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Volume I of II

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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Lexington County

Honorable G. Thomas Cooper, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMES BUBBA PATTERSON,

APPELLANT

APPELLATE CASE NO 2016-000863

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(DNA RESULTS)

STATE OF SOUTH CAROLINA)
) IN THE COURT OF
COUNTY OF LEXINGTON) GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
Plaintiffs,)
Vs.) CASE NO. 2013-GS-32-890, 891,
JAMES BUBBA PATTERSON,) 1132
Defendant.)

DECEMBER 4, 2015
LEXINGTON, SOUTH CAROLINA

HONORABLE FRANK R. ADDY, JR, JUDGE

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

BY: SUZANNE MAYS, ESQUIRE
Attorney for the Plaintiffs
BY: ROBERT M. MADSEN, ESQUIRE
Attorney for the Defendant

TARA T. SCOTT
OFFICIAL COURT REPORTER

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THE COURT: Ms. Mays?

MS. MAYS: Yes, sir, Your Honor. This issue is twofold. First, we have the matter of a Blair hearing. We do have a doctor here from the Department of Mental Health to address that issue.

And then, secondly, would be the State's motion for collection of suspect standards. This is all in anticipation of an April trial date. Mr. Madsen and I have been in discussions for awhile and we were able to reach this date for the Blair hearing.

I'm going to go ahead and pass up the initial competency to stand trial evaluations. There was a competency stand trial evaluation that was conducted on July 2nd of 2014. I'm going to pass that up. And then we also have a criminal responsibility evaluation which was conducted December 3, 2014. And then finally, a competency to stand trial evaluation which was conducted December 17th of 2014.

And the best way to summarize it, Your Honor, is this, he was initially evaluated in July of 2014 and found not competent to stand trial. And that was by the same evaluator and that is Dr. Tross at the South Carolina Department of Mental Health. She referred him on for the 60 day treatment, an order was done. Following his 60 day treatment, he was reevaluated and

then found competent to stand trial. I'm going to pass up copies of those.

THE COURT: Please.

MS. MAYS: I'm also going to pass up, Your Honor, an order of that 60 day commitment.

THE COURT: Mr. Madsen, is it your desire that we take testimony from the physician from DMH here or how do you --

MR. MADSEN: Yes, Your Honor.

THE COURT: All right. Why don't you go ahead and call that person as a witness, Ms. Mays, and we'll illicit what testimony we need to.

MS. MAYS: Yes, sir, Your Honor.

THE COURT: Sorry to ask you to move.

MS. MAYS: The State calls Dr. Tross.

ROZANNA TROSS,

being first duly sworn, was examined and testified as follows:

THE CLERK: If you'll have a seat over here and state your name, spell your last, please, for the record.

A My name is Dr. Rozanna Tross. Last name is T-R-O-S-S.

DIRECT EXAMINATION BY MS. MAYS:

Q Dr. Tross, could you give us some information

concerning your educational background and training which led you to become a staff member at the South Carolina Department of Mental Health?

A Yes. I have a masters degree in forensic psychology and then I have a doctor of psychology and some forensic psychology. I subsequently did a postdoctoral fellowship in forensic psychology in the State of Georgia. And then subsequently prior to this time, I've been here in South Carolina where I've served for the last two years as a chief psychologist in the Sexually Violent Predator Program as well as an evaluator for the forensic services.

Q All right. Need you to speak up just a little bit so the court reporter can catch all of your testimony. If you can, just pull that forward.

Now, you mentioned that you had been conducting forensic evaluations specifically at the Department of Mental Health for two years?

A Correct.

Q And is it possible to estimate how many such forensic evaluations you've done for competency?

A A little over 50.

Q All right. And what about criminal responsibility?

A Probably closer to 30.

Q Okay. And prior to your evaluation of the

defendant in this case James Patterson, can you tell us whether or not you had an opportunity to review his mental health history that would have been submitted?

A We receive a medical -- a mental health file as well as a legal file on every defendant in case they show us not a lot.

Q Okay.

A Records available, both he and his girlfriend submitted information that suggested he did not have much of a mental health history.

Q In the materials that were submitted, you had an opportunity to review in conjunction with your evaluation?

A I did.

Q Now, did you conduct an initial evaluation on or about July 2nd of 2014?

A Yes.

Q At that point in time, Dr. Tross, what was your opinion regarding competency?

A At that time, he was found not competent to proceed to trial. For reasons related to inability to work with his attorney as well as sort of tangential to the legal process.

Q All right. Now, without getting into any specifics mental diagnosis or mental illness.

A What we will term at this time was that he may have two issues present. One was a chronic disorder not otherwise specified which include symptomatology that is or inadequate information to be able to make more of assisted diagnosis. The other was a possible paranoia personality disorder which may have influenced his resistant to divulge information that I saw as well as discuss his legal matters with counsel.

Q All right. And what recommendations did you make following that initial competency evaluation in July of 2014?

A We recommended that he be hospitalized for further observation, information gathering, and to look into reassessing him in about 60 days.

Q And can you tell me whether or not that is consistent with South Carolina Statute 44-23-430?

A It is.

Q All right. And did he go for the 60 day hospitalization at your forensic hospital?

A He did.

Q And following that 60 day hospitalization, did you have an opportunity to conduct a second evaluation for competency?

A I did in December of last year.

Q All right. And specifically with respect to

December 3rd of 2014?

A Yes, ma'am.

Q Do you have a copy of that report with you, Dr. Tross?

A I do.

Q As to this particular evaluation, did you have an opinion and did you prepare a report which stated your opinion?

A Yes.

Q What was your opinion regarding competency to stand trial?

A That Mr. Patterson did have the capacity to proceed to trial.

Q And having reviewed his educational history, his personal history, his mental health history, as well as his records from his forensic hospitalization, did you determine whether or not he had any type of mental illness that would prevent him from assisting his counsel at trial?

A Yes, we determined that he did not have announced mental health symptoms such as hallucinations, delusions, psychotic thinking processes, or a level of intellectual impairment that would seem to keep his ability to proceed to trial. We were able to rule those out.

