tim Buchanan, please. He's in the hallway.

20 THE COURT: If you'll step up here and put your left
21 hand on the Bible and raise your right the clerk will
22 administer the oath.

23 (WHEREUPON: TIM BUCHANNAN, BEING
24 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

25 MADAME CLERK: Thank you. Please have a seat.

INVESTIGATOR TIM BUCHANNAN: BY SOLICITOR SHELTON

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1 MADAME CLERK: Thank you. Please have a seat.

2 DIRECT EXAMINATION

3 DETECTIVE TIM BUCHANNAN BY SOLICITOR SHELTON:

4 Q. State your name for the record, please.

5 A. Tim Buchanan.

6 Q. And Investigator Buchanan, how are you employed?

7 A. I work for the York County Sheriff's office. I'm an
8 investigator with the Multi-jurisdictional Forensics
9 Service Unit.

10 Q. And explain to the jury in case they don't know,
11 exactly what is that. What do you do?

12 A. I am like a CSI on TV. We go out and process the
13 crime scene and collect the evidence; put it into the
14 evidence storage. And we're multi-jurisdictional which
15 means that there are several officers from each of the
16 different agencies, Rock Hill, York, the Sheriff's office,
17 Fort Mill, Tega Cay and Winthrop. They are multi-
18 jurisdictional which means they are under the Solicitor's
19 office which gives the Rock Hill officers the ability to
20 work in the county and Fort Mill. It just gives them
21 county wide jurisdiction.

22 Q. And how many years have you worked in law enforcement?

23 A. Fifteen.

24 Q. How many years have you been with the forensics
25 service unit?

INVESTIGATOR TIM BUCHANNAN: BY SOLICITOR SHELTON

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1 A. For the last five and I volunteered back before they
2 had the unit.

3 Q. How long has the unit been operational?

4 A. I'm sorry?

5 Q. How long has the unit been operational, Forensic
6 Service Unit?

7 A. I think it's seven or eight years now that they've
8 been in operation.

9 Q. So you were working for the Forensic Service Unit on
10 June 8th of 2011?

11 A. Yes, ma'am.

12 Q. Do you remember being part of an investigation of an
13 armed robbery, attempted murder and a kidnapping at Five
14 Star Customs on Cherry Road in Rock Hill?

15 A. Yes, ma'am.

16 Q. What county is that in?

17 A. I'm sorry?

18 Q. What county is that in?

19 A. That's in York County. It's in Rock Hill right on
20 Cherry Road there.

21 Q. As a part of your investigation, what exactly did you
22 do there?

23 A. We got on the scene, and I took photographs of the
24 scene, and then several of the unit's officers showed up to
25 assist and we collected items and placed them into

INVESTIGATOR TIM BUCHANNAN: BY SOLICITOR SHELTON

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1 evidence.

2 Q. Did you take pictures?

3 A. Yes, ma'am. I took photographs.

4 Q. Do you have your report of the items that you took
5 into evidence?

6 A. Yes, ma'am.

7 Q. I'm going to show you what's been marked for
8 identification as State's Exhibit One.

9 You just hold onto that.

10 I'm going to show you State's Exhibits One through Six
11 and Ten. And if you can just look at each of those in
12 turn.

13 (WITNESS REVIEWING EXHIBITS.)

14 A. Okay.

15 Q. And what is State's Exhibit One?

16 A. This is a white tee shirt with red stains on it that
17 we found on top of a table in the shop at the back of Five
18 Star Customs.

19 Q. And how do you - it's obviously in a bag. How do you
20 recognize that as what you just described?

21 A. Whenever we collect these items, we'll package them in
22 the proper way. This is in a paper bag. Any cloth that
23 has any kind of biological stuff would be put in a paper
24 bag so it can breath, and once it's bagged up, it's sealed
25 and it's signed. And it's also labeled and signed here

1 with my signature.

2 Q. And so you sealed that piece of evidence into that
3 bag?

4 A. When it was placed into evidence, it was seal and
5 signed and placed into evidence. That's correct.

6 Q. And once you recovered the shirt, was it in your care
7 and custody the entire time?

8 A. Yes, ma'am.

9 Q. Did you or anybody else do anything to tamper with
10 that evidence?

11 A. No, ma'am. We placed it in a bag and took it over to
12 Rock Hill PD and filled out the forms and placed it into
13 evidence.

14 Q. And looking at it now, is it in the same condition as
15 it was when it left your custody?

16 A. No. It's inside this evidence bag that somebody has
17 placed it in, but other than that, it seems to be the same.
18 It's the same paper bag.

19 Q. And if you need to refer to your report, did you ask
20 for any follow up testing or anything with that specific
21 piece of evidence?

22 A. The detective - Generally we place them into
23 evidence and then the detectives request that they be sent
24 down to SLED, but I do believe this one was sent to SLED
25 for DNA testing.

INVESTIGATOR TIM BUCHANNAN: BY SOLICITOR SHELTON

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1 Q. Hand me that one. Thank you.

2 And then referring to items 2 through 6 and item 10,
3 can you identify those items?

4 A. Yes, ma'am. They appear to be my signatures on all of
5 them.

6 Q. What is item 2?

7 A. This is a Sanyo cell phone. Your item 2. It would be
8 my item number 3.

9 Q. Or State's Exhibit Number Two.

10 A. I'm sorry?

11 Q. State's Exhibit Number Two.

12 A. Yeah, that would be a Sanyo cell phone. That's the
13 second one you give me.

14 Q. Look at the - there's an I.D. number on it.

15 A. Oh, I apologize. I see it now. State's Exhibit -
16 you've got a different sticker on here. State's Exhibit
17 Two is a .9 millimeter Luger round that was found in the
18 shop floor of the bathroom.

19 Q. And did you recover that?

20 A. Yes, ma'am.

21 Q. And did you place it into evidence?

22 A. Yes, ma'am.

23 SOLICITOR SHELTON: Your Honor, at this time I'd ask
24 to move --

25 Q. And is that the same piece of evidence that you placed

INVESTIGATOR TIM BUCHANNAN: BY SOLICITOR SHELTON

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1 -that is what you placed into evidence back in June of
2 2011?

3 A. Yes, ma'am.

4 SOLICITOR SHELTON: Your Honor, at this time we would
5 ask to move State's Exhibit Number Two into evidence.

6 MS. BURRIS: No objection, Your Honor.

7 MR. SMITH: No objection.

8 THE COURT: In without objection.

9 (WHEREUPON: STATE'S EXHIBIT NUMBER TWO, IDENTIFIED
10 AND MARKED, RECEIVED INTO EVIDENCE.)

11 BY SOLICITOR SHELTON:

12 Q. And State's Exhibit Number Three?

13 A. That's a spent .9 millimeter shell casing. It was
14 found in the bathroom floor.

15 Q. And is that the same ---

16 A. Yes, ma'am.

17 Q. --- piece of evidence you placed in evidence --

18 A. Yes, ma'am.

19 Q. How do you recognize it? From your signature on the
20 back?

21 A. Yes, ma'am. From my signature.

22 SOLICITOR SHELTON: Your Honor, at this time we ask
23 to move State's Exhibit Number Three into evidence.

24 MS. BURRIS: No objection, Your Honor.

25 MR. SMITH: No objection.

INVESTIGATOR TIM BUCHANNAN: BY SOLICITOR SHELTON

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1 THE COURT: In without objection.

2 (WHEREUPON: STATE'S EXHIBIT NUMBER THREE, IDENTIFIED
3 AND MARKED, RECEIVED INTO EVIDENCE.)

4 BY SOLICITOR SHELTON:

5 Q. And State's Exhibit Number Four.

6 A. It's a .9 millimeter luger round that was found beside
7 the toilet and this one is signed too, the same.

8 SOLICITOR SHELTON: Your Honor, we ask to move State's
9 Exhibit Number Four into evidence.

10 MS. BURRIS: No objection, Your Honor.

11 MR. SMITH: No objection.

12 THE COURT: In without objection.

13 (WHEREUPON: STATE'S EXHIBIT NUMBER FOUR, IDENTIFIED
14 AND MARKED, RECEIVED INTO EVIDENCE.)

15 BY SOLICITOR SHELTON:

16 Q. And State's Exhibit Number Five?

17 A. A .9 millimeter round from behind the toilet at marker
18 cone number 9. It's also signed.

19 SOLICITOR SHELTON: Your Honor, I'd ask to move
20 State's Exhibit Number Five.

21 MS. BURRIS: No objection, Your Honor.

22 MR. SMITH: No, Your Honor.

23 THE COURT: In without objection.

24 (WHEREUPON: STATE'S EXHIBIT NUMBER FIVE, IDENTIFIED
25 AND MARKED, RECEIVED INTO EVIDENCE.)

INVESTIGATOR TIM BUCHANNAN: BY SOLICITOR SHELTON

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1 BY SOLICITOR SHELTON:

2 Q. State's Exhibit Number Six?

3 A. Also a .9 millimeter round that's found at marker cone
4 number 10. It's also signed and sealed up.

5 SOLICITOR SHELTON: We ask to move State's Exhibit
6 Number Six, Your Honor.

7 MS. BURRIS: No objection.

8 MR. SMITH: No objection.

9 THE COURT: In without objection.

10 (WHEREUPON: STATE'S EXHIBIT NUMBER SIX, IDENTIFIED AND
11 MARKED, RECEIVED INTO EVIDENCE.)

12 BY SOLICITOR SHELTON:

13 Q. And State's Exhibit Number Ten?

14 A. That would be the Sanyo cell phone found in the shop
15 floor under some tires by the bathroom.

16 Q. Placed into evidence by your self?

17 A. Uh-huh. Yes, ma'am.

18 SOLICITOR SHELTON: Your Honor, we ask to move State's
19 Exhibit Number Ten.

20 MS. BURRIS: No objection.

21 MR. SMITH: No objection.

22 THE COURT: In without objection.

23 (WHEREUPON: STATE'S EXHIBIT NUMBER TEN, IDENTIFIED
24 AND MARKED, RECEIVED INTO EVIDENCE.)

25 BY SOLICITOR SHELTON:

INVESTIGATOR TIM BUCHANNAN: BY SOLICITOR SHELTON

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1 Q. Investigator Buchanan, I'm going to give you what's
2 been marked for identification as State's Exhibits Twenty-
3 eight through Thirty-six and State's Exhibit Forty-six,
4 Forty-eight and Fifty.

5 Look through those, please.

6 (WITNESS REVIEWING EXHIBITS.)

7 A. All right.

8 Q. Do you recognize those photos?

9 A. These would be photos that I had taken at the crime
10 scene.

11 Q. You personally took the pictures?

12 A. Yes, ma'am.

13 Q. And looking through those photos, do each and every
14 one of them accurately reflect the pictures that you took
15 that night, reflect the way the scene looked on the evening
16 that you took the pictures?

17 A. Yes, ma'am.

18 Q. Did you do anything to alter the scene as represented
19 in those pictures?

20 A. No, ma'am.

21 Q. There's nothing added into the pictures that weren't
22 there before?

23 A. No, ma'am.

24 Q. Not on any of them?

25 A. No, ma'am. Doesn't appear to be. I don't have all my

1 pictures in front of me, but these appear to be the ones
2 that I took and they don't appear to be altered in any way.

3 Q. So when you arrived on the scene, the way that -- just
4 in looking at that first picture -- when you arrived --

5 A. The only difference that has been altered is it has a
6 marker cone in it. I also had these pictures without the
7 marker cone. I go through and snap pictures of the scene
8 as I walk in and we take full pictures of the whole scene.

9 Then we go back and mark items of evidence or items of
10 interest with marker cones so that we can annotate it and
11 we take pictures of them from a distance so you know where
12 the cone is in relation to the building. You can refer
13 back to the scene pictures and the cone pictures and it
14 gives you a general idea where it was at. Then we take
15 close up photos. These appear to be the close up photos.

16 This would be a mid-range photo but this one would be
17 a close up photo so you get it of the ball cap.

18 Q. Before we show it to the jury I have to move it into
19 evidence. But going back to the picture, have those
20 pictures been altered by yourself in some way before the
21 pictures were made?

22 A. No, ma'am. Like I said, the only difference is the
23 cone was placed beside the object.

24 Q. So that would be an alteration. Those cones were not
25 there when you got there?

INVESTIGATOR TIM BUCHANNAN: BY SOLICITOR SHELTON

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1 A. No, ma'am. The cones were not there. I put the cones
2 back down.

3 Q. And other than that, is that an accurate reflection of
4 how the scene looked that way?

5 A. Yes, ma'am.

6 SOLICITOR SHELTON: Your Honor, at this time we'd ask
7 to move State's Exhibits Twenty-eight through Thirty-six
8 and State's Exhibit Forty-six, Forty-eight and Fifty into
9 evidence.

10 MS. BURRIS: Without objection, Your Honor.

11 MR. SMITH: No objection.

12 THE COURT: In without objection.

13 (WHEREUPON: STATE'S EXHIBITS TWENTY-EIGHT THROUGH
14 THIRTY-SIX, FORTY-SIX, FORTY-EIGHT AND FIFTY, IDENTIFIED
15 AND MARKED, RECEIVED INTO EVIDENCE.)

16 BY SOLICITOR SHELTON:

17 Q. I'm going to have you hold on to them.

18 SOLICITOR SHELTON: Can I get State's Exhibit Number
19 Twenty-eight up, please.

20 (STATE'S EXHIBIT TWENTY-EIGHT, PUBLISHED ON COURTROOM
21 OVER HEAD.)

22 Q. Investigator Buchanan, what is this a picture of?

23 A. That's a picture of a .9 millimeter round that was in
24 the floor. I believe that's right in front of the
25 bathroom.

INVESTIGATOR TIM BUCHANNAN: BY SOLICITOR SHELTON

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1 Q. Is that a spent round or a live?

2 A. No. That's a live round.

3 Q. And then Exhibit Number Twenty-nine?

4 (STATE'S EXHIBIT TWENTY-NINE PUBLISHED ON COURTROOM
5 OVER HEAD.)

6 A. That's a spent shell casing and I believe that's in
7 the bathroom.

8 Q. And what is that to the side of the cone?

9 A. I'm sorry?

10 Q. What are those pieces of things to the side?

11 A. Those look like some shards of mirror that was broken
12 in the bathroom.

13 Q. And then Exhibit Number Thirty.

14 (STATE'S EXHIBIT THIRTY PUBLISHED ON COURTROOM OVER
15 HEAD.)

16 A. That would be a live round. That's also in the
17 bathroom.

18 Q. And Exhibit Number Thirty-one?

19 (STATE'S EXHIBIT THIRTY-ONE PUBLISHED ON COURTROOM
20 OVER HEAD.)

21 A. A live round that's behind the toilet on top of a
22 piece of broken mirror.

23 Q. Exhibit Number Thirty-two?

24 (STATE'S EXHIBIT THIRTY-TWO PUBLISHED ON COURTROOM
25 OVER HEAD.)

INVESTIGATOR TIM BUCHANNAN: BY SOLICITOR SHELTON

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1 A. Another live round that's near the toilet right in
2 front of the broken mirror.

3 Q. Exhibit Number Thirty-three?

4 (STATE'S EXHIBIT THIRTY-THREE PUBLISHED ON COURTROOM
5 OVER HEAD.)

6 A. That would be a bullet hole through the wall of the
7 bathroom and the sheet rock.

8 Q. Is that on the outside?

9 A. I think that's on the outside. I'd have to refer back
10 to the pictures. Of the outside of the bathroom where it
11 came through.

12 Q. And Exhibit Number Thirty-four?

13 (STATE'S EXHIBIT THIRTY-FOUR PUBLISHED ON COURTROOM
14 OVER HEAD.)

15 A. That would be the shirt that was found in the shop
16 that was placed into evidence, a white tee shirt.

17 Q. Exhibit Number Thirty-five?

18 (STATE'S EXHIBIT THIRTY-FIVE PUBLISHED ON COURTROOM
19 OVER HEAD.)

20 A. That would be a red stain in the floor beside some
21 tires.

22 Q. Exhibit Number Thirty-six?

23 (STATE'S EXHIBIT THIRTY-SIX PUBLISHED ON COURTROOM
24 OVER HEAD.)

25 A. That would be a red stain on top of the toilet lid in

1 the bathroom.

2 Q. Exhibit Number Twenty-six.

3 (STATE'S EXHIBIT TWENTY-SIX PUBLISHED ON COURTROOM
4 OVER HEAD.)

5 A. That would be where the bullet grazed the wall and
6 went through the wall to the outside. That's from inside
7 the bathroom. It's up in the - If you're in the door, it's
8 in the top right corner looking inside the bathroom.

9 Q. Okay. Thank you.

10 You testified that part of your job is to recover
11 evidence. Does that - Is that just the physical evidence
12 that was recovered or other evidence as well?

13 A. We're in charge of recovering pretty much all the
14 evidence on the scene. We take photographs and document
15 and we also pick up any physical evidence, DNA, whatever we
16 need to take.

17 Q. If you need to refer to your reports, what - other
18 than the physical exhibits that we've already discussed,
19 what other evidence was collected at the scene?

20 A. There was some swabs taken of the red stains. On the
21 back of the - There was a car that was processed on the
22 exterior and there was a swab taken of a red stain on the
23 back of it. There was one taken from a tire rim in the
24 shop floor. The picture of the shop floor there of the red
25 stain, we took a swab from that and we took a swab from the

INVESTIGATOR TIM BUCHANNAN: BY SOLICITOR SHELTON

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1 top of the toilet.

2 Q. And what happened with those swabs?

3 A. They were placed into evidence along with the rest of
4 the evidence and they were sent - some of these items were
5 sent to SLED for further DNA testing.

6 Q. And were there any other evidence that was not,
7 physical evidence that had been entered into evidence today
8 that was collected at the scene besides the red stains?

9 A. We took buccal swabs from the two victims and one of
10 the defendants and placed those into evidence too for
11 comparison purposes.

12 Q. What is a buccal swab?

13 A. It's a swab of the inside of your cheek. And what it
14 does, is it gets your DNA so that they can compare it.
15 It's taken with a cotton swab and then placed in an
16 envelope, sealed and placed into evidence.

17 Q. Were there any fingerprints or anything like that
18 collected at the scene?

19 A. There were some fingerprints taken off of the vehicle
20 outside.

21 Q. Were any tests done to those?

22 A. They were compared to the victims and both of the
23 fingerprints that had any value were determined to be the
24 victims.

25 Q. Any other fingerprints collected?

1 A. No, ma'am. Just the ones that were collected on the
2 vehicle.

3 Q. And those were matched to which victim?

4 A. Jared Crane.

5 Q. What about the bullets that were found there.

6 Anything done with those?

7 A. Investigator Boyd processed the two .9 millimeter
8 shell casings with the - and the live rounds for
9 fingerprints with a perma blue method, which means that
10 they used a gun bluing. When you handle shell casings, if
11 they sit for very long, the secretions from your hand
12 actually etch into the shell and actually start to rust it
13 more or less. The perma blue adheres to that first before
14 it adheres to the metal and you put the gun bluing on and
15 rinse it off and it will help develop some fingerprints
16 that were on there. None were developed but she attempted
17 to develop some there.