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Q Okay. You were able to rule those out. Is it possible to summarize then what -- what seemed to be the issue in his ability or any previous ability to assist his counsel at trial?

A Yes. What appears to be the issue is he seems to have erratical social political views consistent with anti-governmental opinions where the two is not to recognize the United States government as having authority to charge him. It seems consistent with several radical idealogical groups that are found here in the United States. He wouldn't disclose which groups he may have been a part of or claims membership to, but his views seem consistent with the movement of sovereign -- I don't want to get that wrong.

THE COURT: Sovereign citizens?

A Yes. Thank you. Sovereign citizens movement. And so while he can discuss the nature of how the court process is supposed to work, he seems to hinder his circumstances on the idea that he's not a US citizen, therefore, the government does not have authority to charge him. But he can talk about the court process, how it's supposed to work. He just has very little faith that it will work out in his favor.

Q Now, does he have the ability to communicate with counsel?

A He does.
Q Did you have an opportunity this morning prior to today's proceedings to assess him, orientation, and awareness of surroundings?
A Correct. We call that psycho mental status evaluation just to determine if he's aware of who he is and where he is and why he's here.
Q Did you have the opportunity to converse with him this morning?
A I did.
Q Based upon your observations this morning, did you observe any indications of a mental illness which would require a new competency evaluation?
A There wasn't an indication of current present psychological psychotic symptoms or thinking processes, so, no, there isn't anything that makes me change my thinking in that he would need a new evaluation.
Q All right. Now, to clarify, the beliefs that Mr. Patterson holds they may or may not affect his communications with his attorney, are those a result of illness or are those a result of -- or is that a result of personal choice?
A It appears to be a result of personal choices and beliefs.
Q Dr. Tross, in your report and in that second

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evaluation, was there any significant mental illness which you believe will impair Mr. Patterson's ability to assist his counsel at trial?

A No.

Q Can you tell us whether or not it is your opinion that he is competent to stand trial?

A It is my opinion that he has the capacity to proceed to trial should he choose to.

MS. MAYS: Your Honor, that is all from the State at this time.

THE COURT: Cross?

CROSS EXAMINATION BY MR. MADSEN:

Q Dr. Tross, you initially sat down with him on July 2nd of 2014; correct?

A Yes, sir.

Q And as part of your sitting down with him, I guess, is there a team that gets a variety of information on his background, his education, how he is in the jail, prior criminal records, and things such as that?

A We do have a social worker that assists with the evaluation process. They are responsible for obtaining what we call a social history where they contact a collateral source, they get background information, and they also request records that are known to potentially influence information about diagnostic mental health

and/or his current circumstances such as he was housed at the Detention Center, so those records were requested. Prior to that, we had no knowledge that he had been hospitalized outside of being an adolescent. So there were no relevant mental health records with which to gather from.

Q And so you got some of his personal history; correct?

A Correct.

Q And you speak to him about that pending the evaluation?

A Yes.

Q And he had indicated to you that his father was kind of out of the picture, that he didn't see his father a lot through his life?

A Yes.

Q And did you find out though in speaking with other individuals that, in fact, his father has been dead since he was three years of age?

A His girlfriend reported that. The accuracy of either statement is unknown.

Q Never looked in to that to see if that was true or not?

A Correct.

Q And he had indicated to you that he had graduated

from high school, I guess, with B's and C's?
A I believe so.
Q And someone spoke with the girlfriend and she says he never graduated high school, in fact, he dropped out in the ninth grade?
A Yes.
Q Did y'all ever try to get his educational records to find out, you know, if he was ever in any type of special education classes or anything along those lines?
A We did not have those records.
Q As far as from his mental health history, you had mentioned something as far as an adolescent and he related that he had been hospitalized for about a year as a child because someone had kind of given him some pills and that the doctors -- while he was hospitalized for that year, that the doctors would drug the children against their will and so because of that, he doesn't take any type of pills. Did y'all ever retrieve any records from that hospitalization as an adolescent?
A The ones to my knowledge of the records available with which to retrieve, sometimes hospitals don't retain records from that long of duration. Records, I believe, that the social worker attempted to get and was not able to. But no records from that hospitalization had been supplied.

Q But certainly if you were able to get those records, those would have helped in your evaluation to see how he has been throughout his life as far as any mental health treatment; correct?

A It's possible.

Q It would be fair to say that generally when you speak with him, he can be kind of guarded in his speech?

A Yes.

Q Or disclosure of information?

A Yes.

Q And, in fact, I think your report is replete with indications that his speech was very tangental and extremely guarded and that he was difficult to follow and that you had to try to redirect him frequently which you weren't always successful in trying to redirect him; correct?

A Correct.

Q Can you kind of give the Court an example when you say he's tangental in his speech, can you give us examples of what are you talking about? Because they're not born out in your report.

A Well, what that means is that he would frequently go off on a topic of his choice rather than stay directed to the question asked. Do you want to talk someone about the fairness of the charges? The fact

that people would not believe his version of events. That the court process was not going to give him a fair trial because he's black and the court system favors white defendants. Things of that nature.

And so we were steady talking about tell me what your lawyer's job is, he might revert back to the idea that the court process is going to be unfair regardless. And we try to redirect him back to talking about just the question at hand to try to get an idea of how well he can engage or can, you know, talk about the specifics of the court process rather than maybe his own version of events. And he would talk a lot about his political beliefs systems rather than staying on topic.

Q You had indicated in your report that he was or appeared to be paranoid when you tried to give him some of that education and that you were basically trying to coerce him into a particular way of thinking; is that correct?

A During the first evaluation in July of 2014, yes, that was his response often. Through education about the court system, part of what we do in the competency evaluation if somebody doesn't know an answer or they don't have all the facts correct, we attempt to provide education. He was resistant to those initial attempts claiming those were just coercion to make him believe

one version. Whereas he was trying to say that, you know, the court system wasn't fair and that the judge and the solicitor would work together and come up with a solution to his case and that his role would not matter.

So despite education about everybody's role, he was resistant to that and claiming that it was coercive to try to teach him.

Q And, in fact, I guess there was a second evaluator there maybe the social worker when you did your first evaluation?

A Yes.

Q And you had indicated in your report that he kind of seemed to be preoccupied with that second evaluator?

A Yes.

Q How so?

A He seemed to make a lot of eye contact at the second evaluator. The way we were seated is sort of like a triangle. Myself on one side of the table, the second evaluator on the other, and Mr. Patterson toward our right. I'm typically the one asking the majority of the questions most defendants would look at the evaluator asking the questions, Mr. Patterson would do that, but also seem to notice the evaluator on the other side to the point that he would look at her, sort of suggested at one point that they were taking a lot of

notes. Seemed to be inquisitive about the other evaluator being in the room. Although, of course, that's standard practice.

Q And you had indicated and I think you had used quotes that there were times that he would answer "That's between me and god. I'm not going to tell anyone else?"

A Correct. Most of those were related to asking about mental health history or any symptoms or bizarre behaviors.

Q So it would be fair to say he was not a good historian as far as any type of mental health that he had had?

A I think an unreliable historian given that he's not overly forthcoming and that he is guarded. Yes.

Q And, in fact, you noticed that during the time that you were evaluating him which was approximately two hours?

A On the first occasion?

Q On the first occasion?

A Yes, sir.

Q That his attention and his concentration seemed to be impaired?

A It did. Consistent with things like attention deficits. He wasn't attending to the question asked.

He would become tangential, so therefore, that's why the opinion is that it's described as impaired.

Q Did you inquire at all as to how he was over at the detention center as far as his sleeping, any jail problems, any treatments that he received over there?

A During both interviews we asked him to give the impression of how it was over at the jail. I do not believe we received records.

Q But you didn't get any of the jail records to show how he was there, maybe if there was any type of psychotic behavior or anything unusual long spent at the Detention Center; correct?

A Correct. Those were requested, but not received.

Q And so based on that, you found that he was not competent at that time because he presented with a disorganized thought process, delusional thought patterns, and difficulty maintaining organized speech; correct?

A What appears to be delusional at the time, yes. Having disorganized tangential mannerisms, yes. That was the initial finding during the July of 2014 evaluation.

Q And so you diagnosed him as a psychotic disorder not otherwise -- not otherwise specified?

A Yes, with a rule out of delusional or -- I'm sorry,

paranoid personality disorder.

Q That is the PPD. So at that point in time when you opine that he's got a psychotic disorder, can you tell the Court what exactly are you saying at that point in time? What is your diagnosis at that point in time?

A Psychotic disorder not otherwise specified is used when there's not enough information to be more definitive as well as a way to say he may have something on the psychotic spectrum, but he doesn't meet full criteria for one of the other more specified psychotic disorders such as schizophrenia or schizophreniform, something like that. Basically since he doesn't meet the criteria of those things, but his behavior and presentation currently suggests he may be on that spectrum somewhere, and though it gives us two options.

One is that there are symptoms present, but it doesn't meet the whole criteria for one of the other more definements or we don't have enough information to say what it is and so we're putting NOS for not otherwise specified and we are wanting more information. And in his case, that's what we did in the July of 2014 evaluation. We asked for hospitalizations so he could get further observation to look to be able to flush out more of what his symptoms might be.

Q And you asked questions or you assessed him as far

as his competency to stand trial; correct?
A In the evaluation, yes, sir.
Q In the initial evaluation. And you opined at that point in time that he was not able to demonstrate a basic factual understanding of the court processes or the rules of the various courtroom individuals at your first evaluation?
A That's correct.
Q And like I said, he was very guarded and you would try to give education and he would say, you know, that's what you think or he would accuse you of trying to coerce him in to thinking a particular way?
A Correct.
Q And so during the entire evaluation, there was kind of this prevalent paranoia on his behalf; is that not true?
A Yes. On the first meeting there was more of a prevalence of paranoia and resistant.
Q And you had indicated in your report that he did not appear to understand the nature of the plea bargain, that he was basically unable to engage in irrational conversation about his circumstances; is that correct?
A Yes, in the first evaluation.
Q So there was a second evaluation was ordered or excuse me, I guess, a 60 day commitment was ordered and

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he ended up going for that through the Department of Mental Health?

A Yes, sir.

Q And when he was there, they take, I guess, restoration of competency classes?

A What they do in the program is not my area of expertise. My understanding is that it is a hospital where education related to competency restoration is provided. I don't know the frequency of that education. In addition, medication management and/or monitoring is offered if needed. And then I know case notes are taken and then often times the psychiatrist who is over the given ward will sometimes call over back to our department to get updates on how the individual might be doing.

Q So do they end up making a report back to you before the second evaluation?

A Not that I know of. What we get is the verbal discussion, sometimes e-mails letting us know how they feel they're doing. Or sometimes if they feel they're competent or ready to be reevaluated before the 60 days, they will sometimes ask us or give us that information. But to my knowledge, there is not an official evaluation of report on their end.

Q And so you end up evaluating him a second time

December 3rd of 2014 or just a little bit over a year ago; correct?

A Yes, sir.

Q And as far as the initial portions of the report, the personal history, the educational, the work history, that's generally all the same as the initial report?

A Yes.

Q And when you spoke with him this time, he had indicated to you that he was an affirmative action person?

A Are you referencing a particular --

Q I'm referencing your second report. Mr. Patterson explicitly stated that he's an affirmative action person.

A I don't recall that statement. Where are you in my report?

(Indicating)

A Yes. Thank you. He did.

Q And there's an indication here that you received progress notes and there's an indication in here that there are progress notes from his admission to the hospital; correct?

A Correct. There are progress notes.

Q And it indicated that he was guarded and mildly irritable when interacting with others?

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A Uh-huh.
Q And that he stopped attending the competency restoration classes after the first month indicating that they were no interest to him?
A That's correct.
Q And he's just allowed to do that to say, hey, I don't want to cooperate anymore?
A Well, treatment is voluntary and medication can sometimes through a court order be provided if medication is deemed to be only way to restore them to competency. In his case, I do not believe that it was.
Q But you had indicated at least in your initial report that that might need to happen that he might need to be medicated?
A Correct. The initial impression was that if there was something on the psychotic spectrum then medication would be the way to help actually stabilize that.
Q And, in fact, when you speak with him in the second evaluation, you kind of give a self-report of asking him does he have any hallucinations, paranoia, superhuman abilities, or major depression, and he had indicated that he didn't have any of those?
A Correct.
Q But you would agree with me at least in the first evaluation and even the second there's clearly paranoia

there as far as his answers to questions and kind of being suspicious?