18 Q. So no fingerprints from any of the shell casings?

19 A. No, ma'am.

20 Q. I'm going to show you what's been marked for
21 identification as State's Exhibit Number Forty-one.

22 (WITNESS REVIEWING EXHIBIT.)

23 Q. Do you recognize that? Do you need to open it?

24 A. I'm trying to look through it. I'm going to have to
25 open it up.

INVESTIGATOR TIM BUCHANNAN: BY SOLICITOR SHELTON

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1 (WITNESS OPENED SEALED EXHIBIT.)

2 A. Yes, ma'am. This is a buccal swab I took from Jared
3 Crane.

4 Q. Of Jared Crane?

5 A. That's what it says. Yes, ma'am. Well, no. I
6 apologize. I'm readying the victim. That's my bad. This
7 is a buccal swab that was taken at the detention center.
8 Yes, ma'am.

9 Q. Of who?

10 A. I read the victims. I didn't write the suspect's name
11 in there but it was from - give me just a second here.

12 I've got the report. Dantonio Heath. A retrieved a
13 buccal swab on 4-30 and placed it into Rock Hill PD
14 evidence.

15 Q. And do you know what happened with that swab after you
16 placed it into evidence?

17 A. It was send down to SLED for comparison purposes.

18 Q. And once you took that swab, what did you do with it?

19 A. I took the swab from him. I placed it in this package
20 and I took it straight over to Rock Hill PD and dropped it
21 into evidence.

22 Q. Was it sealed when you dropped it into evidence?

23 A. Yes, ma'am.

24 Q. Did you or anyone else in your presence to anything to
25 alter or tamper with that swab?

INVESTIGATOR TIM BUCHANNAN: BY SOLICITOR SHELTON
BY MS. BURRIS

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1 A. No, ma'am.

2 Q. Was there anyone else with you when you took it to
3 Rock Hill?

4 A. No, ma'am. But it was - I was in the jail when I took
5 it, the sample, and sealed it up.

6 Q. And it was with you the entire time?

7 A. Yes, ma'am.

8 Q. When you arrived on scene, did you talk to the
9 victims?

10 A. No, ma'am.

11 Q. Did you see the victims?

12 A. No, ma'am.

13 Q. Did you know anything of the allegations?

14 A. Just what the officers told me on the scene.

15 Q. Do you recall what you were told?

16 A. That there had been an armed robbery. The victim knew
17 the suspect and that's basically it. That they had been
18 attacked inside there.

19 SOLICITOR SHELTON: Thank you, Investigator.

20 THE COURT: Ms. Burris.

21 MS. BURRIS: Thank you, Your Honor. May it please the
22 court.

23 CROSS EXAMINATION

24 INVESTIGATOR TIM BUCHANNAN BY MS. BURRIS:

25 Q. How are you?

INVESTIGATOR TIM BUCHANNAN: BY MS. BURRIS

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1 A. I'm fine.

2 Q. Good. Do I call you detective or officer?

3 A. Call me whatever you want will be fine.

4 Q. Okay. Mr. Buchanan?

5 A. That's fine.

6 Q. Okay. Mr. Buchanan, when you actually went to the
7 alleged crime scene, you weren't by yourself were you?

8 A. I'm sorry?

9 Q. You weren't alone. Were you?

10 A. No, ma'am. I had Cheryl Boyd with me.

11 Q. Okay. Ms. Boyd and who else? Was George Weeks with
12 you?

13 A. Not at the time, no.

14 Q. Okay. So it was you and Ms. Boyd.

15 A. Uh-huh.

16 Q. Yes?

17 A. Yes, ma'am.

18 Q. Okay. Just make sure that your responses are audible.

19 Okay.

20 A. You have to speak up a little bit. I'm a little hard
21 of hearing.

22 Q. Yes, sir. I sure will. I'll just say close.

23 Now, you mentioned when asked on direct in regards to
24 you were able to recover physical evidence?

25 A. Yes, ma'am.

1 Q. And there was not any DNA from that physical evidence
2 that you matched up to a profile belonging to Maquis
3 Robinson. Correct?

4 A. I don't match any evidence, ma'am, for DNA..

5 Q. Okay, but you collected it?

6 A. I collect the - everything I said. Yes, ma'am.

7 Q. Okay. Now, you also - you lifted - there were prints,
8 latent prints ---

9 A. Yes, ma'am.

10 Q. --- lifted?

11 A. Cheryl Boyd lifted some off the vehicle.

12 Q. Okay. You also, there were swabs taken from red
13 stains. Right?

14 A. Yes, ma'am.

15 Q. Okay. Fingerprints?

16 A. Off the vehicle. Yes, ma'am.

17 Q. Prints from the mirror, the broken mirror?

18 A. No. We didn't print the mirror.

19 Q. You talked about the secretions from the hand, I
20 guess and that's - that would be like the hand prints or
21 the fingerprints?

22 A. That would be like sweats and oils that you secrete
23 naturally.

24 Q. Okay. Didn't get any fingerprints from any shell
25 casings?

INVESTIGATOR TIM BUCHANNAN: BY MS. BURRIS

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1 A. No, ma'am.

2 Q. Now, you went out that evening, took pictures, all
3 those samples, DNA samples. Right?

4 A. On --

5 Q. Went out to the crime scene.

6 A. Actually Cheryl Boyd collected the DNA samples.

7 Q. Okay. So she collected the DNA samples. You went
8 out, took the pictures?

9 A. Yes, ma'am.

10 Q. Okay. And Cheryl Boyd collected the samples?

11 A. Uh-huh.

12 Q. Okay. And then I believe you testified you had
13 packaged them?

14 A. Yes, ma'am.

15 Q. Okay.

16 A. I dropped everything into evidence. Yes, ma'am.

17 Q. Okay. You identified, wrote on the tape and sealed it
18 up and dropped it into evidence?

19 A. Yes, ma'am.

20 Q. Okay. And you did not perform an analysis of any of
21 those?

22 A. No, ma'am.

23 Q. The only prints you found on anything was on the
24 vehicle. Correct?

25 A. That's the only thing we really treated for prints

1 there. Yes, ma'am.

2 Q. And those prints actually were Mr. Crane's, Jared
3 Crane's?

4 A. Yes, ma'am.

5 Q. And it's your testimony that you did not receive or
6 get any prints from - or hand prints or fingerprints that
7 actually belonged to a profile of Maquis Robinson. Right?

8 A. I didn't get any fingerprints. No, ma'am.

9 Q. You've actually looked at the pictures that the State
10 admitted into evidence. Right?

11 A. Yes, ma'am.

12 Q. And I know of course there are more pictures than
13 that. Like there are pictures of the overall scene?

14 A. Yes, ma'am.

15 Q. Okay. You placed the little yellow cone markers right
16 before you actually took the photograph?

17 A. One of the four of us that were there did. Yes,
18 ma'am. And then I took the pictures.

19 Q. Let's look at State's Exhibit - what's been previously
20 marked as State's Exhibit Thirty-six. And there was blood
21 there found on the back of the toilet. Right?

22 A. There was a red stain on it. Yes, ma'am.

23 Q. Okay. And you were able to take a sample of that?

24 A. Yes, ma'am.

25 Q. And collected it?

INVESTIGATOR TIM BUCHANNAN: BY MS. BURRIS

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1 A. Yes, ma'am.

2 Q. I'm going to show you what's been previously marked as
3 State's Exhibit Thirty-one.

4 What is that a picture of, the glass that you
5 recovered?

6 A. That's a picture of a round that I recovered.

7 Q. The round?

8 A. Yes, ma'am.

9 Q. What about this?

10 A. It's sitting on top of a piece of glass ---

11 Q. Sitting on top --

12 a. --- but we recovered the round. That's what it's
13 marking.

14 Q. Okay. What about State's Exhibit Thirty-two.

15 But all of that glass was actually on the floor.

16 Correct?

17 A. Except the piece that's on the wall right here. Yes,
18 ma'am.

19 Q. Okay. So you have on State's Exhibit Thirty-one and
20 Thirty-two --

21 A. Two rounds. Two live rounds.

22 Q. And what's by the live round?

23 A. There's a piece of glass beside the live rounds.

24 Q. Okay. And that glass would have actually come from
25 the mirror as far as you can tell when you went to the

1 scene?

2 A. Yes, ma'am.

3 Q. Now you indicated that you worked for the Multi-
4 jurisdictional Unit in York County?

5 A. Yes, ma'am.

6 Q. And you have special training in forensics and crime
7 investigations?

8 A. Yes, ma'am.

9 Q. And part of your training of course is talking about
10 different types of evidence and collection of evidence from
11 different crime scenes?

12 A. Yes, ma'am.

13 Q. Now, one type of evidence that we talk about is trace
14 evidence. Trace evidence?

15 A. Yes, ma'am.

16 Q. Okay. And trace evidence is something that gets left
17 somewhere or gets deposited like at - or behind something
18 or around something in that particular crime scene. Right?

19 A. Yes, ma'am.

20 Q. Coming from some other person or object?

21 A. Yes, ma'am.

22 Q. And when you actually go to a crime scene, you look
23 for trace evidence. Right?

24 A. Yes, ma'am.

25 Q. And so you testified that you really didn't know

INVESTIGATOR TIM BUCHANNAN: BY MS. BURRIS

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1 exactly what happened so when you go there you sort of look
2 for things that are out of place when you go to a scene?

3 A. The first thing we do is take pictures and then we
4 evaluate and decide what we're going to collect. We
5 collect it. Box it up. Put it into evidence.

6 Q. One type of trace evidence is fiber evidence. Right?

7 A. Yes, ma'am.

8 Q. And those are like strips from clothing. Right?

9 A. Yes, ma'am.

10 Q. Okay. Or it can be any type of just minute fibers.

11 Right?

12 A. Yes, ma'am.

13 Q. And usually if you go into a crime scene - And you did
14 have the opportunity to go into that small bathroom located
15 there. Right?

16 A. Yes, ma'am.

17 Q. And you looked around for trace evidence, any clothing
18 or fibers that may have actually been lying anywhere in the
19 restrocm. Right?

20 A. We could. Yes, ma'am.

21 Q. I'm sorry. You did?

22 A. Yes, ma'am.

23 Q. Hair evidence is also a type of trace evidence.

24 Right?

25 A. Yes, ma'am.

1 Q. Another type of evidence we talked about was
2 fingerprints?

3 A. Yes, ma'am.

4 Q. Palm prints?

5 A. Yes, ma'am.

6 Q. And impressions or indentations is what you called it;
7 is that right? Impressions. Fingerprint impressions.

8 A. Fingerprint impressions would be just fingerprints.
9 Yes, ma'am.

10 Q. Okay.

11 A. It's the same thing. Different wording.

12 Q. Okay. Let's talk about fingerprints. Fingerprints
13 can actually be left in a lot of different ways. Right?

14 A. Yes, ma'am.

15 Q. Okay. One could be that you touch any surface with
16 your fingerprints, because we actually have very
17 distinctive ridges on each fingerprint that belongs to each
18 one of us. Right?

19 A. That's correct.

20 Q. Right. Okay. And so if you touch a soft surface, or
21 any surface, and you make an indentation in that surface,
22 given that we have these very specific details, ridged
23 details, within our fingers on our hands, whatever it
24 presses on; is that right? That's the way you actually
25 look at the fingerprints in your training?

INVESTIGATOR TIM BUCHANNAN: BY MS. BURRIS

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1 A. When we look at the fingerprints, there are several
2 different ways that fingerprints can be deposited. You can
3 deposit a print in a soft, like a chocolate bar or a piece
4 of soap. That's called a plastic impression or in paint,
5 you know, if it leaves an impression in the paint that's
6 visible, that's a plastic impression.

7 You can have a bloody fingerprint or paint on your
8 fingers and leave a fingerprint that's visible that you can
9 see with the naked eye, that is a patent print.

10 Then there is also latent prints which are basically
11 invisible but what it is, is the deposit, the secretions
12 from your fingers, the sweat, the oil, the salt and
13 everything, when you touch it it leaves an impression. We
14 go back with some type of fingerprint dust or cyanoacrylate
15 glue fumes which is super glue that leaves fumes that
16 adhere to that so that we can see it and we lift it and go
17 from there. What we look at is what we lift or what we
18 photograph on the scene. That's what we look at.

19 Q. Okay. So you would have looked at - The evidence that
20 you actually collected, you would have looked at that
21 evidence to see if there were any fingerprint?

22 A. Yes, ma'am.

23 Q. Or hand prints or palm prints?

24 A. Uh-huh.

25 Q. Yes, sir?

1 A. Yes, ma'am.

2 Q. And, when you talk about - What are plastic prints?

3 A. If you take a chocolate bar ---

4 Q. The chocolate bar.

5 A. --- and stick your finger in it, ---

6 Q. Okay.

7 A. --- when you pull it away you can see the lines and
8 furrows. That's a plastic print.

9 Q. So in other words there could be like if your hand has
10 some substance or foreign substance on it and you pick up
11 let's say the chocolate bar, then that's a way - once you
12 touch that - let's say chocolate bar - then your
13 fingerprints are actually left on there?

14 A. No. It's actually - A plastic print is placed like in
15 silly putty, soap, any type of soft object where when you
16 press into it, it leaves a reverse of your actual
17 fingerprint in that substance.

18 Q. Okay. That has the ridge details?

19 A. Correct.

20 Q. Okay. And you can usually see that with the visible
21 eye?

22 A. Correct.

23 Q. Is it your testimony that basically if you touch
24 something, the natural oils from your skin from actually
25 touching, or touching the surface, is probably going to

INVESTIGATOR TIM BUCHANNAN: BY MS. BURRIS

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1 leave a print?

2 A. Not necessarily.

3 Q. Explain why wouldn't if you are talking about
4 something soft like soap or a chocolate bar.

5 A. You didn't say soap or chocolate bar. You said if I
6 touch a surface, I left a print. You don't always leave a
7 print when you touch something. Different people secrete
8 differently. If it's wet, it may not leave a print. There
9 are all kind of factors in collecting fingerprints.

10 Q. What if you touch just say a toilet, like a porcelain
11 toilet?

12 A. You don't necessarily leave a fingerprint.

13 Q. But you could?

14 A. You could, yes.

15 Q. What about a mirror?

16 A. You could.

17 Q. A mirror you could. Right? Glass?

18 A. Porcelain, glass, wood, paper. You could leave it on
19 any substance but it doesn't mean that you will.

20 Q. So you agree with me there are many different types of
21 ways that you can actually get evidence?

22 A. Yes, ma'am.

23 Q. It just depends on which type of evidence it is.

24 A. Yes, ma'am.

25 Q. DNA can be found in blood?

1 A. Yes, ma'am.

2 Q. And you're trained in how to preserve the evidence so
3 as not to harm or destroy the evidence. Right?

4 A. Yes, ma'am.

5 Q. So that it can be tested at a later point?

6 A. Yes, ma'am.

7 Q. And you definitely - When the State actually showed
8 you all the State's exhibits, which actually had the
9 photographs of the blood, which I'm showing you now State's
10 Exhibit Thirty-five, a photograph of the blood, you
11 collected evidence from that. Right?

12 A. Cheryl Boyd took swabs from it. Yes, ma'am.

13 Q. Now, would you say that once you actually got there,
14 along with Cheryl Boyd, was it a pretty secure scene you
15 would say?

16 A. They had the crime scene tape up and they had
17 everybody out of the scene at that time. Yes, ma'am.

18 Q. When you have like a sweaty hand or a sweaty palm or
19 your fingers are sweaty and you touch something, it's more
20 likely that you are going to leave a print. Right?

21 A. I can't say one way or the other, but like I said
22 before, you don't always leave prints when you touch
23 something.

24 Q. Right, but if you have sweat on your hand, or
25 secretion on your hand, usually if you touch something

INVESTIGATOR TIM BUCHANNAN: BY MS. BURRIS

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1 you're gonna leave a print?

2 A. Not necessarily.

3 Q. Okay. Would you say most likely?

4 A. I couldn't say one way or the other because I've seen
5 prints left on all types of surface, all different types of
6 conditions, and you're talking about - If everybody looks
7 at their hand right now, can you see the fingerprints?

8 It's a very, very shallow ridge. If you fill that
9 ridge up with water and you touch something, you're not
10 going to leave nothing but a smear. Now, I can develop
11 smears everywhere but it has to have the actual ridge
12 detail. And you know if you want to put one up on the
13 screen, I could show them a picture of what a fingerprint
14 looks like, but what we identify are the ridges and valleys
15 and they can get filled up very easily and you don't leave
16 a fingerprint.

17 So I can't say one way or the other whether anybody is
18 going to leave print on a piece of glass, which is a
19 perfect surface. But I've seen glass. We process vehicles
20 all the time, completely smooth. We don't get anything.
21 Other times we get prints all over 'em. It varies from
22 person to person and it varies on the conditions.

23 It's not like TV where we can get fingerprints out of
24 the air. You know, if you walk by and do that ---

25 (WITNESS TOUCHED WITNESS STAND BENCH.)

1 A. --- and we got you in five minutes later, it's not
2 like that. It's a very long drawn out process to even
3 identify one fingerprint.

4 Q. Okay.

5 A. Did that answer your question?

6 Q. It did. Thank you.

7 A. You're welcome.

8 Q. Now, on your report Mr. Buchanan, you actually took a
9 - According to your forensics services laboratory report,
10 you took into evidence a swab from a white tee shirt.

11 A. A swab from a white tee shirt?

12 Q. Yes, sir.

13 A. Can I see it?

14 Q. Sure.

15 A. This is actually not one of my reports.

16 Q. Uh-huh. Your name is at the top.

17 A. This is a SLED report. That means that I submitted a
18 request for them to process this. I don't have anything to
19 do with this report. This is generated by SLED.

20 Q. Did you --

21 A. I just requested that this be done.

22 Q. Okay. Did you actually ask them to analyze a swab
23 from a white tee shirt?

24 A. I asked them to analyze the tee shirt.

25 Q. Okay.

INVESTIGATOR TIM BUCHANNAN: BY MS. BURRIS

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1 A. They take the swabs and do - You'll have to ask the
2 SLED agent that question, ma'am.

3 Q. Okay. So you took - Let's look - Is this your report
4 from the evidence inventory sheet?

5 A. Yes, ma'am.

6 Q. Okay.

7 A. This is a evidence sheet that we drop in with the
8 evidence.

9 Q. Okay. And you remember what's on here. Right?

10 A. Yes. It's also right here in front of me.

11 Q. Okay.

12 A. I've got it right here too if you have any questions.

13 Q. Okay. I do. So you actually recovered a red handled
14 - Strike that. You actually recovered a orange Long Horn
15 cap. Right?

16 A. Yes, ma'am.

17 Q. And you recovered that from the shop floor next to the
18 tires. Right?

19 A. Yes, ma'am.

20 Q. And you also recovered from evidence a Sanyo cell
21 phone. I'm sorry, recovered from the incident site, a
22 Sanyo cell phone from the shop floor under the tires by the
23 bathroom?

24 A. Yes, ma'am.

25 Q. Okay. And you also recovered a black dew rag beside

1 the bathroom door?

2 A. Yes, ma'am.

3 Q. And you also recovered a .9 millimeter round from the
4 shop floor in front of the bathroom door?

5 A. Yes, ma'am.

6 Q. And you also recovered a black ball cap from the
7 bathroom floor?

8 A. I placed all these items into evidence. Yes, ma'am.

9 Q. Okay.

10 A. That doesn't mean that I physically grabbed it and put
11 it in the bag. I took the bag - after we - There were four
12 of us working at that time. We collected all the evidence
13 and bagged it. I took possession of it and I dropped all
14 the evidence into Rock Hill PD evidence.

15 Q. Okay. Now you found one spent .9 millimeter shell
16 casing by the bathroom floor in front of toilet marked 2.
17 Right? Well where it just indicates --

18 A. No. It was in front of the toilet marker number 7.

19 Q. Right.

20 A. Uh-huh.

21 Q. Right.

22 A. There should be a picture of it right here that's
23 you've already shown me.

24 Q. Right. But I guess I'm thinking about more of what
25 you recovered. You recovered one spent .9 millimeter shell

INVESTIGATOR TIM BUCHANNAN: BY MS. BURRIS

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1 casing?

2 A. Yes, ma'am.

3 Q. Okay. And you recovered on Eight, Nine and Ten
4 additional rounds. Right?

5 A. Yes, ma'am.

6 Q. And number 11 you recovered a white tee shirt with red
7 stains on the table in the shop ---

8 A. Yes, ma'am.

9 Q. --- at marker number 11. Right?

10 A. Yes, ma'am.

11 Q. And item number 12, you recovered the swab of red
12 stain on the shop floor?

13 A. Yes, ma'am.

14 Q. Number 13, you recovered another swab of red stain
15 near the tire rim beside bathroom marker?

16 A. Uh-huh. Yes, ma'am.

17 Q. Okay. Thank you. And you recovered another swab of
18 red stain from the toilet lid in the bathroom, marker
19 number 14.

20 A. Correct.

21 Q. And you recovered another swab of red stain from the
22 rear wing of the Toyota Camry - outside?

23 A. Yes, ma'am.

24 Q. So it's fair to say you took swabs from the floor,
25 tire rim, toilet and vehicle. Right?

INVESTIGATOR TIM BUCHANNAN: BY MS. BURRIS

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1 A. Yes, ma'am.

2 Q. Was Investigator Sullivan also there to help you?

3 A. Yes, ma'am.

4 Q. Okay. So it's you, Cheryl Boyd, Investigator
5 Sullivan, as well as Director Weeks. He came later?

6 George Weeks.

7 A. Yes, ma'am.

8 Q. So at one point there were actually four investigators
9 there?

10 A. Yes, ma'am.

11 Q. Did not recover a gun?

12 A. No, ma'am.

13 Q. Did not recover a clip from a gun?

14 A. All we recovered were the items that are listed,
15 ma'am.

16 Q. Answer the question. You did not recover a clip from
17 a gun?

18 A. No.

19 Q. You did not recover any broken pieces of a clip?

20 A. No, ma'am.

21 Q. When you got to the scene and you had the opportunity
22 to speak with a couple of the officers who were there on
23 the scene, they indicated to you that there had basically
24 been a struggle there?

25 A. Yes, ma'am.

INVESTIGATOR TIM BUCHANNAN: BY MS. BURRIS

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1 Q. And so one of the things they said that there was a
2 struggle that actually took place in the bathroom?

3 A. Yes, ma'am.

4 Q. Which is fairly small?

5 A. Yes, ma'am.

6 Q. And the first thing you wanted to know, if there was a
7 struggle is whether or not you could process to see if
8 there is any DNA from blood?

9 A. We didn't bring DNA up, ma'am.

10 Q. Now, would you agree that anything that you touch
11 could possibly hold touch DNA?

12 A. That's pretty vague, but yes I'd have to agree with
13 that. You're probably leaving DNA breathing on something.

14 Q. I'm sorry.

15 A. You're probably leaving DNA breathing on your papers
16 right there.

17 Q. Leaving DNA even breathing?

18 A. Yes, ma'am.

19 Q. Wow. So - And it's SLED policy that once you collect
20 all the evidence, and of course identify that you've
21 actually had it in your possession, that you don't do the
22 analysis; that you basically send it to them?

23 A. Correct.

24 Q. And you fill out the SLED request online?

25 A. Yes, ma'am. At my desk online.

1 Q. And you usually actually get the report back that you
2 - I guess when you send the request to SLED, they send you
3 a report back as to their conclusion after they analyze the
4 DNA that you collected?

5 A. They post it online and the detectives, or whoever can
6 download it. They just put it in care of me because I'm
7 the one that filled out the report. The detectives is the
8 ones that actually pull it up and look at it.

9 Q. Okay. Mr. Buchanan, did you actually ever have this
10 in your possession?

11 A. Yes, ma'am.

12 Q. Okay.

13 A. I've got a copy of it. You can stick in the computer
14 and put it on a big screen if you want.

15 Q. That's not necessary. Can you tell us about this?

16 THE COURT: All right, before we get into that, I
17 think you need to have it marked in some way. I'm not
18 telling you what to do but before he can start talking
19 about it, it has to be in evidence.

20 Q. You actually took - You lifted a fingerprint from
21 Jared from the back of the car. Right?

22 A. No. I didn't lift it. Cheryl Boyd lifted it.

23 Q. She lifted it?

24 A. Yes. We ran it on AFIS and got a hit and I confirmed
25 it.

INVESTIGATOR TIM BUCHANNAN: BY MS. BURRIS
BY MR. SMITH

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1 Q. You confirmed?

2 A. That this print belonged to Jared Crane. Correct.

3 Q. Okay. And that was a pretty - Would you say that was
4 a pretty detailed latent print?

5 A. That's normal for the type of print that you might
6 lift off of something. If you look at it, you can see it's
7 fair quality. It's not super great.

8 Q. But you consider it to be fair quality?

9 A. Yes, ma'am.

10 Q. And you didn't actually get any additional
11 fingerprints from anything else?

12 A. No, ma'am.

13 Q. Okay. Thank you, Mr. Buchanan.

14 THE COURT: Mr. Smith.

15 MR. SMITH: If it please the court, Your Honor.

16 CROSS EXAMINATION

17 INVESTIGATOR TIM BUCHANNAN BY MR. SMITH:

18 Q. Investigator Buchanan, you indicated that there were
19 at some point in time four different members of the
20 Forensic Service's unit at the scene on Cherry Road; is
21 that right?

22 A. Yes, sir.

23 Q. And that would have been you, Agent Sullivan, Agent
24 Boyd and Director Williams; is that correct?

25 A. Yes, sir.

1 Q. But at some point Director Weeks left and went to the
2 hospital with the victims?

3 A. He actually went to the hospital on his way over to
4
5 the scene. He arrived right after we had probably finished
6 up taking our first set of photos.

7 Q. In the bathroom, you found evidence that a gun had
8 been fired. Is that fair to say?

9 A. Yes, sir.

10 Q. And based upon your observation and your training, how
11 many times did you find evidence, or you found evidence
12 that a gun had been fired how many times?

13 A. From what we could gather from looking at it, it
14 looked like it had went off one time. There was one spent
15 shell casing and there was one hole through the wall and
16 the bullet actually fragmented and came out in two spots on
17 the outer wall.

18 Q. And then the scene, when we talk about the crime
19 scene, in this case it included not only the interior of
20 the building but you mentioned that a car was also in the
21 crime scene; is that right?

22 A. There was a car outside and they said some items were
23 missing from the car so Cheryl processed the vehicle after
24 I snapped photos of it.

25 Q. Okay. And to call something a scene, is that on the

INVESTIGATOR TIM BUCHANNAN: BY MR. SMITH

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1 outside when we see like the yellow tape?

2 A. It's on the outside. There's a - The building is like
3 a two room. It has a store front and then it has a
4 warehouse with a bathroom in the back and then there's a
5 shed off to the side that they detail cars on the right
6 side. The car was parked outside right in front of that.

7 Q. And would of that somehow been corded off or taped
8 off or something?

9 A. There was a crime scene tape on the outside keeping
10 people away from the car.

11 Q. And when you go to a scene or through your training,
12 there are a number of tools that you can use to help you
13 determine if there is evidence and recover that evidence;
14 is that right?

15 A. Yes, sir.

16 Q. And I believe you mentioned a perma blue as one of
17 those being used to help recover fingerprints. Is that
18 something you --

19 A. That's a lab item that we use on shell casings. Yes,
20 sir.

21 Q. Okay. And you may have also mentioned cyanoacrylate
22 or super glue fumes?

23 A. Yes, sir.

24 Q. Okay.

25 A. That can be used in the field or at the lab.

1 Q. Okay. And that's a fume that basically adheres?

2 A. When you heat up super glue, it releases a cyanide gas
3 and the gas actually they found adheres to the moisture in
4 the fingerprints. If something has been soaking wet, it
5 doesn't do any good to use it but on items that have been
6 touched, it's a more permanent way to develop fingerprints
7 on a non porous item like glass or metal or something.

8 Q. And what we used to see as sort of a black dust on TV
9 shows, is that --

10 A. That's just regular fingerprint dust. We have
11 magnetic and regular that we use on the scene.

12 Q. And then for DNA or other items with blood, how do you
13 determine if blood may be in the location?

14 A. There are several. We can use hemo-sticks, which is a
15 quick way to determine if something is blood. If it's a
16 red stain we normally would take a swab of it, if we think
17 it's blood, and we'll label it as a red stain and let SLED
18 determine whether it was blood or not.

19 Q. Okay. And then blue star, what is that?

20 A. Blue star is a blood enhancer. It's for detecting
21 real faint amounts of blood. It's usually used after a
22 crime scene has been cleaned up and it reacts to the blood
23 and actually glows in a darkened environment and all it
24 does, it's an indicator that there could have been blood
25 there.

INVESTIGATOR TIM BUCHANNAN: BY MR. SMITH
BY SOLICITOR SHELTON

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1 You can also get false-positives with certain types of
2 bleaches and metals so it's just -- it's a tool to help
3 identify. You've got aluminol, amino black, blue star.
4 There are several different items on the market.

5 Q. And you talked about potential sources of DNA, one
6 being blood. Another source is cells. Cells could be left
7 behind someday at the scene; is that right?

8 A. Yes, sir.

9 Q. And then you talked about fluids or even what we now
10 sort of call this touch DNA, basically any salts or
11 anything that is secreted from your body can be left at a
12 scene, even through breath, sweat or whatever it is. Is
13 that accurate?

14 A. That's correct.

15 Q. And one way that those cells can be collected is from
16 a buccal swab that you talked about; is that right?

17 A. That's correct.

18 Q. And my client, Dantonyo Heath, agreed to allow you to
19 swab the inside of his cheek to get DNA?

20 A. Yes, he did.

21 MR. SMITH: I have no further questions.

22 THE COURT: Any redirect?

23 SOLICITOR SHELTON: Just very briefly, Your Honor.

24 REDIRECT EXAMINATION

25 INVESTIGATOR TIM BUCHANNAN BY SOLICITOR SHELTON:

1 Q. Investigator Buchanan, you've talked about there were
2 four folks from the FSU on the scene. As far as evidence
3 that was collected, and I know you said you all work as a
4 team, but as far as the evidence that was placed - the
5 items that were placed into evidence, who placed all items
6 into evidence?

7 A. I placed all the items into evidence. Generally the
8 first FSU member that arrives on the scene is the lead
9 agent and he handles all the items that are collected and
10 some of the processing and stuff they usually take care of.

11 Q. And you were the lead agent?

12 A. Yes, ma'am.

13 Q. There was a lot of talk about prints during cross.

14 Did you see any chocolate bars lying around with
15 prints in them?

16 A. No, ma'am. And it was our understanding that the
17 suspects were known to the victims, and the shop area is
18 actually a common area and they would have been back and
19 forth in that area before since they had been there before
20 and there was a lot of stuff that we didn't process because
21 - and there was a lot of wet stuff in the bathroom because
22 the sink was torn off and everything was soakin wet. Some
23 of the items we had to place in the drying chamber. I
24 think I noted in my report that they had to dry out before
25 we could actually even put them into evidence.

INVESTIGATOR TIM BUCHANNAN: BY SOLICITOR SHELTON

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1 Q. And you testified on cross that there was a picture of
2 the shell casing and glass, and I think Ms. Burris asked
3 you about the glass taken into evidence. You didn't
4 actually take any glass into evidence?

5 A. No, we didn't take any glass into evidence.

6 Q. And you didn't fingerprint any glass?

7 A. No, ma'am.

8 Q. Could you have fingerprinted the glass?

9 A. We could have.

10 Q. And who chose not to do that, or was it even a
11 discussion?

12 A. It was a group discussion about what we should process
13 when everybody got there. And we decided these items were
14 the most relevant and that's what we collected and we took
15 DNA swabs from some of the spots of the blood in there
16 because most of it we thought would be the victims'.

17 Q. I want to show you State's Exhibit Fifty.

18 You talked about evidence collected. Again, what is
19 that?

20 A. Marker cone number five would have probably been a
21 shell casing. I'd have to look back at my notes, but I
22 believe that this is a mid range shot which shows you the
23 marker cone in relation to the doorway into the bathroom
24 which identifies and places that object at that.

25 Q. And --

1 A. The detail shot would have shown exactly what was in
2 that marker cone. I'm pretty sure it's a shell casing or a
3 live round.

4 Q. So from your point of view, what was the focus of this
5 picture?

6 A. The live round, the marker cone. Placing the marker
7 cone would be my objective here.

8 Q. And what is that beside the picture, beside the live
9 round, the object lying there beside it?

10 A. There is a metal bar looks like right beside it.

11 Q. That was not the focus of your picture?

12 A. No, ma'am.

13 Q. Did you know anything about that bar?

14 A. No, ma'am. The shell casing was the focus of that
15 picture.

16 Q. And you had not talked to the victim about the facts
17 of the incident?

18 A. No, ma'am.

19 Q. Did you fingerprint that bar?

20 A. No, ma'am.

21 Q. Did you have any reason to believe you needed to
22 fingerprint that bar?

23 A. No, ma'am. Because it was right - that's a tire iron
24 and that's actually a tire machine on the left right beside
25 it, and that would be a common area for that to be laying

INVESTIGATOR TIM BUCHANNAN: BY SOLICITOR SHELTON

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1 there, right beside the tire machine.

2 Q. What is touch DNA?

3 A. Touch DNA is a - The way we collect touch DNA is we
4 take two swabs. We put some distilled water on one swab
5 and we take it and we rub it on the area like if I wanted
6 to get touch DNA I'd have to rub it right here on there.

7 (WITNESS DEMONSTRATED.)

8 A. And then I would take the dry swab and come right
9 behind it. And then they're placed inside a cardboard box
10 which is placed inside an envelope, sealed up, and then
11 placed into evidence.

12 Q. Can you see touch DNA?

13 A. No.

14 Q. How do you know when to look for it?

15 A. We take - We try to look at the scene and take the
16 items that, of course, blood would be something we would
17 take it from. Something that the subject or the victim has
18 handled or touched, that's what we would try to take it
19 from.

20 We could take thousands of swabs from in here and we
21 would probably get thousands of DNA profiles. It's a very
22 minute amount of evidence and we have to try to control how
23 many we send because SLED will only test five things.

24 Their caseload is such that we can't take hundreds of
25 swabs and send them down there because they're doing this

1 for the whole state and they take five items of DNA at a
2 time and we have to have comparers from the victims or the
3 suspects to compare them to otherwise they get knocked
4 aside. And we have to make a decision and the detectives,
5 once we take it into evidence, they have to decide what
6 items they want actually tested. They have to judge the
7 best value and send it down there because there's quite a
8 huge back load and it may take six months to a year to even
9 get an answer on a simple --

10 You know, even if we know we've got the suspect's and
11 the victim's DNA that we're taken buccal swabs, if we sent
12 three things to be tested down there, it might take six
13 months to a year before we even get an answer.

14 Q. And there is no touch DNA in this case?

15 A. There was none taken except for the blood samples tha
16 we took. That's correct.

17 Q. But is it your testimony that there was no other DNA
18 present?

19 A. No. I'm not saying that. There could be touch DNA
20 everywhere.

21 Q. Is it your testimony that there were no other
22 fingerprints present?

23 A. There weren't any other areas that we tested for
24 fingerprints other than the vehicle.

25 SOLICITOR SHELTON: Thank you.

TIM BUCHANNAN: BY MS. BURRIS

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1 THE COURT: Ms. Burris.

2 MS. BURRIS: Thank you, Your Honor.

3 RECROSS EXAMINATION

4 INVESTIGATOR TIM BUCHANNAN BY MS. BURRIS:

5 Q. Mr. Buchanan, what does A-F-I-S stand for?

6 A. AFIS?

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

8 A. That's the Automated FBI's Fingerprint Identification
9 System.

10 Q. Okay. And that's a pretty complex system. Right?

11 A. It - You --

12 SOLICITOR SHELTON: Objection, Your Honor. I didn't
13 get into AFIS.

14 THE COURT: Yeah, I sustain the objection.

15 Q. Detective, Mr. Buchanan, when asked on redirect
16 whether or not you actually fingerprinted the pry bar that
17 was actually flashed on the screen here, projected on the
18 screen.

19 A. Uh-huh.

20 Q. You indicated that you didn't actually fingerprint
21 that pry bar because it was actually right beside the tire
22 machine which you actually thought that it was where it
23 should have been so you didn't fingerprint it. Right?

24 A. That's what I said. Yes, ma'am.

25 Q. And when asked whether or not you had actually

DETECTIVE TIM BUCHANNAN: BY MS. BURRIS
BY MR. SMITH

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1 fingerprinted the glass - When you actually arrived on the
2 scene and you went to the bathroom, you saw that there was
3 a mirror, right? And it was broken. Correct?

4 A. It was laying in the floor in pieces. Yes, ma'am.

5 Q. Lying in the floor in pieces. And you indicated in
6 your previous testimony that it was a group discussion,
7 meaning that it was probably you, Cheryl Boyd, Mr. Weeks,
8 as well as who else?