A Correct. Those are not always predicted of psychosis, however. And so that's the difference. In my first evaluation it was unclear how much of that might be say just a personality disorder and/or, you know, his belief system, resistant to the court process, or if that was part of something psychotic.

In the second evaluation after he had been at the hospital, their records tend to also found that this was not a psychotic issue, but rather more of a belief system. And then when I meet with him subsequently that's what it seemed to be.

Q But you had indicated even in that second evaluation that he was still tangental in his speech and seemed to be very extremely guarded?

A Yes.

Q And that in speaking with him, not only was he tangental, but also circular in nature and that he wasn't responsive to the questions and you tried to redirect him, but you were seldom successful?

A Correct.

Q And that's when, I guess, he started talking about being a fictitious entity?

A Correct.

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Q And you had documented in that second evaluation that his attention and concentration were still impaired as they were in the first evaluation?

A Yes. Given the tangential nature of the particular way that he has a conversation. He definitely had a difficult conversation task.

Q And, in fact, he had disclosed to you about being mistreated during the 60 day hospital stay. But when you asked him about that, he wouldn't give you a lot of information about that, would he?

A That's right, he was vague.

Q And I think you indicated that he had written it all down and was dealing with a patience advocate. Did you every followup to find out if he had actually done that?

A In speaking with the staff psychiatrist over there, yes, we did call to ask. There was -- what we were told is that there was a physical altercation at one point between him and another patient and that that was being looked in to. He had alleged, I believe, on one occasion that the nurse or one of the staff members had thrown his cloths into the room rather than given them to him. So the psychiatrist said that there were some things that he had complained about and that those were being looked into.

Q And you came back on that second evaluation to competency to stand trial. And you had indicated that kind of a roundabout way he was able to discuss the role of the judge, the solicitor, and his attorney?

A Yes.

Q Can you explain that to the Court what you mean in a roundabout way?

A Roundabout way meaning sometimes we would ask a question and he would take a tangent off to something else, talking about his social political ideology. But then he would circle back to the question and he would be able to indicate that on some level he did know that the defense attorney's job was to represent him or try to defend him, that he might, you know, take a side trip again which is what he's talking about. He was able to note that the judge was in charge of the courtroom and ran it. He understood there was a difference between the public defender and the solicitor's office, they had different roles. Although he expressed little faith in his ability to get a fair trial.

So roundabout meaning he would try to come at the questions in multiple different ways and often in repetitive way to get him particularly he actually knew this information. We try to teeth out sort of his belief system verses he actually understood how the

court was supposed to work.

Q And, in fact, he had indicated at the beginning of the interview that he wasn't going to be cooperative, but he still to a certain extent answered questions?

A Yes.

Q And so as far as from the first evaluation to the second evaluation, his views and the reason that you found him not competent or not having the capacity to stand trial, those things actually hadn't changed as far as the answers to questions, how he asked his tangental nature or anything along those lines; correct?

A Well, there's some difference. He was less guarded if we had a degree of guardedness, he was less guarded. He was able to actually answer some of the questions, albeit in a roundabout way verses the first time we met, it was really hard to even get him to answer the questions or demonstrate any level of knowledge. Though he didn't demonstrate he didn't know the extent, if that makes sense.

Whereas in the second interview, he was able to demonstrate that he had some basic knowledge of how the court system is supposed to work. In addition, he talked more about his social political ideology in which held timely that this wasn't a psychotic thought process and it didn't seem just a paranoia personality disorder.

It did seem based on what he was talking about that this is his affiliation with a group and his choice to believe in those circumstances. That just opposed he had said that he had been arrested on ten prior occasions and attempted to discuss being able to work through those court processes, plead out his case, and then he had his own version of -- he had a defense for this case, you know, claiming that if he had done it, then he would be willing to plead guilty and that he understood what that meant.

However, he's claiming, of course, that he did not do those charges and that he had evidence to prove his innocence suggesting that he would be able to rationally think through that if he doesn't plead guilty then he's pleading not guilty and he would need to present evidence which meant that he would have to work with an attorney. Whereas the first time we had this conversation, was much harder to get those facts and differentiate between what was guarded and making paranoia from what he actually knew.

So there's several differences between the two evaluations that lead me to conclude that he does have the capacity to proceed should he choose.

Q And the Department of Mental Health desire using your test for malingering?

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A Yes, sir, we can.
Q Did y'all do that in this case?
A We did not. As when we put him in the hospital and in consultation with his staff psychiatrist there, staff -- consultation with my superior the chef forensic evaluation services, the three of us were trying to gather that what we were seeing was not indicative of malingering or psychosis and so we didn't do further testing to rule that in or rule that out.
Q And you met with him this morning; correct?
A I did.
Q And that was not to do an updated competency because you can't do that without a second evaluator there?
A Correct.
Q And you had asked him about hearing voices and he had indicated to you he hears voices all the time?
A Correct. But what he's alluding to is his internal thoughts, his conscience rather than a separate entity or a voice coming from some place that he is not aware of.
Q Are you positive about that?
A No, it's a combination of what he's told me today coupled with what he's told me previously.
Q But we already know that he says, hey, I don't

suffer from any paranoia and you know that that's not true because you witnessed that yourself; correct?

A Correct. But we also don't have any update evidence to suggest at this time that he does suffer from voices.

Q And then as far as the PPD, did you end up ruling that out?

A Yes.

Q How so?

A In the sense that, again, the guardedness and the paranoia seemed related to his political ideation that he has that the government does not have authority over him, he's not in the United States by his choice, but brought over through slavery years ago, and so, United States government doesn't have authority to charge him. So his paranoia and resistance to talking to people of authority seems more wrapped up into this idea that everybody is working for the State of South Carolina is biased and is not going to be able to give him a fair opinion or trial, and so he doesn't really want to open up or talk to those people. It's not just that there may not be some legitimate paranoia from other sources. At this time, his resistance and guardedness or this process seems more related to the political ideology.