9 A. Investigator Sullivan.

10 Q. Okay, and Investigator Sullivan. So there was at
11 least four of you and you decided that you were not going
12 to fingerprint the glass?

13 A. That's correct.

14 Q. Okay. Thank you.

15 MS. BURRIS: I have no further questions.

16 THE COURT: Mr. Smith.

17 MR. SMITH: Thank you, Your Honor.

18 RECROSS EXAMINATION

19 INVESTIGATOR TIM BUCHANNAN BY MR. SMITH:

20 Q. It was our understanding that the suspects were known.

21 That's what you gave as an answer as to why you
22 processed the scene in the way you did; Is that correct?

23 A. That is what was reflected to me when I got on the
24 scene. That's correct.

25 Q. If the suspects had been unknown, or if one of them

INVESTIGATOR TIM BUCHANNAN: BY MR. SMITH
AMANDA CRANE: BY SOLICITOR SHELTON

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1 had been unknown, would you have processed the scene
2 differently?

3 A. We would probably been a - I don't know if we would
4 have or not because everything was wet. It was - I can't
5 say one way or the other.

6 Q. But nobody came and ran you off. You had secure --

7 A. No. We had time and we worked it like we should.
8 Yes, sir.

9 MR. SMITH: Thank you.

10 No further questions.

11 THE COURT: You can step down and be excused. We
12 appreciate your time. Thank you.

13 (WITNESS LEAVING WITNESS STAND.)

14 THE COURT: Call your next witness.

15 SOLICITOR SHELTON: Your Honor, the State at this time
16 calls Amanda Crane. Your Honor, may Investigator Buchanan
17 be excused?

18 THE COURT: You may be excused.

19 SOLICITOR SHELTON: Thank you.

20 THE COURT: Please come up, put your left hand on this
21 Bible and raise your right and the Clerk will administer an
22 oath.

23 (WHEREUPON: AMANDA CRANE, BEING
24 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

25 DIRECT EXAMINATION

AMANDA CRANE: BY SOLICITOR SHELTON

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1 AMANDA CRANE BY SOLICITOR SHELTON:

2 Q. State your name, please.

3 A. My name is Amanda Crane.

4 Q. And, Ms. Crane, where do you live?

5 A. I live in Lancaster, South Carolina.

6 Q. Are you married?

7 A. I am.

8 Q. Were you married back on June 8th of 2011?

9 A. Yes, ma'am, I was.

10 Q. Who is your husband?

11 A. My husband is Jared Crane.

12 Q. And where was your husband working back then?

13 A. He was working for Five Star Customs.

14 Q. And where is that at?

15 A. It's in Rock Hill.

16 Q. Was he the victim of a crime?

17 A. Yes, ma'am, he was.

18 Q. And that was on June 8th of 2011. Did you witness any
19 part of that crime?

20 A. Yes, ma'am, I did.

21 Q. Can you describe to the jury what you witnessed?

22 A. I witnessed the suspects carrying Mr. Neal Jordan out
23 of the building and then one suspect approached me and
24 asked for my cell phone and I didn't have one so I went in
25 the building to get my husband's for him, and at that point

AMANDA CRANE: BY SOLICITOR SHELTON

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1 is when I saw my husband coming out of the restroom untying
2 himself bleeding from his head.

3 Q. And other than that, how did he look?

4 A. He was awful. He was distraught. He was - I couldn't
5 hardly recognize him, there was so much blood.

6 Q. What did he do after he came out of the bathroom?

7 A. He asked if they were gone and he grabbed me and put
8 me in the ceiling in the bathroom in the front of the
9 building.

10 Q. What do you mean he put you in the ceiling?

11 A. He punched out the ceiling tiles and just basically
12 threw me in the ceiling to hide me.

13 Q. Why did he do that?

14 A. He was scared for our lives.

15 Q. Going back to when you said when you first saw Mr.
16 Jordan, you said he was with two suspects. Did you ever
17 get a close look at either one of those people?

18 A. Only one of them when he approached my car and asked
19 me for my cell phone.

20 Q. And what was the lighting like when he came to your
21 car?

22 A. It was dark outside but my car interior light was on
23 and the store next door to us had their lights on it was -
24 I mean, it was lit up from the output.

25 Q. Was his face covered?

1 A. No, ma'am.

2 Q. And were you able to see his face?

3 A. Yes, ma'am.

4 Q. And the person that you saw, did you know that person?

5 A. I had never seen him until that night.

6 Q. After that night were you asked to identify him from a
7 lineup?

8 A. I was. That night when Jared and I were at the
9 hospital when he was being seen for his injuries I was, but
10 Jared in fear for our safety, declined. He didn't want me
11 to do a lineup at that time.

12 Q. And since that evening, have you seen the suspect
13 since then?

14 A. Yes, ma'am.

15 Q. Where have you seen him?

16 A. I saw him on the Moss Justice website when he was
17 arrested.

18 Q. For these charges?

19 A. Yes, ma'am.

20 Q. So you saw him there. And you've seen him in this
21 courtroom?

22 A. And I've seen him in this courtroom for bond hearings.

23 Q. Okay. Do you see the person who came to your car
24 that night and ask you for your phone sitting in the
25 courtroom today?

AMANDA CRANE: BY SOLICITOR SHELTON

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1 A. Yes, ma'am, I do.

2 Q. And where is he?

3 A. He's sitting over here in a dark suit with a light
4 blue shirt and tie with his attorney.

5 SOLICITOR SHELTON: Please let the record reflect
6 that the witness has identified Dantonyo Heath.

7 (WITNESS INDICATED DEFENDANT AT WITNESS TABLE.)

8 Q. How do you know that that's the same man?

9 A. I saw his face. And after what I saw what he had done
10 to my husband I've dreamed about it and it's been stuck in
11 my head ever since that night.

12 Q. Are you being influenced at all by the prior times
13 that you saw him?

14 A. I had never seen him before that night. No.

15 Q. But the times that you've seen him between that night
16 and now?

17 A. No, ma'am.

18 Q. Are you sure it's him?

19 A. I'm sure.

20 Q. How were you and Jared, Mr. Crane, feeling that night?
21 Like what were you all feeling?

22 A. I was scared. My husband was scared for his life and
23 begging for mine and I was just - it was one of the worst
24 things I've ever been through.

25 Q. How does it seem to have impacted Jared, Mr. Crane?

AMANDA CRANE: BY SOLICITOR SHELTON

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1 A. We're scared now. I mean, we're not - I mean, people
2 just - Jared had a hard, a really hard time after this and
3 it's changed a lot of aspects of our lives.

4 Q. Ms. Crane, I'm going to show you some pictures. Okay.

5 A. Okay.

6 Q. What's been marked for identification as State's
7 Exhibits Number Thirteen through State's Exhibit Number
8 Seventeen. I want to ask you to look at these.

9 (WITNESS REVIEWING EXHIBITS.)

10 Q. Do you recognize those pictures?

11 A. Yes, ma'am.

12 Q. And what are they?

13 A. They're my husband's injuries from that night.

14 Q. And you didn't actually take those pictures, did you?

15 A. No, ma'am.

16 Q. But did you see him when he was looking that way?

17 A. I seen him when he looked worse than this, but yes,
18 ma'am.

19 Q. And do those pictures, is that an accurate
20 reflection of the way your husband looked at the hospital
21 that night?

22 A. Yes, ma'am.

23 SOLICITOR SHELTON: Your Honor, at this time I'd ask
24 to move State's Exhibits Number Thirteen through Seventeen
25 into evidence.

AMANDA CRANE: BY SOLICITOR SHELTON

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1 THE COURT: Any objection?

2 MS. BURRIS: No objection, Your Honor.

3 MR. SMITH: No objection.

4 THE COURT: In without objection.

5 (WHEREUPON: STATE'S EXHIBIT NUMBERS THIRTEEN THOUGH
6 SEVENTEEN IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)
7 BY SOLICITOR SHELTON:

8 Q. Ms. Crane, I'm going to show these to the jury.

9 (STATE'S EXHIBIT THIRTEEN PUBLISHED TO THE JURY ON
10 COURTROOM OVER HEAD.)

11 Q. And what is this?

12 A. That's just a bruised knee from where he was on
13 concrete.

14 Q. And whose leg is that?

15 A. My husband, Jared.

16 Q. And I'm going to show you State's Exhibit Number
17 Fourteen.

18 (STATE'S EXHIBIT NUMBER FOURTEEN PUBLISHED TO THE JURY
19 ON COURTROOM OVER HEAD.)

20 A. That's his arm. I'm not sure how that injury
21 occurred.

22 Q. You don't have to know how it occurred. That's the
23 injury that you observed that night?

24 A. It happened that night. Yes, ma'am.

25 Q. And I'm gonna show you State's Exhibit Number Fifteen.

1 (STATE'S EXHIBIT FIFTEEN PUBLISHED TO THE JURY ON
2 COURTROOM OVER HEAD.)

3 A. That's the back side of Jared's ear.

4 Q. How did the back side of his ear look to you that
5 night?

6 A. It was really, really swollen and bruised.

7 Q. Did it ever look any worse than this?

8 A. It got way worse than that after the day - I mean,
9 after that night.

10 Q. State's Exhibit Number Sixteen.

11 (STATE'S EXHIBIT SIXTEEN PUBLISHED TO THE JURY ON
12 COURTROOM OVER HEAD.)

13 Q. What's this?

14 A. That's Jared's face.

15 Q. Is that how it looked when you first saw him?

16 A. No, ma'am.

17 Q. How did it look when you first saw him?

18 A. His whole face was covered in blood. I couldn't even
19 recognize him.

20 Q. And then State's Exhibit Number Seventeen.

21 (STATE'S EXHIBIT SEVENTEEN PUBLISHED TO THE JURY ON
22 COURTROOM OVER HEAD.)

23 A. That's the left side of his face.

24 Q. And his ear?

25 A. It's black in that picture as well. That's the same

AMANDA CRANE: BY SOLICITOR SHELTON

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1 picture. That's just the front of the picture that you
2 showed the rear of the ear. He couldn't hear out of his
3 ear for a long time after that.

4 Q. And so that discoloration, is that normally how his
5 ear looked?

6 A. No, ma'am.

7 SOLICITOR SHELTON: Your Honor, at this time I'm going
8 to ask to publish two clips from State's Exhibit Number
9 Eight.

10 THE COURT: You may.

11 (STATE'S EXHIBIT NUMBER EIGHT PUBLISHED TO THE JURY ON
12 COURTROOM OVER HEAD AT 11:10 A.M..)

13 Q. Who is this?

14 A. That's me.

15 Q. What's going on here?

16 (WITNESS CRYING.)

17 A. He's telling me what happened and asking me if they
18 were gone and I just told him I just saw 'em outside. He's
19 trying to find somewhere to put me. He's trying to find
20 somewhere to hide me.

21 SOLICITOR SHELTON: Your Honor, for the record, this
22 is State's Exhibit Number Nine.

23 (STATE'S EXHIBIT NUMBER NINE PUBLISHED TO THE JURY ON
24 COURTROOM OVER HEAD.)

25 Q. Where are you?

1 A. That's when I pulled up right in front of the bay
2 doors at the shop. I had just got back from getting us
3 something to eat. I sit there because I'm calling him and
4 I didn't get an answer.

5 (STATE'S EXHIBIT NINE CONTINUED TO PLAY/PUBLISHED TO
6 THE JURY ON COURTROOM OVER HEAD.)

7 Q. And who is that there?

8 A. They walked by with Neal.

9 Q. Did you see Neal?

10 A. I saw him.

11 Q. And you knew that was him?

12 A. And the one with Neal told me that my husband - he
13 said, "he'll be here in a minute" and then he said, "ask
14 her for her phone."

15 Q. And that's the person that you identified as Dantonyo
16 Heath that has approached your car?

17 A. Yes, ma'am.

18 Q. Was there anything taken from your car?

19 A. My cell phone.

20 Q. Your cell phone was taken?

21 A. Yes, ma'am.

22 Q. Did you ever get it back?

23 Q. (WITNESS INDICATED.)

24 THE COURT: Is that a yes or a no?

25 A. No, sir.

AMANDA CRANE: BY MS. CRUZ

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1 Q. Thank you.

2 SOLICITOR SHELTON: I have no further questions, Your
3 Honor.

4 THE COURT: Ms. Burris.

5 I mean Ms. Cruz.

6 MS. CRUZ: Just briefly, Your Honor.

7 CROSS EXAMINATION

8 AMANDA CRANE BY MS. CRUZ:

9 Q. Amanda, so you often go to the rim shop and you pick
10 up Jared and you bring him food and you visit him?

11 A. I had before but that was the first time I had been
12 there that late at night because that was the first time he
13 had stayed that late at night.

14 Q. And he was staying working on cars?

15 A. Yes, ma'am.

16 Q. Okay. And so you said it was late so it was dark
17 outside. Right? And it was quiet when you got there?

18 A. I was there from around 5:30 that afternoon. I had
19 left right before this incident occurred.

20 Q. When you pulled up that second time, like on the clip
21 that we just watched, it was quiet when you got there at
22 that time?

23 A. Besides the traffic going by because the bay door was
24 closed and it wasn't suppose to be. Jared had left it open
25 for me.

AMANDA CRANE: BY MS. CRUZ

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1 Q. But it was quiet and you didn't hear any gun shots and
2 you didn't hear any yelling or commotion or anything when
3 you got there that second time?

4 A. I was inside my car on my phone calling. I was trying
5 to call Jared so all I heard was a ringing on my phone.

6 Q. You had your car door open; is that right?

7 A. Uh-huh.

8 Q. I think you said that.

9 A. Uh-huh.

10 Q. Okay. And you did identify the one person you saw.
11 Right? But that wasn't Maquis Robinson was it?

12 A. (WITNESS INDICATING.)

13 Q. No?

14 THE COURT: You've got to say yes or no.

15 A. No, sir.

16 No, ma'am.

17 Q. Had you ever seen Maquis Robinson before?

18 A. No, ma'am.

19 Q. In the times that you had been there during the day,
20 you hadn't seen him?

21 A. I had only been there - that was the second time I had
22 been there. The first time was just to drop Jared off.
23 That was the first time I had been there during the day.

24 Q. Okay. And you said that the lights inside the
25 building were on though, the florescent lights from the

AMANDA CRANE: BY MS. CRUZ

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1 bay?

2 A. Yes, ma'am.

3 Q. And you can't testify under oath today that that was
4 Maquis Robinson, that he was there at all on June 8th; is
5 that right?

6 A. I did not see him. I mean, I can't testify that that
7 is who it was. No, ma'am.

8 Q. And before this incident, have you ever heard Jared
9 talk about Maquis Robinson at all, or any of the people he
10 worked with?

11 A. He actually had mentioned to me that Maquis had asked
12 him about air brushing and painting and that he was going
13 to start helping someone learn how, that he was going to
14 teach him how to do it but that's it.

15 Q. Okay. Did he tell you what Maquis Robinson looked
16 like?

17 A. He just that it was a guy who had been around the
18 shop, but no he didn't describe him in detail to me.

19 Q. Okay. And Jared went to the hospital that night
20 didn't he?

21 (WITNESS INDICATING.)

22 Q. Did he go into the intensive care unit?

23 THE COURT: I'm sorry. You have to give us an answer.

24 A. No, ma'am. He didn't go into the intensive care unit
25 not that night. He had to have surgery the following week.

AMANDA CRANE: BY MS. CRUZ

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1 Q. But he didn't stay overnight at the hospital that
2 night June 8th?

3 A. He was discharged later on that morning.

4 Q. Okay. You did not see his face that night did you?

5 A. I can't testify - no, ma'am.

6 Q. And you didn't tell the police in your statement that
7 this was the man that you saw was it?

8 A. No, ma'am, I did not.

9 Q. And you never picked Maquis Robinson out of a photo
10 lineup did you?

11 A. No, ma'am, I did not.

12 Q. And that's because you never saw him there.

13 MR. NEWKIRK: Your Honor, I'm going to object. It has
14 been asked and answered three different times.

15 THE COURT: I think it has been asked and answered but
16 it is cross examination.

17 Go ahead.

18 Q. And that's because you never saw him; is that right?

19 A. I can't say under oath that for a fact I saw his face
20 but there were two suspects there that night. Yes, ma'am.

21 Q. But it wasn't him?

22 A. I can't say for a fact that it wasn't him. No, ma'am.

23 Q. Okay. Thank you.

24 MS. CRUZ: No further questions.

25 THE COURT: Mr. Smith.

AMANDA CRANE: BY MR. SMITH

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1 MR. SMITH: Thank you.

2 CROSS EXAMINATION

3 AMANDA CRANE BY MR. SMITH:

4 Q. Ms. Crane, did you say when you first saw the bay door
5 open that you saw them carrying Neal out?

6 A. Yes, sir. When the bay door first opened, both of the
7 suspects had Neal and then one of them walked behind Neal.
8 When they saw that I was out there, one let go of Neal and
9 came and walked behind Neal.

10 Q. Okay. And by carrying you mean physically having to
11 lift up --

12 A. Having him by his arm. Yes, sir.

13 Q. How long did you see the suspect that came to your
14 car?

15 A. Long enough for him to ask me for my phone. And like
16 I said, he stood there for a minute catching his breath.
17 The other suspect told him to ask for my phone and he did
18 and I told him that mine was dead. Not knowing these
19 people, dark neighborhood, I didn't know, I got out of my
20 car and told him that my husband had a phone he could use.

21 Q. Okay. My question is how long did you see him?

22 A. I can't answer that. I don't know if it was thirty-
23 ive seconds-ish or I mean, a hour, I mean, a minute or two
24 or three minutes. I'm not sure.

25 Q. Okay. You say you can't answer it. Have you answered

AMANDA CRANE: BY MR. SMITH

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1 it before?

2 A. No, sir. I mean, I'm just - I don't know how long it
3 had been.

4 Q. Did you answer it earlier today and say three to four
5 minutes?

6 A. Yes, sir.

7 Q. And then I told you it was thirty-five seconds on the
8 video and that's now why you answered thirty-five seconds?

9 A. I told you I don't know how long it was. It felt
10 longer than it actually shows on the video because of the
11 situation that I was in. It felt a lot longer than what it
12 shows because of what had happened.

13 Q. Yes, ma'am. But you now know it was only thirty-five
14 seconds and that's the whole time that you were outside.

15 A. I didn't count how long it was so I don't know for
16 certain. No, sir.

17 Q. Could it be five seconds?

18 A. I didn't count. I don't know.

19 Q. But you, before I began asking you questions today,
20 you thought it was three to four minutes?

21 A. It felt like he was standing there for a long time.
22 Yes, sir. I was being intimidated and I felt like I was
23 there - like he was there longer than the video shows.

24 Q. You've never been shown a photo lineup display?

25 A. No, sir.

AMANDA CRANE: BY MR. SMITH

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1 Q. But you've seen your husband look at two different
2 ones; is that right?

3 A. I was not around when my husband done his photo
4 lineups. No, sir.

5 Q. Either time?

6 A. Either time.

7 Q. Did he ever tell you he had done a photo lineup?

8 A. He told me that he was going to meet Officer Stokes
9 but that was it. He didn't tell me who he identified. I
10 did not know of anything else. No, sir.

11 Q. Okay. He didn't even tell you he looked at a photo
12 lineup?

13 A. No, sir.

14 Q. What did he tell you when he got back?

15 A. Nothing.

16 Q. Did you speak with any officers at the hospital that
17 night?

18 A. I spoke with Officer Stokes and Ms. Tashia. I don't
19 remember her last name but I ---

20 Q. Officer Smith?

21 A. --- spoke with her. Yes.

22 Q. Okay. And then some later point you went and gave a
23 statement; is that correct?

24 A. At the Rock Hill Police Department. Yes, sir.

25 Q. All right. That was not that same night?

AMANDA CRANE: BY MR. SMITH

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1 A. No, sir.

2 Q. Okay. And were you shown a photo lineup then, that
3 next time?

4 A. No, sir.

5 Q. All right. Then you indicate that you saw a
6 photograph on the website of Mr. Heath; is that right?

7 A. Yes, sir.

8 Q. And then you indicate that you saw him I believe at a
9 bond hearing; is that right?

10 A. Yes, sir.

11 Q. And what would he have been wearing at the bond
12 hearing?

13 A. I'm not certain but I believe he was in his orange
14 jumpsuit.

15 Q. Okay. And at the bond hearing, was the lighting good
16 like it is here today?

17 A. Yes, sir.

18 Q. So you had a perfect opportunity to see the face of
19 that man in the orange jumpsuit at that bond hearing.
20 Right?

21 A. I'd seen his face in nightmares before then.

22 Q. My question was, did you have a perfect opportunity
23 ---

24 A. Yes, sir. I saw him that day.

25 Q. --- to see the face of the man in the orange jumpsuit

AMANDA CRANE: BY MR. SMITH

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1 at the bond hearing?

2 A. Yes, sir. I saw him that day.

3 Q. And did you have enough time to observe him?

4 A. I didn't stare at him. I didn't - I don't want - care
5 to look at him.

6 Q. Did you have enough time to?

7 A. I saw him. Yes, sir.

8 Q. Okay. And you did see his face clearly?

9 A. Yes, sir.

10 Q. Now, did I hear you testify that when you first went
11 into the business that you couldn't recognize your husband?

12 A. When he first turned the corner out of the bathroom, I
13 didn't know what was going on. He had blood on his face.
14 He had just twisted the wires off of his arms. I didn't
15 know what was going on. He was panicking. He didn't even
16 know that it was me coming through the door and ran back
17 into the bathroom.

18 Q. And at some point did he fall out of the ceiling?

19 A. Both - yeah, he fell after I dropped - cause I - The
20 video shows that I go back to pick something up and I go
21 back to pick up his cell phone to call the police. I drop
22 it and he falls when I drop the cell phone. Yes, sir.

23 Q. And actually fell out of the ceiling onto the floor?

24 A. He actually fell out of the ceiling onto the toilet in
25 the bathroom.

1 MR. SMITH: No further questions.

2 THE COURT: All right.

3 SOLICITOR SHELTON: No redirect, Your Honor.

4 MS. CRUZ: No questions, Your Honor.

5 THE COURT: You can step down ---

6 MS. CRANE: Thank you, Your Honor.

7 THE COURT: --- and be excused if you wish.

8 Appreciate your time.

9 (WITNESS LEAVING WITNESS STAND.)

10 THE COURT: Members of the jury panel, we'll take our
11 morning break.

12 MS. CRANE: Thank you, Your Honor.

13 THE COURT: Yes, ma'am. Thank you.

14 THE COURT: Mr. Bailiff, the jury will take their
15 morning break.

16 (JURY EXITS COURTROOM AT 11:23 A.M..)

17 THE COURT: We'll be at ease for - until about twenty
18 till.

19 SOLICITOR SHELTON: Thank you, Your Honor.

20 (COURT IN RECESS AT 11:24 A.M..)

21 (COURT BACK IN SESSION AT 11:45 A.M..)

22 THE COURT: Thank you. Take your seats.

23 Is the State ready?

24 SOLICITOR SHELTON: Yes, sir, Your Honor.

25 THE COURT: Ms. Burris, you ready?

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1 MS. BURRIS: I am ready, Your Honor. However depending
2 on - I apologize, Mr. Smith. Go ahead.

3 MR. SMITH: I just want to say I was ready too.

4 THE COURT: Ms. Burris.

5 MS. BURRIS: Thank you, Your Honor, if I may.

6 I'm not sure exactly which witness the State is going
7 to call but if the State is actually going to call Jared
8 Crane, I actually do have a prior conviction of a crime of
9 dishonesty, being shoplifting, and so we need to take that
10 up, of course outside the presence of the jury.

11 SOLICITOR SHELTON: If it's the one that I'm thinking
12 about from Rock Hill City from - what's the date?

13 MS. BURRIS: No. It's actually from Lancaster
14 Municipal Court.

15 SOLICITOR SHELTON: Is that from his new rap sheet?

16 MS. BURRIS: I'm not sure.

17 THE COURT: If you're looking at a piece of paper you
18 gonna let me look at it and see?

19 MS. BURRIS: Yes, absolutely. May I approach.

20 THE COURT: We call it Lancaster by the way.

21 MS. BURRIS: What did I call it, Lancaster?

22 THE COURT: Yes you did.

23 MS. BURRIS: Sorry. It's depending on the day, Your
24 Honor.

25 THE COURT: No penalty attached.

1 MS. BURRIS: Thank you.

2 THE COURT: This is from 2002.

3 MS. BURRIS: Uh-huh.

4 THE COURT: Bench trial. Took place at the Wal-Mart.

5 SOLICITOR SHELTON: I didn't realize that was on there
6 but I don't have any - if it's -

7 (SIDE BAR BETWEEN ATTORNEYS.)

8 SOLICITOR SHELTON: What Mr. Newkirk is saying is that
9 it's outside of the ten year time period now. It would not
10 have been outside the ten year time period at the time of
11 the offense, and I don't know which date the court wishes
12 to use.

13 THE COURT: Well the date the court usually use is
14 when they're testifying because that's when their
15 credibility would be assessed.

16 MS. BURRIS: And the rules says, Your Honor, if I may.
17 I says evidence of a conviction under this rule is not
18 admissible of a period of more than ten years have elapsed
19 since date of conviction or the release of the witness from
20 which confinement and imposed for that conviction,
21 whichever is the later date, unless the court determines in
22 the interest of justice that the probative value of the
23 conviction, supported by specific facts and circumstances
24 substantially outweighs it's prejudicial effect.

25 And I would just - My position, Your Honor, is that

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1 of course credibility is a major factor in this particular
2 case given that there are alleged three to four persons
3 that are actually at the crime scene. I think his
4 credibility is a major issue. I believe --

5 THE COURT: No, I heard all that. I hate to stop you
6 but I am ---

7 MS. BURRIS: Yes, sir.

8 THE COURT: --- because the time limit says the
9 evidence of the conviction is more than ten years old as
10 calculated is not admissible unless the proponent gives the
11 adverse party advance written notice of intent to use such
12 evidence to provide the adverse party the fair opportunity
13 to contest the use of such evidence.

14 Have you given advance written notice of your intent
15 to use this?

16 MS. BURRIS: I have not, Your Honor.

17 THE COURT: All right. I'm not going to let you use
18 it.

19 SOLICITOR SHELTON: Thank you, Your Honor.

20 SOLICITOR NEWKIRK: Thank you, Your Honor.

21 THE COURT: We'll make a copy of this unless you want
22 it back. I'll make a copy of the disposition sheet a
23 Court's Exhibit?

24 MS. BURRIS: Yes.

25 THE COURT: You ready for the jury?

JARED CRANE: BY SOLICITOR SHELTON

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1 MS. BURRIS: Yes.

2 THE COURT: State ready?

3 SOLICITOR SHELTON: Yes, Your Honor.

4 THE COURT: Defense ready? Ms. Burris, you ready?

5 MS. BURRIS: Yes, sir, Your Honor.

6 (WHEREUPON: COURT'S EXHIBIT NUMBER EIGHT, IDENTIFIED
7 AND MARKED, RECEIVED INTO EVIDENCE.)

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

9 (JURY REENTERS COURTROOM AT 11:49 A.M..)

10 THE COURT: You may call your next witness.

11 SOLICITOR SHELTON: Your Honor, the State at this time
12 would call Jared Crane.

13 THE COURT: Come up and put your left hand on the
14 Bible and raise your right.

15 (WHEREUPON, JARED CRANE,
16 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

17 DIRECT EXAMINATION

18 JARED CRANE BY SOLICITOR SHELTON:

19 Q. State your name for the record, please.

20 A. Jared Crane.

21 Q. And Mr. Crane, where do you live?

22 A. I live in Lancaster, South Carolina.

23 Q. And back on June 8th of 2011, where did you work?

24 A. At Five Star Customs in Rock Hill.

25 Q. And were you working that day?

JARED CRANE: BY SOLICITOR SHELTON

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1 A. Yes, ma'am, I was.

2 Q. Did anything unusual happen to you on that day?

3 A. That night yeah. Yes, ma'am.

4 Q. Could you tell the jury what happened?

5 A. I was beaten and robbed and kidnapped at gun point.

6 Q. And you're gonna have to give us some details.

7 A. Oh.

8 Q. What were you doing that evening around 9:30, ten
9 o'clock?

10 A. Oh, okay. All right. I had to stay late that evening
11 because my - I was painting a truck that night and it was
12 supposed to be painted earlier but it was some other things
13 in the shop took over - priority over it and it got pushed
14 back and so he asked me if I would stay late and do it. I
15 agreed.

16 I was painting the truck in the detail bay and heard
17 the roll up door come up. I was actually standing in front
18 of the vehicle which was a Dodge Durango, so I couldn't see
19 the door but I could hear the door when it come up. It
20 caught my attention. I looked over and I seen Maquis
21 Robinson run by with his shirt just over the tip of his
22 nose so I could still - knew it was him, okay. I knew him
23 and Neal were friends. Him and Neal Jordan were friends,
24 so it may be a practical joke. I mean, I hadn't seen them
25 in any altercations, arguments before then. All right. So

JARED CRANE: BY SOLICITOR SHELTON

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1 I let that go. You know, pay it no attention.

2 Continued doing what I was doing. I can't tell you
3 exactly how long later I heard a chrome rim fall and hit
4 the ground. I knew that wasn't right. Went to walk around
5 the corner to see what it was and hear a pop, like a
6 firecracker. So that really got my attention and when I
7 come around the door with my paint gun still in my hand,
8 didn't see anything, and next thing I knew my bells was
9 ringing.

10 Q. When you say your bells were ringing, what happened?

11 A. I got hit in the back of the head.

12 Q. And did you see who hit you?

13 A. I did not see who hit me.

14 Q. Did you see it coming?

15 A. I did not see it coming.

16 Q. Did you know that there was another person other than
17 Maquis Robinson in the shop?

18 A. Had no clue there was another person in the shop.

19 Q. After you were hit, what happened?

20 A. I was basically in a fight for my life. When I was
21 hit, I lost all hearing. Like I said, bells was ringing.
22 Loss of sight in one of my eyes. Everything was black in
23 this side of my face.

24 (WITNESS INDICATED TO FACE.)

25 A. I couldn't see out of this side of my face and I was -

JARED CRANE: BY SOLICITOR SHELTON

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1 I could see feet and that was it, and all I could do was
2 put my hands up and when I put my hands up, I realized that
3 it was a black male attacking me and I just fought as hard
4 as I could.

5 Q. And in fighting, what exactly did this person do to
6 you? Did he hit you?

7 A. Punched me several times. Choked me. Actually picked
8 me up off of the ground by my neck choking me. I mean, I
9 tried to play like I was going to pass out because I didn't
10 want him to choke me to death. I was actually in fear for
11 my life so I tried to play like I was passed out. I tried
12 to go limp thinking maybe he would let me go and I could
13 get the upper hand in the situation. That never happened.
14 Even when I went limp, he just continued to hold tighter
15 and tighter so I continued to fight.

16 Q. How tall are you?

17 A. 5'8", 5'9".

18 Q. Was the person that you were fighting with taller than
19 you?

20 A. Yes, ma'am.

21 Q. Can you guess at --

22 A. Six, one, 6'2". Tall enough that he could pick me up
23 off the ground in a choke hold leaning backwards. He had
24 to lean backwards and put pressure on my neck to get my
25 feet off the ground but that's what was happening.

JARED CRANE: BY SOLICITOR SHELTON

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1 Q. Where was Mr. Jordan when all this was going on?

2 A. When this was going on, I had no clue at that time but
3 he was in the bathroom.

4 Q. And did you eventually end up in the bathroom?

5 A. I did eventually end up in the bathroom.

6 Q. How did that happen?

7 A. I was told that if I did not stop fighting that I -
8 The whole time this was going on I was telling him, my
9 wife's coming back just let me go. I don't have anything
10 to do with this. Just let me go.

11 (WITNESS CRYING.)

12 A. And I was told if I didn't quit fighting that my wife
13 would be harmed when she got back so I just quit. I quit
14 fighting.

15 Q. After you quit fighting, where did he take you?

16 A. Made me crawl to the bathroom.

17 Q. And once inside the bathroom, what happened?

18 A. I was told to sit up against - Well, get up against
19 the wall and get up against the toilet and that's really
20 vague, my memory is really vague, but I was in there for a
21 few seconds while they were looking for something to tie me
22 - while he was looking for something to tie me up with.

23 Q. And did they find something to tie you up with?

24 A. Yes they did.

25 Q. What did they tie you up with?

JARED CRANE: BY SOLICITOR SHELTON

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- 1 A. Some speaker wire. Some car audio speaker wire.
- 2 Q. And when I asked they, there were two suspects?
- 3 A. Yes, ma'am.
- 4 Q. You knew one of the suspects?
- 5 A. I knew one of the suspects.
- 6 Q. And who was that?
- 7 A. That was Maquis Robinson.
- 8 Q. And what - Do you know what Maquis Robinson was
- 9 wearing?
- 10 A. Yes, ma'am. I remember what he was wearing.
- 11 Q. What was he wearing?
- 12 A. A white tee shirt. A big, a really big baggy white
- 13 tee shirt and blue jeans, I believe.
- 14 Q. He was wearing a white shirt?
- 15 A. Yes, ma'am.
- 16 Q. And the second suspect, what was he wearing?
- 17 A. A dark tee shirt. A black bandana with white little
- 18 graffiti dots around it like a normal bandana, black jeans.
- 19 Kind of like acid washed black jeans. Had a little bit of
- 20 white fade on the front of them but black mostly on the
- 21 side and a pair of neon and black Nike Air Max.
- 22 Q. And was he taller? As far as size, how were they
- 23 compared to each other?
- 24 A. One was shorter than the other one and fat, chunkier.
- 25 And one was taller and slim.

JARED CRANE: BY SOLICITOR SHELTON

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1 Q. Which one was the shorter chunkier one?

2 A. Maquis Robinson. He had a lot more weight to him at
3 that time than he does now.

4 Q. From looking out in the courtroom, do you believe he's
5 lost weight?

6 A. I know he's lost weight.

7 Q. You want to estimate about how much you think he's
8 lost?

9 A. Twenty pounds maybe.

10 Q. So the reason I'm asking for those descriptions is
11 which one of those two were tying you up?

12 A. Dantonyo Heath.

13 Q. But you did not know his name at the time?

14 A. I did not.

15 Q. Did they take anything from you?

16 A. Yes, ma'am.

17 Q. What did they take from you?

18 A. Took some money out of my front pocket and a bag of
19 marijuana.

20 Q. Mr. Crane, I'm going to show you State's Exhibit
21 Number Forty-six. Do you recognize that?

22 A. Yes, ma'am.

23 Q. What is that?

24 A. That's my Texas Long Horns hat.

25 Q. That's your hat?

JARED CRANE: BY SOLICITOR SHELTON

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1 A. That is mine.

2 Q. You were wearing it that night?

3 A. I was.

4 Q. And I'm going to show you State's Exhibit Number
5 Forty-eight. What is in this photo?

6 A. That's my pocket knife.

7 Q. That was on you that evening?

8 A. Yes, ma'am, it was.

9 Q. Did you cut anybody with that knife?

10 A. I was going to.

11 Q. But did you?

12 A. No, I did not.

13 Q. Can you tell the jury about your injuries?

14 A. Yes. I sustained a broken nose, which I had to have
15 surgery for. I lost my hearing in the right side of my ear
16 for a few months. And black eyes and a hole, a stab hole
17 in my arm and just some skinned up, bruised up knees.

18 Q. Did you have any kind of surgery?

19 A. Yes, ma'am. I had to have a rhinoplasty done.

20 Q. When was that?

21 A. A week after this happened. About a week after I
22 believe.

23 Q. If you could, explain to the jury what happened during
24 the surgery as far as were you asleep, awake, that sort of
25 thing.

JARED CRANE: BY SOLICITOR SHELTON

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1 A. Yes. I was put to sleep because it was explained to
2 me that it was going to be a very painful process because
3 they were going to have to re-break my nose and set it
4 again and scrape the bone fragments to make it look right
5 again so yes, ma'am, I was put to sleep. But it was a very
6 painful surgery and a very painful process afterwards.

7 Q. How long did it take you to recover?

8 A. I believe the packing stayed in my nose for two weeks
9 after that. And keep in mind it was about ten foot of
10 gauze packed into my nose so I was in a lot of pain until
11 that came out and a lot of pain after it came out also.

12 Q. And how long before you, I think you've already
13 testified, but how long before you recovered your hearing?

14 A. Around two - Closer to three months.

15 Q. But no surgery or anything like that?

16 A. No surgery for it no. I mean, they said they couldn't
17 - I mean, if it was a busted ear drum, then they couldn't
18 do surgery on a busted ear drum.

19 Q. I'm going to show you what's - I'm also going to show
20 you State's Exhibit Number Thirty-four. Do you remember
21 what that is?

22 A. I believe that's the tee shirt I had on.

23 Q. The tee shirt you had on that night?

24 A. Yes, ma'am.

25 Q. Did you leave it at the scene?

JARED CRANE: BY SOLICITOR SHELTON

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1 A. Yes, ma'am. I took it off to try to stop my bleeding.

2 Q. Mr. Crane, I'm going to show you what's been marked
3 for identification - First off before I show it to you.
4 Did you go to the hospital that night?