Q And so on the second evaluation in the end, you and

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-- you have an opinion that he does have the capacity to understand the proceedings against him and assist in his own defense. However, you indicated in your report that although he did not fully demonstrate that he is competent, you don't think that there's any symptoms of mental illness that would cause an act; is that correct?

A Correct. Such as delusions, hallucinations, true psychosis. There's nothing like that to include an intellectual ability that would prohibit his ability to understand or proceed to trial.

Q But in the end, y'all never got his educational records to see if there was any history?

A No.

MR. MADSEN: That's all the questions I have, Your Honor.

THE COURT: Redirect?

MS. MAYS: Just briefly, Your Honor.

REDIRECT EXAMINATION BY MS. MAYS:

Q Dr. Tross, I'm going to refer you to page 5 of your December 2014 evaluation. Specifically as to your clinical findings, can you tell us whether or not there's a notation when you questioned him as to whether or not he has any hallucinations, paranoia superhuman abilities, or major depression?

A I'm sorry. Can you explain your question?

Q What would be a response when you questioned him about whether he had any of those symptoms?
A It was, no.
Q He denied any of those symptoms including hallucinations?
A Correct.
Q And would hallucinations include voices?
A Yes, it would be auditory or visual.
Q And as to your notation in competency to stand trial, towards the bottom of page 5, did you address with him whether or not he had any prior familiarity with the court system?
A Yes, he did.
Q And what, if anything, did he state to you as to whether he had been to court on several occasions and knew what to do?
A That he expressed on several occasions that he had been to court on numerous occasions, that he did know what to do. And one of the questions we asked him, too, was if he felt there was anything that would impede his ability to proceed to court and he said he did not believe so.

MS. MAYS: Nothing further, Your Honor.

THE COURT: Recross?

RECROSS EXAMINATION BY MR. MADSEN:

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Q We know that he's not the greatest historian; correct?

A That's probably a fair statement.

MR. MADSEN: That's all the questions I have.

THE COURT: All right. One quick one from the Court.

EXAMINATION BY THE COURT:

THE COURT: Was there anything that -- he alluded to school records, was there anything that caused you hesitation or gave you any indication of possibly an intellectual disability diagnosis ID or mental retardation or anything like that?

A No, sir, there wasn't. It's not uncommon for the defendants we see to not have graduated high school. That in and of itself doesn't raise a red flag. We do ask about presence of special education classes or services along the way. But also doing the mental status now and in looking at his adult life and how well he's able to work, sort of live on his own or take care of himself, would raise questions if there were concerns in those areas. And I'm assuming in his case there wasn't. So collectively, there wasn't anything that made us say there may be an issue in this area.

THE COURT: All right. No followup based on my questions, Ms. Mays?

MS. MAYS: No, sir, Your Honor.

THE COURT: Sir?

MR. MADSEN: No.

THE COURT: Thank you, Doctor. You're free to go. Any additional witnesses, Ms. Mays, on this topic?

MS. MAYS: Not on this matter, Your Honor.

THE COURT: Do you have anyone that you want to testify?

MR. MADSEN: No, Your Honor.

THE COURT: All right. Any argument? Any discussion further on this topic?

MS. MAYS: No, sir, Your Honor. We had submitted the report of Dr. Tross and I believe the report would be self-explanatory on this matter.

MR. MADSEN: Judge, our argument was initially they diagnosed him with psychosis, they found him not competent. There's really nothing between the first evaluation from what I've seen in the second evaluation that's really changed, so we do not believe that he is competent, Your Honor.

THE COURT: All right. The Court has had an opportunity while that witness was testifying and the first testified to, review the reports, on this issue concerning his competency, the Court would find Mr. Patterson is able to assist counsel and apparently

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was not suffering from any delusion which would render him -- or affect his criminal responsibility under McNaughton, so the Court finds that he is competent and this matter can proceed.

On the next issue, looking through the file, Ms. Mays, I did come across an order signed by Judge King dated March 13, 2013 which apparently authorized the State to collect DNA from the defendant. Did that not happen or what's going on?

MS. MAYS: It did happen, Your Honor. Briefly, this is an issue that we have recognized in anticipation of trial. Those samples were collected following a Schmerber hearing back on May 13, 2013. Chuck Bramlett was the detective who was involved in the case. He was present in court for the McNaughton hearing and then ultimately he is the officer that collected those samples.

Your Honor, he unexpectedly passed away this summer. And from what we can tell, he would have collected those samples probably in a holding area here, but we do not have a signed witness, and so he would have been the only witness to the collection of those samples. Now, those samples did go on to SLED. They were a DNA match to the defendant. But we're now in a situation where for purposes of curing any chain of custody issues, we

would like to present probable cause from passing this way and proceed with additional samples which we are prepared to go ahead and collect today if the Court orders such samples.

THE COURT: All right. I'm assuming that you are objecting to --

MR. MADSEN: We do, Your Honor. Samples were collected on ones in the past, we do believe it would be a Fourth Amendment violation if collected a second time. Certainly, we know that Investigator Bramlett has died, but they should have safeguards in place at that point in time because there are certainly ways that they could attempt to try to get that in and we do believe it would be a violation of the Fourth Amendment to take those samples a second time from my client.

THE COURT: All right. Am I safe to assume that at trial you would object to the chain if they were to proceed with the samples that were previously collected by the officer; am I right?

MR. MADSEN: We will, Your Honor.

THE COURT: All right. Go ahead, Ms. Mays.

MS. MAYS: The State calls Captain Bruce Wade.

BRUCE WADE,

being first duly sworn, was examined and testified as follows:

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THE CLERK: Have a seat. State your name, please, and spell your last name.

A My name is Bruce Wade. Last name W-A-D-E.

DIRECT EXAMINATION BY MS. MAYS:

Q And Captain Wade, where are you currently employed?

A City of West Columbia.