5 A. Yes, ma'am, I did.

6 Q. And while at the hospital did you meet with anyone
7 investigating this case?

8 A. Detective Smith was in my room, come in my room with
9 me.

10 Q. And had you told anyone who you believed the suspects
11 to be?

12 A. Yes, ma'am. I was talked to at the scene soon as
13 this happened because I was one of the first people that
14 the officers seen and the first officer, that guy there.

15 (WITNESS INDICATED TO OFFICER BEHIND SOLICITOR'S
16 DESK.)

17 A. I spoke with three, maybe four, officers before I left
18 to go to the hospital. I mean, just different ones asking
19 me the same questions over and over. What happened? Did I
20 know 'em? What did they leave in? Were they here looking
21 for something.

22 Q. And you didn't see them leave?

23 A. No, ma'am. I did not.

24 Q. Who did you - When talking with the officers, who did
25 you tell them that you believed was involved?

JARED CRANE: BY SOLICITOR SHELTON

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1 A. Maquis Robinson.

2 Q. Did you tell them about a second suspect?

3 A. I did but I didn't know who he was.

4 Q. You did not know him?

5 A. No, ma'am.

6 Q. And how did you know Maquis Robinson?

7 A. Because I'd seen him at that business. Him and Neal
8 were friends and I'd seen him there several times.

9 Q. Had you ever talked with him?

10 A. Yes, I had.

11 Q. The evening of the incident, how close did you get to
12 looking at Maquis Robinson?

13 A. Face to face really. Face to face.

14 Q. Did he have his face covered up the whole time?

15 A. No, he did not.

16 Q. What was the lighting like in there, in the shop?

17 A. Like this, bright enough.

18 Q. And you testified they that they took money and
19 marijuana out of your pocket?

20 A. Yes, ma'am.

21 Q. Had you been smoking marijuana that night?

22 A. No, ma'am. I had not. I was at work.

23 Q. Had you been drinking?

24 A. No, I had not.

25 Q. Do you feel like you had a good opportunity to view

JARED CRANE: BY SOLICITOR SHELTON

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1 Maquis Robinson?

2 A. I had an excellent opportunity for about thirty
3 minutes to view Maquis Robinson.

4 Q. Do you have any question that the person that you saw
5 there that evening in the white shirt was Maquis Robinson?

6 A. I have not a doubt in my mind.

7 Q. Did Mr. Robinson say anything to you?

8 A. Uh-huh.

9 Q. What did he say to you?

10 A. He told me that he -- he told Neal first, you better
11 tell your boy and then he said you better keep quiet. We
12 will come -- Our goons will come back for you.

13 Q. Going back to the hospital, you said you met with
14 Detective Smith. Did she show you a lineup?

15 A. I honestly don't remember that night if she showed me
16 the lineup.

17 Q. Let me show you what's marked for identification
18 State's Exhibit Number Thirty-eight.

19 A. Yes, ma'am. That is.

20 Q. And do you recognize that?

21 A. Yes, ma'am.

22 Q. How do you recognize that?

23 A. Because that's my signature and my print.

24 Q. And when did you sign that? Is there a date and time
25 on that?

JARED CRANE: BY SOLICITOR SHELTON

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1 A. Yeah. There's a date 6-9 but we were at the hospital
2 really late. It could have been rolled into nine. Well
3 actually it says 12:30 a.m. so yes it would have been at
4 the hospital that night.

5 Q. And if you don't remember specifically where you were,
6 but you remember Detective Smith at some point showing you
7 a lineup?

8 A. Yes, ma'am.

9 Q. What did she say to you before showing you the lineup?

10 A. Told me what she was fixing to do, that she was going
11 to show me some pictures and if I seen a suspect in 'em,
12 circle it and put my initials on it.

13 Q. Did she read something to you or have you read
14 something?

15 A. She did read something to me but I'm not exactly sure
16 what it was. Like I said, I was under a lot of stress that
17 night.

18 Q. When she showed you the lineup, did she say anything
19 to you to influence who you picked out?

20 A. No.

21 Q. Did she point to anybody?

22 A. No, ma'am.

23 Q. Was there any markings identifying the suspect?

24 A. No, ma'am.

25 Q. Did she show you a picture of Maquis Robinson

JARED CRANE: BY SOLICITOR SHELTON

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1 beforehand and say this is Maquis, now look at this lineup?

2 A. No, ma'am.

3 Q. Did she provide you with identifying information for
4 the people in all six of the photos?

5 A. No, ma'am.

6 Q. And in viewing the lineup, were you able to identify
7 the suspect?

8 A. Immediately.

9 Q. And who did you pick out?

10 A. Maquis Robinson.

11 Q. And you've testified that you were out of it.

12 A. I was.

13 Q. Are you sure?

14 A. I was out of it because of what had happened to me but
15 I remember vaguely who did it to me.

16 Q. And which picture were you able to pick out?

17 A. The very first one. Maquis Robinson.

18 Q. And did you do anything to indicate that's your
19 choice?

20 A. Yes, ma'am. I circled it and put my initials on it.

21 Q. And are you a hundred percent sure of that selection?

22 A. A thousand percent sure.

23 Q. And is the person that you identified as Maquis
24 Robinson the suspect in that photo, is that person in the
25 courtroom today?

JARED CRANE: BY SOLICITOR SHELTON

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1 A. Yes, ma'am, he sure is.

2 Q. Where is he?

3 A. Right there in the peach colored polo shirt.

4 SOLICITOR SHELTON: Please let the record reflect he
5 has pointed to Maquis Robinson.

6 (WITNESS POINTED TO DEFENDANT MARQUIS ROBINSON AT
7 DEFENSE TABLE.)

8 Q. Mr. Crane, were you later shown a lineup of Dantonyo
9 Heath?

10 A. I was.

11 Q. And who showed you that lineup?

12 A. Detective Stokes.

13 Q. Do you remember where you were?

14 A. Yes, I do. I was at a business, Fast Bucks, at the
15 Lancaster County line. A gas station/convenience store.
16 He asked me if I would meet him halfway.

17 Q. And from your memory, going back to both of the
18 lineups, both the one for Mr. Heath and Mr. Robinson, was
19 there anyone with you when you were shown the lineup?

20 A. No, ma'am.

21 Q. Did anyone do or say anything to influence who you
22 selected?

23 A. No.

24 Q. Did Detective Stokes indicate to you which suspect you
25 should pick up in the lineup with Dantonyo Heath?

JARED CRANE: BY SOLICITOR SHELTON
BY MS. BURRIS

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1 A. No, ma'am. Detective Stokes wasn't even close to me.

2 I was at the back of the car by myself.

3 Q. But he didn't point anybody out? Didn't give you any
4 identifying information of anybody?

5 A. No, ma'am.

6 Q. You didn't even know Dantonyo Heath's name?

7 A. No, ma'am.

8 Q. Were you able to pick out someone from that lineup?

9 A. I was not.

10 Q. Thank you.

11 SOLICITOR SHELTON: I have no further questions, Your
12 Honor.

13 THE COURT: Ms. Burris.

14 MS. BURRIS: Thank you, Your Honor. May it please the
15 court.

16 CROSS EXAMINATION

17 JARED CRANE BY MS. BURRIS:

18 Q. Hello, Mr. Crane.

19 A. Hello.

20 Q. Now, after all of this happened, there was an initial
21 responding officer who actually came to the scene. Right?
22 You remember the first officer you saw?

23 A. Yes, ma'am.

24 Q. Right. And was the officer a female or a male?

25 A. I do not remember that. I remember the officer - I

JARED CRANE: BY MS. BURRIS

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1 remember the police car being the first one there but I did
2 not remember because I turned around and went back inside
3 once the police were there.

4 Q. Okay. You turned around and went back inside and you
5 were actually having conversations back and forth with
6 Neal, right, about what had just happened?

7 A. No. Actually I hadn't because Neal was on - I went
8 back to my wife is where I went. I didn't go back to Neal.
9 Neal is a grown man. He was taking care of his self.

10 Q. Okay. So Neal was somewhere taking care of himself?

11 A. He was sitting on the couch in the front bay of the
12 business.

13 Q. Okay. So he was actually seated on the couch, on the
14 sofa, right there in the business?

15 A. Yes, ma'am.

16 Q. And then you went to go make sure that your wife was
17 okay?

18 A. Yes, ma'am.

19 Q. And you - So when the person, officer - Where were you
20 when the officer came up to you and tried to talk to you
21 about what had just happened?

22 A. In the showroom. More officers were coming. I mean,
23 it wasn't the very first officer I don't believe that got
24 there. I think they were talking. I mean, they were with
25 Neal because he was believed to be shot through the face so

JARED CRANE: BY MS. BURRIS

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1 they were more worried about him. I was okay. I mean,
2 just - But as more and more officers came in, I was asked
3 questions.

4 Q. Okay. And when the officer actually came to the
5 scene, you were the one who actually directed the officers
6 inside the building?

7 A. Yes, ma'am, I was.

8 Q. Okay. And you basically told them that the business
9 had been closed, the business was closed. The garage door
10 was cracked open when a black male came through the garage
11 door?

12 A. Yes, ma'am.

13 Q. Okay. And you basically told the officers that you
14 were not alarmed because you had seen the male come into
15 the business before to have work done?

16 A. Yes, ma'am. Well, no. I don't know that I said to
17 have work done but I had seen the male come into the
18 business before because him and Neal were friends.

19 Q. Okay. So you basically told the officer I've seen
20 that male come in - I've seen that male come into the
21 business before because him and Neal were friends?

22 A. Uh-huh.

23 Q. Okay. Now, you testified earlier that one of the
24 males asked you not to move. Right?

25 A. Uh-huh.

JARED CRANE: BY MS. BURRIS

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1 THE COURT: You need to say yes or no.

2 A. Yes. Yes, sir.

3 MS. BURRIS: Just make sure your responses are
4 audible. Thank you.

5 Q. And then one of the males told you that if you didn't
6 stop - One of the males told you that if you didn't stop
7 fighting for your life they were going to harm your wife.
8 Right?

9 A. That's exactly.

10 Q. And that male who told you that, you cannot one
11 hundred percent under oath say that that as Maquis
12 Robinson. Right?

13 A. No, ma'am. It wasn't Maquis Robinson.

14 Q. Okay. Now, you would agree with me that on that
15 particular night Maquis Robinson never had any contact with
16 you. Right?

17 A. No. I wouldn't agree with that. I mean, he may have
18 never struck me or I mean, or actually assaulted me, but I
19 can't say that we didn't have any contact.

20 Q. Okay.

21 A. I mean, a lot happened that night.

22 Q. Okay. When the person that you said, or the male or
23 the guy that you referred to, the male, the guy, in the
24 incident report you referred to different the male, the guy
25 in your own personal statement. When did you decide to

JARED CRANE: BY MS. BURRIS

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1 start calling this male or the guy or one of the male guys
2 Maquis Robinson?

3 A. I don't - I'm not sure. I mean, that I - I mean, was
4 I suppose to write Maquis Robinson every time I responded
5 because I mean, --

6 Q. Okay. Because let's talk a little bit about this, Mr.
7 Crane. Now, after you - You actually stayed in the
8 hospital for how long?

9 A. Just a few hours that night.

10 Q. A few hours that night and then they let you go home,
11 released from Piedmont Medical Center?

12 A. Yes, ma'am.

13 Q. Okay. And then the next day you had the opportunity
14 to speak with Detective Stokes in a follow up
15 investigation. Right?

16 A. I believe so.

17 Q. Okay. And you actually sat down with Detective
18 Stokes?

19 A. Yes, ma'am.

20 Q. And you all were actually at the Rock Hill Police
21 Department?

22 A. I believe so.

23 Q. And he probably had you seated next to him and there
24 was a computer there. Right?

25 A. As I recall, he had his - His cubicle is very small so

JARED CRANE: BY MS. BURRIS

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1 I think he was in front of the computer and me and my wife
2 were kind of sitting facing him. He was sitting facing
3 this way towards his computer and we were sitting like
4 this.

5 (WITNESS DEMONSTRATED.)

6 A. No actually I don't think I could see a computer. I
7 don't believe I was able to see the computer.

8 Q. Okay. But you were there pretty close.

9 A. Yes, ma'am.

10 Q. And you all actually had a conversation just like you
11 and I conversing now?

12 A. Yes, ma'am.

13 Q. Okay. And as you were sitting there, he was
14 interviewing you and you was basically telling him what
15 happened. Right?

16 A. Yes, ma'am.

17 Q. And you told Detective Stokes in your statement that
18 Neal told me the guy used to work for him and he let him
19 go. Neal said that he wanted Neal to give him a title loan
20 for his truck for eight hundred but Neal didn't do it. I
21 also remember the guy --

22 SOLICITOR SHELTON: Your Honor.

23 THE COURT: You need to ask him questions and just not
24 read his statement. You can ask questions and use his
25 statement.

JARED CRANE: BY MS. BURRIS

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1 MS. BURRIS: Yes, sir.

2 THE COURT: If there is any.

3 MS. BURRIS: Yes, sir.

4 Q. You actually told Detective Stokes when he was
5 interviewing you the next day that Neal told you --

6 THE COURT: That's the same thing. Ask him a
7 question. If his answer is different today,---

8 MS. BURRIS: Inconsistent. I'll show him the
9 statement.

10 THE COURT: --- then you can compare it but don't do
11 that.

12 BY MS. BURRIS:

13 Q. Mr. Crane,---

14 A. Uh-huh.

15 Q. --- isn't it true that you told Detective Stokes that
16 the guy used to work for you? You didn't refer to the guy
17 when you spoke with Detective Stokes when he was sitting
18 there interviewing you. You didn't actually tell Detective
19 Stokes that Maquis Robinson had contact with you but Neal
20 told you the guy used to work for him. Right?

21 A. I don't - I mean, yeah Maquis Robinson did used to
22 work for Neal or tried to work for Neal to my recollection
23 to what I know, my knowledge.

24 Q. Right. But that's not - Right. So when you were
25 speaking to Detective Stokes ---

JARED CRANE: BY MS. BURRIS

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1 A. Uh-huh.

2 Q. --- and you were actually - he was actually
3 interviewing you, ---

4 A. Uh-huh.

5 Q. --- Detective Stokes.

6 A. Yes, ma'am.

7 Q. You never actually called Maquis Robinson's name did
8 you?

9 A. I don't recollect that. I mean, I told him that night
10 who he was. Who done it.

11 Q. You told who that?

12 A. The officers that night.

13 Q. You told --

14 A. They asked me if we knew the suspects and I knew one
15 of the suspects.

16 Q. You told the police officer that night when you were
17 there at the scene?

18 A. Yes, ma'am.

19 Q. And you told them that Maquis Robinson did it?

20 A. Yes, ma'am. That's - They were looking for the
21 suspect. They were looking for that, for the suspect
22 vehicle that night also.

23 Q. Did you not tell officers that when they first came to
24 the incident scene, you didn't tell them that it looked
25 like three black males in their twenties?

JARED CRANE: BY MS. BURRIS

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1 A. No, I did not. I knew exactly who had done it.

2 Q. And you told the officers that night after you and
3 Neal had spoken who exactly did it?

4 A. Me and Neal hadn't spoken. But yes I told the officer
5 who did it.

6 Q. Now, let me go back to this. So you say you told
7 officers that night who did it. You spoke with the
8 officers. You told them who did it and then you sat down
9 with Detective Stokes. You didn't tell Detective Stokes
10 though did you?

11 A. I don't remember that. If Detective Stokes asked me
12 who done it, I told him who done it.

13 Q. That's the first thing you discussed though. Right?

14 A. It would be yeah. I mean like I said, --

15 Q. Because you want to make sure they arrest the right
16 person. Right?

17 A. That's correct.

18 Q. So that's one of the first --

19 A. And that would have been the first thing I would have
20 said.

21 Q. Right. But you cannot one hundred percent under oath
22 testify that you told Detective Stokes. even on the next
23 day. that Maquis Robinson was at the scene?

24 A. I mean, - no.

25 Q. Okay.

JARED CRANE: BY MS. BURRIS

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1 A. I can't recall that conversation two years later. I
2 cannot.

3 Q. You don't recall the conversation you had with him is
4 what you're saying?

5 A. Yes, with Detective Stokes.

6 Q. Who called 9-1-1?

7 A. Neal.

8 Q. You had the opportunity - After you and Detective
9 Stokes sat down, you had the opportunity to read over your
10 statement?

11 A. Yeah.

12 Q. Yes?

13 A. Yes, ma'am.

14 Q. And you also had the opportunity to date your
15 statement?

16 A. Yes I did. If it's in my handwriting and it's dated,
17 I did. This happened two years ago, so, you know.

18 Q. And having a conversation with Detective Stokes on 6/
19 9 of 2011 you kept referring to - I'm not sure who you were
20 referring to - but you kept saying the guy or the guys.
21 Right? You agree with that?

22 A. Okay. I mean, if I said that so then --

23 Q. And it was closer to time because it was the day after
24 it happened. Right?

25 A. Well, yeah.

JARED CRANE: BY MS. BURRIS

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1 Q. Okay.

2 A. I mean, I do that just in person. I mean, I know your
3 name but if I told you - if I was talking about you and I
4 said your name one time, I would keep saying she. I
5 wouldn't keep saying your full name every time.

6 Q. But if you're familiar with somebody, you typically
7 call them by their name, right, since you know them.
8 Right?

9 A. Not necessarily.

10 Q. Okay. So let's talk a little bit about that. You
11 indicated that you know Maquis Robinson pretty well.
12 Right?

13 A. Uh-huh.

14 Q. And in fact, you said - You testified that you've seen
15 him often?

16 A. Uh-huh.

17 THE COURT: Let's say yes or no.

18 A. Yes, ma'am.

19 Q. Thank you. Now, you testified on direct that when the
20 police officer actually - was it - and I just want to make
21 sure I'm straight as in asking this question. When the
22 police actually came to the scene, they took marijuana out
23 your pocket?

24 A. Uh-huh.

25 Q. So that was one of the initial responding officers?

JARED CRANE: BY MS. BURRIS

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1 A. I believe. I told the same story to each officer that
2 asked me.

3 Q. Okay. That asked you about what happened or about the
4 marijuana?

5 A. That asked me what happened.

6 Q. Okay. Okay. And they actually just sort of patted
7 you down just --

8 A. They didn't pat me down. They didn't do anything.

9 Q. How did they get the marijuana out your pocket?

10 A. Who?

11 Q. You said marijuana. Marijuana was in your pocket.

12 A. The officers?

13 Q. Yeah. Who took the marijuana out your pocket?

14 A. Dantonyo Heath.

15 Q. Dantonyo. Did you ever tell the officers Dantonyo
16 Heath took money or marijuana --

17 A. Yeah, I told the officers that and told them that a

18
19 cell phone was taken and none of that was put in the police
20 report.

21 Q. Okay. So Dantonyo took a bag of marijuana out your
22 pocket?

23 A. Yes, ma'am.

24 Q. Okay. And you had the bag of marijuana --

25 A. And the eleven hundred and fifty dollars.

JARED CRANE: BY MS. BURRIS

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1 Q. And Dantonyo took eleven hundred and fifty dollars ---

2 A. Yes, ma'am.

3 Q. --- out of your pocket?

4 A. Yes, ma'am.

5 Q. Okay. And it was around what time was it when this
6 happened? Eleven?

7 A. Yeah.

8 Q. Okay. So --

9 A. Ten forty-five, eleven o'clock.

10 Q. Ten forty-five, eleven o'clock, so it was pretty late?

11 A. Yeah.

12 Q. About how much marijuana was it?

13 A. It was suppose to be half an ounce.

14 Q. A half an ounce?

15 A. Uh-huh. I had just purchased it earlier.

16 Q. You had just purchased it?

17 A. Uh-huh.

18 Q. Okay.

19 THE COURT: Remember you got to say yes or no.

20 A. Yes, sir.

21 Q. About around what time did you purchase it?

22 A. Earlier in the day. A customer had came in and I - I
23 mean, I talk to everybody that comes in the shop.

24 Q. Right. Now, a lot of people come in the shop. Right?

25 A. A lot of people come in the shop.

JARED CRANE: BY MS. BURRIS

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1 Q. So how many people come in the shop in a given day
2 would you say?

3 A. I couldn't - I don't know because most of the business
4 comes in the front of the shop. It's the people that know
5 me that will come in the back of the shop so on any given
6 day, maybe four or five people that are Neal's friends come
7 in the back of the shop.

8 Q. Okay. When you say the back of the shop, what's
9 there, like the cars?

10 A. Yes, ma'am. The detailing area and stuff.

11 Q. Okay. Okay.

12 A. Where they wash cars and stuff out so when people are
13 getting their cars washed, they're standing in there
14 talking.

15 Q. Okay. Okay. So you have the back of the shop where
16 they were washing cars and you had people that come in and
17 out of there. Correct? I mean people on a daily basis.

18 A. Yes.

19 Q. Okay. And then you had the front of the shop. And
20 who was primarily like in the front of the shop? Was it
21 Neal usually since he run it?

22 A. Yes, ma'am. Neal or his brother or his wife, Christy.

23 Q. Okay.

24 A. But yeah mainly on a day to day basis, Neal.

25 Q. Okay. But on a day to day basis, lots of people would

JARED CRANE: BY MS. BURRIS

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1 come in that rim shop. Right?

2 A. I would suppose. I didn't - I worked in the back so I
3 didn't get to see everything that happened in the front so
4 I would suppose lots of people come in.

5 Q. Okay. And you said you had - So you had purchased
6 it earlier in the day from some guy, right, the marijuana?

7 A. Yes, ma'am.

8 Q. Okay. And you had actually smoked a little bit hadn't
9 you?

10 A. I hadn't smoked any.

11 Q. Not any?

12 A. Nope.

13 Q. When were you going to smoke it?

14 A. When I got home.

15 Q. Do you smoke marijuana often?

16 SOLICITOR SHELTON: Objection, Your Honor.

17 THE COURT: I sustain the objection. He's established
18 that he had marijuana on him and it was taken by one of the
19 people that was involved in this incident.

20 BY MS. BURRIS:

21 Q. Now, in regards to the photographic lineup when you
22 were at the hospital, was your wife actually in the
23 hospital room with you?

24 A. Yes, ma'am.

25 Q. She was?

JARED CRANE: BY MS. BURRIS

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1 A. Yes, ma'am.

2 Q. Okay. And you had one of the detectives come in there
3 and actually show you the photographic lineup?

4 A. Yes, ma'am.

5 Q. And you testified earlier that you were pretty much
6 out of it. Right?

7 A. Yes, ma'am. Well, at the time at the rim shop.

8 Q. You were out of it at the rim shop?

9 A. I mean yes, ma'am. Because I mean, it all had just
10 happened. By the time we got at the hospital, I had calmed
11 down a lot.

12 Q. Now, in your previous testimony, you had actually
13 testified that at the scene that you and Neal actually ---

14 SOLICITOR SHELTON: Objection.

15 MS. BURRIS: What's the objection.

16 THE COURT: Ask him questions.

17 MS. BURRIS: Yes, sir.

18 Q. You actually told police that you and Neal actually
19 had a conversation, right, at the scene?

20 A. I don't - I mean, where are you - Had a conversation
21 when? Before all this happened or after this happened?

22 Q. After it happened.

23 A. No we didn't have a conversation. I asked him was he
24 okay because he was screaming he was fix'in to die to
25 whoever he was talking on the phone to.

JARED CRANE: BY MS. BURRIS

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1 Q. So you all did have a conversation just about how he
2 was feeling?

3 A. I asked him if he was okay and he said - shook his
4 head yes and I went to my wife so I wouldn't call that a
5 conversation.

6 Q. So you all never had a conversation about who it was?

7 A. I knew who it was.

8 Q. But you didn't tell the police did you?

9 A. Yes, I told police

10 Q. And you told them that night?

11 A. I told them that night.

12 Q. And you also sat down with Detective Stokes and your
13 testimony is that you told Detective Stokes exactly who did
14 it?

15 A. Yes. I told the police that night who did it. I also
16 told them that a cell phone was stolen out of the car and
17 everything. Is all that in the police report? Is any of
18 that in there? I had to make supplemental reports because
19 they didn't get it right the first time.

20 Q. You had to write supplemental reports?

21 A. Uh-huh.

22 Q. Okay. Hold on.

23 THE COURT: Keep reminding you, you need to say yes or
24 no.

25 A. Yes, sir.

JARED CRANE: BY MS. BURRIS

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1 SOLICITOR SHELTON: Just briefly, Your Honor.

2 (PAUSE.)

3 BY MS. BURRIS:

4 Q. The supplemental reports - Now, when you talk about
5 supplement reports, typically those are reports that are
6 basically produced after the day of the incident of course
7 as you know that. Right?

8 A. Uh-huh.

9 Q. And so you had the opportunity to speak with a police
10 officer I would even say maybe three to four weeks after it
11 happened too?

12 A. I would guess so.

13 Q. Yes?

14 A. Yes.

15 Q. And you didn't actually tell police on the night that
16 this happened that any of the males or the guys or the
17 suspects took money out of your pocket did you?

18 A. Yes, I did. I just - I told you that a while ago
19 at the same time when we said the cell phone was gone
20 because we told them they could track the cell phone. It
21 had GPS and find out where they were at.

22 Q. You told the police that they stole one thousand one
23 hundred dollars from you?

24 A. Actually it was eleven hundred and fifty dollars.

25 Q. One thousand one hundred and fifty dollars from you?

JARED CRANE: BY MS. BURRIS

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1 A. Yes, ma'am.

2 Q. And you told police there that night?

3 A. Yes, ma'am.

4 Q. And you told Detective Stokes there the second time?

5 A. I don't remember if I said it to Detective Stokes
6 because I thought it was already - it had already been said
7 one time.

8 Q. When you were speaking also to the police that night

9 ---

10 A. Uh-huh. Yes, ma'am.

11 Q. --- and you told them - Yes. Okay. And you told them
12 that the guy or the male or one of the three black males
13 actually stole the one thousand one hundred fifty dollars
14 from you?

15 A. No, ma'am. I did not say one of the three black males
16 because I never told anyone there were three black males.

17 Q. Okay. But when you told the police officers about the
18 one thousand one hundred fifty dollars, you also told them
19 that one of them took the marijuana out?

20 A. I sure did.

21 Q. If you told police or Detective Stokes - Let me be
22 specific. You said that you told the police and it was
23 actually produced in a supplemental report. Right?

24 SOLICITOR SHELTON: Objection, Your Honor.

25 THE COURT: -- Just ask questions.

JARED CRANE: BY MS. BURRIS

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1 BY MS. BURRIS:

2 Q. You testified that when you told - you believe that
3 it was produced in a supplemental report. .

4 A. I believe what was produced?

5 Q. The fact that the guy or male had gotten the one
6 thousand one hundred and fifty dollars off of you in
7 addition to the marijuana?

8 A. I didn't believe that, I knew that it had happened.

9 Q. You told the police that?

10 A. Yes, I did.

11 Q. And you said you believe that it was produced in a
12 supplemental report?

13 A. I believe that it was in that. I mean, actually - I
14 haven't seen that. I haven't seen the actual report yet.
15 That was the very next day.

16 Q. But you did actually remember reading over your
17 statement. Right?

18 A. Briefly. I had a lot of stuff going on. I expected
19 them to get it right. I mean, what I told them I expected
20 them to write down exactly what I told them.

21 MS. BURRIS: May I approach the witness, Your Honor?

22 THE COURT: Yes, ma'am.

23 MS. BURRIS: Thank you.

24 Q. Mr. Crane, is this your signature?

25 A. Yes, ma'am, it is.

JARED CRANE: BY MS. BURRIS

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1 Q. Okay. And did you actually read over that prior to
2 signing it basically saying that you are making this
3 statement on your own free will and voluntarily making this
4 statement?

5 A. I signed my name to a lot of stuff. I probably did
6 look over it but no, I can't tell you that I read
7 everything word for word that I signed. I know - I mean,
8 I'm just one of those type of people.

9 Q. That you just write statements or you hear statements
10 and you just --

11 A. No. I don't just write statements. I mean, but when
12 people hand me a stack of paperwork to sign and they told
13 me that everything's right and especially a police officer,
14 yeah I would basically sign it.

15 Q. So you're saying that you don't really adopt this full
16 statement. Right?

17 A. What does that mean?

18 Q. Oh, I'm sorry. That you can't necessarily testify
19 under oath that these are your words from the statement
20 that you signed?

21 A. Yeah. I mean, yes they're my words but I'm not
22 telling you that I read over everything that I was suppose
23 to sign. I already know what I said, so yeah I would have
24 signed it.

25 Q. Okay. And you signed it knowing that the police

JARED CRANE: BY MS. BURRIS

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1 officer never had Maquis Robinson's name in that report
2 when you spoke with him. And he never included Maquis
3 Robinson's name in that report when you sat down and spoke
4 with him the next day when you all were calm. You were in
5 the police department. You and your wife was sitting there
6 with Detective Stokes, and you never said Maquis Robinson?

7 SOLICITOR NEWKIRK: Your Honor, counsel is testifying.
8 There is no question here.

9 MS. BURRIS: I'm asking the --

10 SOLICITOR NEWKIRK: I object.

11 THE COURT: Yeah.

12 MS. BURRIS: Okay.

13 THE COURT: This is cross, go ahead.

14 MS. BURRIS: Thank you.

15 A. Explain that one more time.

16 Q. Sure. I'll try to ask you one question at a time.

17 A. Okay.

18 Q. Okay. Thank you. So you testified that basically you
19 signed off on the statement and dated it?

20 A. Uh-huh.

21 THE COURT: Yes or no.

22 A. Yes, ma'am.

23 Q. Thank you. And in that particular statement that you
24 signed and dated and you had the opportunity to read
25 through it. Right?

JARED CRANE: BY MS. BURRIS

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1 A. Yes, ma'am.

2 Q. And you read through it. You agree with me that you
3 never told Detective Stokes that Maquis Robinson was the
4 one who was there at the rim shop did you?

5 A. Is that what it says in that?

6 Q. You signed --

7 A. I told everyone, every police officer that I spoke
8 with that it was Maquis Robinson because I knew him by
9 name. I did not know the second person. I would never
10 have told anyone that I did not know him.

11 MS. BURRIS: I'm going to approach the witness, Your
12 Honor.

13 THE COURT: All right.

14 Q. Mr. Crane, is this your signature? See here.

15 A. Yes, that's my signature.

16 Q. And is this your handwriting with the date?

17 A. That appears to be. It could be.

18 Q. Did you write that date there?

19 A. I suppose. I also signed my name next to it. Are you
20 trying to show me something?

21 SOLICITOR SHELTON: Your Honor, he has acknowledged
22 that that is his statement several times.

23 MS. BURRIS: Okay.

24 THE COURT: Make sure you keep your voice up. You've
25 got your back to the jury. I know you kind of got to but

JARED CRANE: BY MS. BURRIS

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1 make sure they can hear you.

2 MS. BURRIS: Yes, sir.

3 Q. And in this particular statement, this is the same
4 statement that Detective Stokes showed to you to read over
5 so you could sign and date it. Right?

6 A. Uh-huh.

7 Q. And in this particular statement, what did you say
8 here?

9 A. Where at?

10 Q. Here.

11 A. "Neal told me the guy used to work for him and he let
12 him go." Where is the beginning of the statement? Did I
13 not say Maquis Robinson in the beginning of the statement?
14 It says right here "the guy that I identified last night
15 came running past me in the open bay area." So where was
16 the guy that I identified the night before? The very first
17 line. The guy that I identified.

18 Q. Why didn't you just say Maquis if it was a guy that
19 you knew and you knew Maquis.

20 A. I wasn't asked to say Maquis. I said the guy I
21 identified. I identified Maquis Robinson the night before.

22 Q. So you claimed to know Maquis Robinson over and over.
23 Right?

24 A. He's not my best friend. I've seen him come in there
25 a few times.

JARED CRANE: BY MS. BURRIS

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1 Q. But if somebody did this to you and you know who they
2 are, you're going to let the police know who they are.
3 Right?

4 A. I sure did.

5 Q. In your statement, you sure did.

6 A. It says it right there. The guy that I identified the
7 night before.

8 Q. You're not sure that that guy is Maquis are you?

9 A. I'm a hundred percent positive that that guy is
10 Maquis.

11 MS. BURRIS: Beg the court's indulgence.

12 (PAUSE.)

13 Q. And just to make sure, just for confirmation, you've
14 already testified, you said that you were in the main area
15 and the couch was located where?

16 A. Up against the wall. I was in the main area when?

17 Q. I'm talking about I guess when the police got there.

18 A. When the police got there, I was actually outside in
19 the middle of the road.

20 Q. In the road trying to get them to come.

21 A. Telling them where they needed to come to.

22 MS. BURRIS: I have no further questions at this time.

23 Thank you, Mr. Crane.

24 A. Yes, ma'am.

25 THE COURT: Mr. Smith.

JARED CRANE: BY MR. SMITH

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1 MR. SMITH: If it please the court.

2 THE COURT: Yes, sir.

3 CROSS EXAMINATION

4 JARED CRANE BY MR. SMITH:

5 Q. Mr. Crane, you got a very good look at some shoes that
6 the person was wearing that struggled with you; is that
7 right?

8 A. Yes, sir.

9 Q. And you've described those shoes both in testimony and
10 in statements to the police; is that right?

11 A. Yes, sir.

12 Q. And you've been very specific. You've described not
13 only the brand, but the model and even the color; is that
14 right?

15 A. Yes, sir.

16 Q. And that was gray, neon, yellow and white Nike Air
17 Max's?

18 A. Air Max 95's, yes, sir.

19 Q. Air Max '95. You also described for the Solicitor
20 from a picture a knife, or you identified a knife that was
21 shown to you in a picture; is that right?

22 A. Yes, sir.

23 Q. And you indicated that that was your knife?

24 A. Yes, sir.

25 Q. And at some point during the struggle with the

JARED CRANE: BY MR. SMITH

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1 individual, you pulled that knife out but you ultimately
2 dropped the knife; is that right?

3 A. I did pull the knife out and I was told that if I did
4 not let it go that my wife would be harmed, so yes I did.

5 Q. Okay. And so you dropped the knife?

6 A. No. I actually threw the knife.

7 Q. And the knife was never used against you was it?

8 A. No.

9 Q. And it just remained laying there on the ground in the
10 shop?

11 A. Yeah.

12 Q. And during the struggle that you've described, were
13 you told to go to sleep a number of times?

14 A. A several amount of times.

15 Q. Okay. And were you asked to stop fighting a number of
16 times?

17 A. Yes. Well, I was asked to stop fighting. I was
18 told to go to sleep more times than I was asked to stop
19 fighting.. When it was closer to the end I was asked to
20 stop fighting.

21 Q. And were you ultimately asked to crawl to the
22 bathroom?

23 A. I was.

24 Q. And were you told that you would be all right?

25 A. Yeah. Yes I believe I was.

JARED CRANE: BY MR. SMITH

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1 Q. And after the struggle, you were left tied in the
2 bathroom; is that right?

3 A. Yes.

4 Q. Now, Ms. Burris asked you about a statement. A
5 statement that you gave I believe on June 9th of 2011; is
6 that correct?

7 A. Yes. That's when it was dated.

8 Q. She just showed you a copy of it.

9 A. Yes, sir.

10 Q. And if you need it at any time just ask me and I'll
11 grab you another copy. Now, you just mentioned another
12 version of a threat to your wife. This time it involved
13 when you had the knife in your hand ;is that right?

14 A. Yes, sir.

15 Q. And before when you testified when the Solicitor was
16 questioning you, you talked about I believe when you were
17 in the bathroom some threat being made to you about your
18 wife; is that right?

19 A. I don't - no. I believe what it was is I just told
20 them hurry up and leave before my wife got there. I mean,
21 hurry up and go. They got what they wanted. Everything
22 was done. I was tied up. Hurry up and go.

23 Q. Okay. But when you testified on direct, you got very
24 emotional when you talked about some threats to your wife.
25 Right?

JARED CRANE: BY MR. SMITH

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1 A. Yeah.

2 Q. But in the statement that you gave on June 9th of
3 2011, you don't mention any threat to your wife do you?

4 A. I didn't mention a lot of things. A lot of stuff
5 happened.

6 Q. And in fact in that statement the way you phrase it is
7 just like you did saying you just told them to hurry up and
8 get out of here because your wife was coming. No threat to
9 your wife.

10 THE COURT: Got to be yes or no.

11 A. No. I don't remember.

12 Q. But you did mention the shoes?

13 A. Yes I did mention the shoes.

14 Q. Now, in that statement, you didn't tell them that any
15 items were taken from you did you?

16 A. In which statement?

17 Q. The statement that you gave to the police, the two
18 page statement.

19 A. There at the shop that night?

20 Q. No. The two page statement that you were allowed to
21 review and asked if you needed to make any changes,
22 additions or subtractions.

23 A. That was the statement from that night?

24 Q. The written statement that you signed that you were
25 just shown by Ms. Burris.

JARED CRANE: BY MR. SMITH

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1 A. That's what I'm asking you. Is that the statement
2 that was made that night?

3 Yes, sir. That was from 6-9. That was the very next
4 day.

5 Q. Okay. And yes, sir, you did mention that items were
6 taken from you or yes, sir you did not?

7 A. Yes, sir. I did mention items were taken from me and
8 like I said before, I had - it doesn't mention anything
9 about the cell phone that was gone in this either. And we
10 also told them about that too.