Q All right. I need you to speak up a little bit so that the court reporter can catch everything you're saying.

A Okay.

Q I'm going to start with the affidavit. Do you have with you, Captain Wade, an affidavit which you have signed and dated in connection with this case?

A I do.

Q All right. What is the date of that affidavit?

A It's dated December 11, 2015.

Q All right. I'm going to show you a document and ask you whether or not you recognize it?

A I do.

Q All right. And how so?

A I wrote every word that Sunday.

Q All right. And that's your signature on it?

A Yes, ma'am, that's mine.

Q All right. Now, I'm also going to show you what is the State Law Enforcement Division DNA analysis report

dated October 29, 2012. And what's known as a CODIS hit or notification letter addressed to you dated October 31, 2012. Are you familiar with these documents?

A Yes, ma'am.

Q Can you tell us whether or not they were collected and made a part of your case file?

A Yes, ma'am.

Q All right.

MS. MAYS: Your Honor, at this time, we would mark as Court's Exhibits the affidavit of Captain Wade as well as the State Law Enforcement DNA analysis report.

(WHEREUPON, Court's Exhibit Numbers 1 and 2 were marked and admitted)

MS. MAYS: And the DNA analysis report also includes the CODIS hit or notification letter.

Q Captain Wade, I'm going to ask you to start at the beginning of your affidavit. And if could, slowly enough that the court reporter, begin with where you are stating or asserting any facts with reference to the aforementioned case which is State verses James Bubba Patterson.

A It says, "Personally appeared before me Captain Bruce Wade, who being duly sworn, states that he is an investigator with the West Columbia Police Department

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and that he has been involved in the ongoing investigation of State verses James Bubba Patterson. Furthermore, as a result of the investigation by the West Columbia Police Department, Captain Bruce Wade asserts the following facts and makes reference to the aforementioned case. That James Bubba Patterson was arrested on November 16, 2012 for armed robbery, kidnapping four counts, possession of a weapon during the commission of a -- during a violent crime. Felony in possession of a firearm and grand larceny valued $5,000 or more. These crimes are alleged to have occurred on May 9, 2012. That West Columbia Police Department investigated an armed robbery at K & M jewelry store located at 507 Meeting Street in West Columbia, County of Lexington County.

The investigation determined that the suspect later identified as James Bubba Patterson entered the store and presented a firearm in the presence of employees and customers, wherein, approximately $24,000 in jewelry was stolen.

The investigation further determined that as the suspect was fleeing the crime scene, he dropped a hat that had been -- that he had been worn during the commission of the crime. He subsequently got into the van and fled the area. The hat worn by the suspect was

collected as evidence by the West Columbia Police Department. The aforementioned hat was submitted to the South Carolina Law Enforcement Division, SLED, for analysis on October 29, 2012. SLED issued a DNA analysis report Number L12-06246 which documented that the DNA that had been developed and the swab that was collected from the suspect's hat, the DNA profile was subsequently fed into CODIS DNA Index System CODIS -- I'm sorry -- Combined DNA Index System CODIS.

On or about October 21, 2012, SLED notified the West Columbia Police Department that the DNA profile developed from the swab from the suspect's hat matched the DNA profile of the combined DNA Index System CODIS. Specifically, the profile matched the DNA profile developed from DNA data base of offender James Patterson, South Carolina SID Number SZ0499452.

After James Bubba Patterson was identified as a suspect, CODIS, followup investigator -- investigation work had been done -- was conducted by the West Columbia Police Department on November 15, 2012. An eye witness in the case identified James Bubba Patterson in a photo lineup. On November 16, 2012, James Bubba Patterson was arrested in this case and charged with aforementioned offenses. And a letter from SLED on October 31, 2012, SLED notified the West Columbia Police Department that

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an additional biological specimen from the defendant must be submitted for court purposes. A buccal swab collected from the defendant should be significant for SLED to conduct additional DNA testing in comparison analysis.

Q All right. Thank you. And you signed this affidavit?

A I have.

Q Are these facts true to the best of your knowledge?

A Yes, ma'am.

Q Now, just to clarify a little bit more, Captain Wade. In reference to the hat dropped behind by the suspect, have you had the opportunity to be personally involved in this investigation?

A I have.

Q All right. Do you know based on video that you've observed whether or not the suspect was wearing a hat?

A Yes, he was.

Q And do you know based on interviews with person's inside the jewelry store whether the suspect was wearing a hat?

A Yes.

Q And was the hat recovered from the crime scene that's believed to have belonged to the suspect after he was fleeing?

A Yes.
Q And in addition to that hat, can you tell us whether or not any person's in the jewelry store were able to personally observe the suspect?
A Yes.
Q And can you tell us whether or not any person's in the jewelry store participated in a photo lineup?
A Yes.
Q Can you tell us who was identified as the person who came in armed to the jewelry store?
A James Bubba Patterson.
Q And then finally, after Detective Bramlett collected suspect standards in this case, I'm going to issue you what is the DNA analysis report from June 13, 2013. Are you familiar with that report?
A Yes, ma'am.
Q Can you tell us whether or not SLED analyzed the initial buccal swabs that had been collected by Detective Bramlett and submitted to the State Law Enforcement Division?
A They did.
Q And that was for comparison to the hat?
A Yes, ma'am.
Q All right. And what if any findings were there from the State Law Enforcement Division concerning any

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match to Item 1.1 which was the hat?

A Yes, ma'am. It says the DNA profile developed from Item 1.1 matches the DNA profile of James Bubba -- James Patterson. The probability of randomly selecting an unrelated individual having DNA profile matching this item is approximately 1 in 220 quadrillions.

Q All right.

MS. MAYS: Your Honor, we would now mark this report as Court's Exhibit Three.

THE COURT: Without objection.

(WHEREUPON, Court's Exhibit Number 3 was marked and entered)

Q And finally, Captain Wade, let me ask you, the method or procedure for collecting these samples is taken how?

A From the suspect or from the hat?

Q From the suspect?

A It would be a Q-tip with saline placed on the Q-tip and would go into the suspect's mouth and just swab his cheek for DNA.

Q All right. Would there be a left cheek and a right cheek swab?

A Yes, ma'am.

Q All right. And do you have an officer here present and able to take those collections today?

A Yes, ma'am.

Q Does it prevent any type of medical issue for this defendant?

A No, ma'am.

MS. MAYS: Your Honor, that would be all from the State in this regard.

THE COURT: Mr. Madsen?

CROSS EXAMINATION BY MR. MADSEN:

Q Detective Wade, you submitted an affidavit in this case; correct?

A Yes, I did.

Q And did you prepare that affidavit?

A I didn't.

Q The solicitor's office prepared it for you; correct?

A Correct.

Q You just signed it?

A Yes, I did.

Q And did it pretty much state the exact same affidavit that Chuck Bramlett signed?

A I'm not sure. I didn't see Investigator Bramlett's.

Q Did you -- what we're talk about here is a hat. Did you collect the hat?

A I didn't.

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Q Do you know who did?
A Yes, Investigator Bramlett collected it. I was present when he collected it.
Q And how about the timeframe of when the hat was collected?
A I don't remember hearing any call coming across the radio and I was there within five minutes and there was a hat laying in front of the door which stayed on the scene, I guess, I can't be 100 percent sure, but maybe 90 minutes and the hat was collected within that 90 minute time period.
Q Was someone with the hat the entire time?
A I can't say for sure they were.
Q And the solicitor had asked you about photo lineups and you had indicated that one of the individuals, I guess, in the store had identified my client --
A Correct.
Q -- as being the robber?
A Yes.
Q How about the other three, were they shown photo ID's?
A I think they were, but I don't -- I'm not 100 percent sure they were, but I think so and they didn't identify him.
Q Okay. And did you turn that over to the

solicitor's office?
A I'm sure I did.
Q How about the other individuals there, was someone outside near a supposed van that was used as kind of the getaway car, were they shown photographic lineups?
A I'm not 100 percent sure.
Q So as far as you know, the people inside, three out of the four, don't identify my client as being the person in there; correct, when shown the photographic lineup?
A I'm not sure. I know for a fact the business owner did select him from the photo lineup.
Q When you say, the business owner, do you mean the man or the woman? Because I guess --
A The man.
Q The man?
A Yes, sir.
Q And, in fact, one of the individuals who was in there, I guess, a female customer, indicates that the lady owner that she assumed that she knew the individual because of a statement that that owner had made saying, good seeing you again. Every time I see you, you're dressed up. And this individual who robs the store is supposed to be, I guess, in a suit or dressed nicely; is that correct?

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A Seems like that's correct.
Q Is that a statement that you had taken?
A I'm not sure.
Q And, obviously, this sample has already been sent to SLED once before --
A Correct.
Q -- and tested?
MR. MADSEN: That's all the questions I have, Your Honor.
MS. MAYS: Just briefly, Your Honor.
REDIRECT EXAMINATION BY MS. MAYS:
Q And just to clarify. The business owner that was able to select him from a photo lineup, can you tell us whether or not he had face-to-face contact with the person earlier that day?
A That's correct.
Q Okay. Had that person actually come in to the jewelry store for under the pretense of shopping for jewelry?
A Correct.
Q And I also wanted to ask you about the affidavit. Did you have the opportunity to review it to make any changes or additions that would have been necessary?
A I did.
Q All right. Were any changes or additions

necessary?

A No, ma'am.

MS. MAYS: Nothing further, Your Honor.

THE COURT: All right. Thank you, Captain. Step down. All right. Anything further on this issue from either the State or the defense?

MS. MAYS: Nothing at the time, Your Honor. I would ask that the probable cause is basically the same as it was initially back in May of 2013. However, there is the additional factor that the initial collection by Detective Bramlett were a match to the DNA from the hat.

MR. MADSEN: Yes, sir, Your Honor. The only thing that troubles me, I guess a little bit, and it's kind of an ancillary issue is the fact that I've not been provided if there is photo lineups that individuals failed to pick my client out, that's certainly exculpatory. That's not something I've ever been provided with nor have I been provided with anything saying that the owner alleges that my client was in the store earlier. Well, I think that's kind of an ancillary issue. But certainly that's exculpatory and that needs to be turned over as far as the circumstances of those that you have individuals who are supposed to be eye witnesses. We've not received anything along those lines.

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MS. MAYS: I agree, Your Honor. And we will get with law enforcement and find out the full background of the photo lineup procedures.

THE COURT: Very good. Well, for purposes of this motion, regarding Schmerber, it is not necessary for the Court to even consider or take into account the fact that there was a previous hit. Because clearly there is sufficient probable cause to believe that a crime has been committed by the defendant and there's sufficient evidence for a clear indication that material evidence will be gathered by using a buccal swab or obtaining a buccal swab. And it goes without saying that swabbing the inside of a person's cheek with a Q-tip is minimally invasive and clearly very safe and reliable.

So the Court does find that the State has met its burden of demonstrating the priority of collecting an additional DNA sample in this particular case and the peculiar facts of this case. Because obviously with the officer dead, it would be quite difficult for that evidence to be -- for the chain to be established for the previous evidence. So the Court finds that State has met its burden on that issue.

Obviously, if there's an additional officer who could be present, not that anyone is necessarily going to pass away again unexpectedly, but it clearly might be

helpful to the State so that we don't have to revisit this issue again in April if you have an additional person or two.

MS. MAYS: We do, Your Honor.

THE COURT: Very good.

MS. MAYS: We do. We're prepared for that. Thank you.

THE COURT: Thank you.

- - -END OF REQUESTED TRANSCRIPT OF RECORD- - -

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

COUNTY OF LEXINGTON)

I, KATHERINE F. TIBBS, Registered Professional Reporter for the Thirty-second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Lexington County, South Carolina, on the 4th of April, 2015.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

(This transcript was transcribed from the record taken by Tara T. Scott)

May 31, 2016

Katherine F. Tibbs

Katherine F. Tibbs

Registered Professional Reporter

State of South Carolina

Court of General Sessions

County of Lexington

State of South Carolina,	)	Transcript of Record
	)	
vs.	)	2013-GS-32-00890
	)	2013-GS-32-00891
James Bubba Patterson,	)	2013-GS-32-01132
	)	
Defendant.	)	

April 11-14, 2016
Lexington, South Carolina

B E F O R E:

The Honorable G. Thomas Cooper, Judge; and a jury.