11 Q. All right. Maybe I'm confused. Let me ask it another
12 way.

13 A. Okay.

14 Q. That statement does not say any items were taken from
15 you does it?

16 A. Before I answer that, I'm going to read the whole
17 thing this time.

18 (WITNESS READING DOCUMENT.)

19 A. Okay. Now ask your question again.

20 Q. That statement does not say that any items were taken
21 from you?

22 A. No it does not. It doesn't say anything about the
23 knife in here either. A lot of other things that were also
24 told, that I also told.

25 Q. It doesn't mention the threat that you say was made

JARED CRANE: BY MR. SMITH

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1 concerning your wife?

2 A. No. Not the one when I had the knife in my hand but
3 it does say - I mean, yeah it does say that I asked him to
4 hurry up and go before she did get there.

5 Q. But it didn't say that they threatened they would harm
6 your wife.

7 A. It didn't say that they would harm my wife?

8 Q. Right.

9 A. No. That had already - that threat had already
10 been made.

11 Q. Maybe I'm asking unclearly again. No where in that
12 statement does it say individuals threatened to harm
13 your wife?

14 A. No where. No. No, sir. It does not.

15 Q. And you were given a copy of that statement after you
16 made it?

17 A. I would believe so.

18 Q. But you indicate at some point you called back and
19 asked for some items to be supplemented to the police
20 report.

21 A. I mean, yeah. Like I said, the cell phone. We kept
22 asking them about the cell phone. Had they found it. What
23 we needed to do about it. Would we need a police report to
24 even say that we were missing a cell phone so yeah we were
25 back and forth about this a lot.

JARED CRANE: BY MR. SMITH

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1 Q. And you called on I believe July 1st and mentioned
2 that items were taken from you; is that correct?

3 A. I mentioned it a lot of times.

4 Q. And you mentioned that it was at that point eleven
5 hundred dollars that was taken from you; is that right?

6 A. I don't know. I would not have come up with a
7 different number because I knew exactly how much money I
8 had in my pocket because I was suppose to be going to
9 family court for child support so I knew exactly how much
10 money I had.

11 Q. And you needed all the money in your pocket for family
12 court?

13 A. That's exactly right.

14 Q. And that's why you bought marijuana earlier in the
15 day?

16 A. Okay. What point are you trying to make?

17 Q. I'm trying to ask questions and get answers from you
18 that are honest.

19 A. All right.

20 Q. What did you get the marijuana for?

21 A. To smoke.

22 Q. When?

23 A. When I got off work.

24 Q. Why?

25 A. I wanted to.

JARED CRANE: BY MR. SMITH

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1 SOLICITOR SHELTON: Objection, Your Honor.

2 THE COURT: Well, I sustain the objection. I sustain
3 the objection.

4 BY MR. SMITH:

5 Q. Does it say in that statement anywhere that you had
6 marijuana that day?

7 A. It does not.

8 Q. Did you tell any of the persons at the hospital that
9 you had marijuana?

10 A. I didn't have marijuana at the hospital. It was gone.

11 Q. Were you asked about drug usage by anyone from law
12 enforcement or at the hospital?

13 A. No. I wasn't under the influence of any drugs.

14 Q. Were you asked if you were under the influence?

15 A. More than likely.

16 Q. When you called the police back on July 1st to
17 supplement what was taken from your pocket and you
18 mentioned money and a cell phone, did you mention
19 marijuana?

20 A. I'd mentioned all of it before.

21 Q. At the scene, how many suspects did you tell them
22 there were?

23 A. Two.

24 Q. Had there been a lot of testimony in the word they and
25 them and he has been used. At no point in time have you

JARED CRANE: BY MR. SMITH

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1 ever told anyone that it was Dantonyo Heath who was
2 involved with you at the scene; is that correct?

3 A. What do you mean at any point in time? Yeah. Once -
4 I mean, yeah. Once I found out what the name with the face
5 was, I did.

6 Q. I see.

7 A. I seen the face. I didn't know the name.

8 MR. SMITH: Thank you. No further questions.

9 THE COURT: Redirect?

10 SOLICITOR SHELTON: No, Your Honor.

11 THE COURT: You can step down.

12 MR. CRANE: Okay. Thank you.

13 THE COURT: Appreciate your time.

14 MR. CRANE: Thank you.

15 (WITNESS LEAVING WITNESS STAND.)

16 THE COURT: It's a little bit before one. We'll take
17 our lunch break until 2:15. Have a pleasant lunch and
18 we'll see you back at 2:15.

19 (JURY EXITS COURTROOM FOR LUNCH RECESS AT 12:53 P.M..)

20 THE COURT: Anything from the State before we break
21 for lunch?

22 SOLICITOR SHELTON: No, sir, Your Honor.

23 THE COURT: Ms. Burris?

24 MS. BURRIS: No, sir, Your Honor. I guess just for
25 matter of scheduling for today, I have my witnesses

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1 traveling here in the morning as I previously said. My
2 understanding is we probably will actually maybe finish the
3 State's witnesses today. I'm just trying to make sure I
4 keep my witness posted on the timing and what time they
5 need to be here.

6 THE COURT: You will have to coordinate with Ms.
7 Shelton.

8 SOLICITOR SHELTON: I don't expect we will finish
9 today because I think cross of both Detective Stokes and
10 Detective Smith will be lengthy and I still have SLED to
11 get through before we get to those two witnesses.

12 MS. BURRIS: Thank you, Your Honor.

13 THE COURT: All right. We'll see you at 2:15. Have a
14 pleasant lunch.

15 (COURT IN LUNCH RECESS AT 12:54 P.M..)

16 (STATE V. THOMAS BOULER PLEA AT 02:04 P.M..)

17 (COURT BACK IN SESSION IN STATE V. ROBINSON/HEATH AT
18 02:23 P.M..)

19 THE COURT: Thank you. Take your seats.

20 Is the State ready?

21 SOLICITOR SHELTON: State's ready, Your Honor.

22 THE COURT: Ms. Burris, you ready?

23 MS. BURRIS: Yes, sir, Your Honor.

24 THE COURT: Mr. Smith?

25 MR. SMITH: Yes, sir, Your Honor.

OFFICER RAY HAMILTON: BY SOLICITOR NEWKIRK

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1 THE COURT: Bring in the jury.

2 (JURY REENTERS COURTROOM AT 02:24 P.M..)

3 THE COURT: Call your next witness.

4 SOLICITOR NEWKIRK: Your Honor, the State calls Ray
5 Hamilton.

6 (WHEREUPON: RAY HAMILTON, BEING
7 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

8 MADAME CLERK: Thank you. You may have a seat.

9 DIRECT EXAMINATION

10 OFFICER RAY HAMILTON BY SOLICITOR NEWKIRK:

11 Q. Good afternoon, Mr. Hamilton. Could you please state
12 your name for the record?

13 A. Yes. My name's Officer Ray Hamilton.

14 Q. And how are you employed?

15 A. I am the Head Evidence Technician for the City of Rock
16 Hill.

17 Q. Being the Head Evidence Technician, what kind of
18 duties is that?

19 A. For the job that I have, there's two of us that work
20 in evidence in Rock Hill P.D., and basically what we do is
21 we get all the evidence that comes into the department, we
22 bar code it, we enter it into the computer system and we
23 store it and keep control of it. On occasion, some
24 evidence will be taken to different places for testing,
25 such as the SLED lab or here at the County, we bring some

OFFICER RAY HAMILTON: BY SOLICITOR NEWKIRK

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1 drugs over here to be tested and I have the responsibility
2 of transporting that to and from.

3 Q. So how is evidence deposited into the evidence room?

4 A. We actually have two different ways. One is we have
5 some lockers that are two-sided lockers. On the outside
6 there is a lock on it the officers have access to, and then
7 once they secure the evidence into that, they put the lock
8 on it. From the inside the evidence room, which is
9 controlled and alarmed, we can open the back of the locker
10 and take the evidence out.

11 We also have a, we call it a drug drop but it's
12 just like a night depository at a bank. You can pull it
13 open, drop the evidence in and close it back up and the
14 evidence falls into a safe that we have within the evidence
15 room.

16 Q. So once somebody deposits evidence into your room,
17 they can no longer access it?

18 A. That's correct.

19 MR. NEWKIRK: Your Honor, may I approach?

20 THE COURT: You may.

21 MR. NEWKIRK: Thank you.

22 Q. Mr. Hamilton, I'm handing you what's been marked as
23 State's Exhibit Number One for identification purposes and
24 State's Exhibit Number Forty-one for identification
25 purposes. Do you recognize these items?

OFFICER RAY HAMILTON: BY SOLICITOR NEWKIRK

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1 A. I do, sir.

2 Q. And what are they?

3 A. These are two bags that have been returned from SLED.
4 Within the plastic bags are the envelopes that the officers
5 use and our forensics technicians use. They seal those up
6 after putting the information on the outside and placing
7 the evidence inside, they seal it with evidence tape. We
8 receive it. We track it. We put it into the system by
9 signing off on it and putting a bar code on it. That bar
10 code records where it is placed within the evidence room
11 and in this particular case, these items were taken by
12 myself to the SLED lab in Columbia.

13 And the reason I know that is because these are the
14 bags that they seal it into. When they seal it, they use a
15 heat seal. We have to sign the seal as well as date it and
16 then on the front of the bag it will actually say sealing
17 official with the date on that. The sealing official is my
18 name. I recognize my signature and the dates that I took
19 it to SLED.

20 Q. So you received those items from the evidence drop-
21 offs at the Rock Hill Police Department?

22 A. Yes, sir.

23 Q. And are those items in the same condition as when you
24 last saw them?

25 A. They are in the same condition as when I released them

OFFICER RAY HAMILTON: BY SOLICITOR NEWKIRK

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1 for this trial. Yes, sir.

2 Q. You said that you took these items down to SLED; is
3 that right?

4 A. Yes, sir.

5 Q. Where is SLED located where you drop the items off?

6 A. SLED headquarters is located in Columbia, South
7 Carolina off of Broad River Road. It is about a mile or
8 approximately two miles off of Interstate 20.

9 Q. Did anyone else ride in the car with you when you took
10 these items to SLED?

11 A. Sometimes the other evidence technician goes with me,
12 but typically when this evidence goes, I'm the only one
13 that goes.

14 Q. So were these items within your custody and control
15 the entire time?

16 A. Yes, sir, they were.

17 Q. Did you do anything to tamper with these items?

18 A. No, sir.

19 Q. And you said that you signed for these items at SLED;
20 is that correct?

21 A. That's correct.

22 Q. And do you recognize your signature on the items?

23 A. Yes, sir. My signature is on both bags where I
24 dropped them.

25 Q. Thank you, Mr. Hamilton.

OFFICER RAY HAMILTON: BY MS. BURRIS

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1 MR. NEWKIRK: No further questions from the State, Your
2 Honor.

3 THE COURT: Ms. Burris.

4 MS. BURRIS: Yes, Your Honor. If it please the court.

5 CROSS EXAMINATION

6 OFFICER RAY HAMILGON BY MS. BURRIS:

7 Q. How are you Officer Hamilton?

8 A. Good. How are you?

9 Q. I'd like to see what that is.

10 (ATTORNEY BURRIS RETRIEVED EVIDENCE FROM WITNESS.)

11 Q. And what Mr. Newkirk had just asked you about in
12 State's Exhibit Forty-four[sic]. Do you know exactly what
13 this is?

14 A. I would have to look at the bag to know, ma'am.

15 Q. Okay.

16 A. This is a bucal swab.

17 Q. The bucal swab. Okay. And you were the sealing
18 official?

19 A. Yes, ma'am.

20 Q. Okay, so you had --

21 A. Well, actually SLED is the ones that seal it and then
22 they hand it back to me and I sign off on it.

23 Q. Okay. So you work at the Rock Hill Police Department.

24 A. Yes, ma'am.

25 Q. You took it out of the evidence lockbox?

OFFICER RAY HAMILTON: BY MS. BURRIS

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1 A. That's correct.

2 Q. Okay. And it was your responsibility to actually
3 transport it and makes sure it gets to SLED?

4 A. That's correct.

5 Q. Okay. And on this bucal swab on State's Exhibit
6 Forty-four[sic], it looks like it is dated May 23rd, 2012?

7 A. If that's what's on it. I don't - I didn't - yes,
8 ma'am, that's correct.

9 Q. Okay. And where did this date actually come from?

10 A. The date that's on there is the actual date that I
11 take it to SLED. They in-process it and I sign on the back
12 after they seal it.

13 Q. Okay. So that would have been about - that would
14 definitely - I mean, because this incident happened June
15 8th, 2011, so almost a year later?

16 A. Yes, ma'am.

17 Q. Okay. And I'm going to show you what has been marked
18 as State's Exhibit One. Can you tell me what that is?
19 What is in the bag?

20 A. Yes, ma'am. This is a white tee shirt with red stain.

21 Q. And it is actually dated what date?

22 A. 11/29/11.

23 Q. Okay. So about five months later it was actually
24 taken to SLED?

25 A. That's correct.

OFFICER RAY HAMILTON: BY MS. BURRIS
BY SOLICITOR NEWKIRK

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1 Q. Okay. So how often do you actually go to SLED, Mr.
2 Hamilton?

3 A. It just depends on what we have and what kind of
4 evidence needs to go. If we have a case that needs to go
5 quicker, I will go two or three times a week if necessary.
6 That's never happened. At the minimum I go at least twice
7 a - twice a month.

8 Q. Okay. Twice a month or sometimes if necessary you go
9 two to three times per week ---

10 A. Yes, ma'am.

11 Q. --- if necessary?

12 A. That's correct.

13 Q. Okay. Thank you, Officer Hamilton.

14 MS. BURRIS: No further questions.

15 MR. SMITH: No questions.

16 THE COURT: Redirect?

17 SOLICITOR NEWKIRK: Very briefly, Your Honor.

18 REDIRECT EXAMINATION

19 OFFICER RAY HAMILTON BY SOLICITOR NEWKIRK:

20 Q. Officer Hamilton, how do you know which items to take
21 to SLED?

22 A. SLED has a system that they call a pre-log for
23 evidence that needs to come in there and basically what
24 that does is the detective, myself or one of the forensics
25 officers, has to fill out some paperwork which is actually

BETTY BUTLER: BY SOLICITOR NEWKIRK

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1 on a computer that tells them what they want done with it,
2 how they want it processed, what the items is, and SLED has
3 a limitation to how many items depending on the crime to
4 what they can take.

5 SOLICITOR NEWKIRK: No further questions, Your Honor.

6 THE COURT: Ms. Burris?

7 MS. BURRIS: No, sir, Your Honor.

8 THE COURT: Mr. Smith?

9 MR. SMITH: Nothing further.

10 THE COURT: You can step down and be excused. We
11 appreciate your time. Thank you.

12 (WITNESS LEAVING WITNESS STAND.)

13 THE COURT: Call your next witness.

14 SOLICITOR NEWKIRK: Your Honor, the State calls Betty
15 Butler.

16 THE COURT: Ms. Butler, if you'll come forward to the
17 Bible up here and put your left hand on it and raise your
18 right.

19 (WHEREUPON: BETTY BUTLER, BEING
20 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

21 MADAME CLERK: Thank you. You may have a seat.

22 DIRECT EXAMINATION

23 BETTY BUTLER BY SOLICITOR NEWKIRK:

24 Q. Good afternoon, Ms. Butler. Could you please state
25 your full name for the record?

BETTY BUTLER: BY SOLICITOR NEWKIRK

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1 A. Good afternoon. Betty Walker Butler.

2 Q. Ms. Butler, where are you currently employed?

3 A. I'm employed with the South Carolina Law Enforcement
4 Division, also known as SLED.

5 Q. How long have you worked with the South Carolina Law
6 Enforcement Division?

7 A. Approximately seventeen years.

8 Q. And have you had any education or training in order to
9 have that position?

10 A. Yes. I had - we have to - We was trained underneath
11 two forensic technicians and a lieutenant. We have to go
12 through hundreds of items before we are able to go online.
13 We have to take a competency test before we go online and
14 every year we have to take proficiency tests to make sure
15 we still know what we're doing.

16 Q. And are you up-to-date on your proficiency?

17 A. Yes, I am.

18 Q. What are your current duties at SLED?

19 A. I'm a forensic technician in the DNA department.

20 Q. And what does that involve exactly?

21 A. As a forensic technician in the DNA department, I get
22 evidence, I look for blood, presumptive test for blood,
23 semen; I look for hairs, fibers. I look for skin cells.
24 Sometimes sweat, glass, or anything that could be of value
25 to a particular case.

BETTY BUTLER: BY SOLICITOR NEWKIRK

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1 SOLICITOR NEWKIRK: May I approach the witness, Your
2 Honor?

3 THE COURT: You may.

4 Q. There you go, ma'am. I've just handed you what has
5 been marked as State's Exhibit Number One for
6 identification. Do you recognize that?

7 A. State's Exhibit Number One is SLED Item Number 1 and
8 it's associated with Lab Number L-1-1-13-387. Yes, I do.

9 Q. And what is that document? You can feel free to open
10 it if you need to.

11 (WITNESS OPENED EXHIBIT.)

12 A. State's Exhibit Number One, SLED Item Number 1, is
13 a white tee shirt. It has the item number on it. My
14 initials, the lab number and the date that I processed the
15 item.

16 Q. Ms. Butler, where did you get State's Exhibit Number
17 One? Who did you receive that from?

18 A. On December 5th of 2011, I received it from Salina
19 Kinard because she is in the Evidence Control Department.

20 Q. So she had it before you did?

21 A. Yes, she had it. She is the one that logged in the
22 case.

23 Q. Let me grab that from you. It looks like you've got a
24 lot to hold up here.

25 Thank you. Can you say who brought the evidence to

BETTY BUTLER: BY SOLICITOR NEWKIRK

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1 SLED?

2 A. It was submitted by Ray Hamilton of the Rock Hill
3 Police Department.

4 Q. If the evidence bag had been tampered with in any way
5 when it was brought to SLED, what would you have done with
6 the evidence inside?

7 A. If I received the evidence that was opened or damaged,
8 I would have stopped the process and find out why it was
9 opened. And I also would have noted it on my worksheet and
10 I don't have a note on my worksheet.

11 Q. So that wasn't the case here?

12 A. That's not the case here.

13 Q. So is the State's Exhibit Number One, the tee shirt,
14 in the same condition as the last time that you saw it?

15 You want to see it again?

16 A. Yes, it is. This is the white paper that I put it in.
17 I put the tape around it and sign it. If it was opened, I
18 would have known it.

19 Q. Was the tee shirt within your custody and control the
20 entire time that you had it?

21 A. Yes it was.

22 Q. And what did you do with the tee shirt after you
23 picked it up?

24 A. After I received the white tee shirt, the request was
25 for ownership. Normally they always look at every - do a