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S-53	DNA Swab/Hat (mismarked)	479	
S-54	DNA Results	503	503

(The following proceedings were held April 11, 2016, beginning at 10:51 AM.)

THE COURT: All right, Solicitor. Call your case.

MS. MAYES: Your Honor, before you is Indictment Number 2013-GS-32-0891, the State of South Carolina versus James Bubba Patterson. This indictment is for armed robbery. Indictment Number 2013-GS-32-1132, the State versus James Bubba Patterson. This indictment is for possession of a weapon during the commission of a violent crime. Indictment Number 2013-GS-32-0890, the State versus James Bubba Patterson. This indictment is for grand larceny.

Your Honor, the State is ready for trial. The Defendant is present with his attorney, Mr. Madsen.

THE COURT: Mr. Madsen, is your client ready for trial?

MR. MADSEN: He is, Your Honor.

THE COURT: Did you say yes?

MR. MADSEN: Yes, sir.

THE COURT: All right. Good.

All right. Ladies and gentlemen, that's the case. I'm gonna introduce the parties to you. I'm going to tell you a little bit more about the case than what the solicitor just told you. But I want to -- again, I'm gonna have a short question and answer period with you

and the procedure is the same as we did earlier this morning. I'll just ask you to stand and give me your juror number if you have an answer to any of these questions.

Now as you probably know, the prosecuting entity in any criminal case in South Carolina is the solicitor's office. Now in some states they call that the district attorney or some states call it the state's attorney, but in South Carolina our prosecuting entity, the "order" of the Law and Order TV show so to speak, is your state solicitor. Now your state solicitor, your elected state solicitor in Lexington County and for the Eleventh Circuit as you probably know is Mr. Donnie Myers. Mr. Myers is not going to prosecute the case, but two of his deputy solicitors will be prosecuting the case for the State. They are Ms. Suzanne Mayes -- if you'll stand, please, Ms. Mayes, and Mr. Gill Bell.

I need to ask if any member of the jury panel is related by blood, connected by marriage or employment or close personal friends of either Ms. Suzanne Mayes or Mr. Gill Bell? If so, please stand.

Any member of the jury panel know anybody or friends with anybody or related to anybody that works in the office of the Eleventh Circuit Solicitor's Office? Anybody know anybody that works in there?

MR. MADSEN: Judge, I think --

THE COURT: Well, either the State or the defense. Either one.

MS. MAYES: Yes, sir, Your Honor. The first matter is dealing with the Court's ruling in chambers concerning an orientation assessment by the South Carolina Department of Mental Health. We have communicated with Dr. Tross who did the evaluation back on December 3, 2014, and found Mr. Patterson competent to stand trial. Subsequent to that there was a full Blair hearing with Judge Addy in December of 2015 in which Judge Addy found that Mr. Patterson was competent to stand trial. We have now pursuant to the Court's order requested Dr. Tross to be here at 2:00 PM to conduct an orientation assessment on Mr. Patterson.

THE COURT: Where will he be? Will that be at the detention center?

MS. MAYES: It would be here, Your Honor, most likely in the holding area.

THE COURT: All right.

MS. MAYES: In addition to that, Your Honor, the State does foresee a brief hearing on Jackson v. Denno concerning a statement made by the Defendant following his arrest. The State does foresee --

THE COURT: Is that a written statement?

MS. MAYES: It is a brief verbal statement, Your

Honor.

THE COURT: Verbal. Okay.

MS. MAYES: In addition, Your Honor, the State foresees a hearing pursuant to Neil versus Biggers regarding the reliability of the photo lineup, which was conducted in this case with the victim, Mr. Frank Mancine.

THE COURT: Was it a showup?

MS. MAYES: It was a photo lineup, Your Honor.

THE COURT: Okay. But there was no showup?

MS. MAYES: Correct, Your Honor. And then, finally, Mr. Madsen has advised the State that he does wish to pursue a motion to suppress a search warrant that was conducted on a vehicle in this case and we will have personnel present for that hearing as well this afternoon, Your Honor.

THE COURT: All right. Mr. Madsen?

MR. MADSEN: Judge, we also have a motion to either suppress or redact a business record from Eagle One Towing, and I have a motion on that. I've got a motion to elect the State proceeding on either the armed robbery or the grand larceny.

THE COURT: Wait a minute. Wait a minute. Either of the armed robberies?

MR. MADSEN: Well, either the armed robbery or the grand larceny.

THE COURT: Oh, okay. I understand.

MR. MADSEN: A motion for sequestration of the witnesses and then obviously just renewing the competency evaluation of Judge Addy's ruling. And then also, Your Honor, there was a situation where they took a buccal swab from my client, they then took a subsequent buccal swab, and I wanted to renew my objection to that second collection under Schmerber.

THE COURT: All right. Let's reconvene at 1:30. Is that satisfactory? And we'll proceed with motions.

MS. MAYES: Your Honor, we're gonna resume at 1:30 and it looks like Dr. Tross will be here at two. Could we take a break at that point to conduct the orientation assessment?

THE COURT: That would be a good idea. We can get something done before that unless you want to come back at one?

MS. MAYES: 1:30 is suitable, Your Honor.

THE COURT: That will give everybody a chance. Okay.

(Whereupon, a luncheon recess was taken.)

BAILIFF: All rise. Court's now in session. Honorable G. Thomas Cooper presiding.

THE COURT: Be seated. All right, Solicitor. Any time you're ready.

MS. MAYES: Yes, sir, Your Honor. Dr. Tross is here

and she is prepared to conduct the orientation assessment at the time Your Honor deems appropriate.

THE COURT: Well, I'm asking you do you have any problem with doing it right now?

MR. MADSEN: Whatever the Court wants to do. We can do some of the motions and then --

THE COURT: Well, if she's ready.

MR. MADSEN: That's probably true. It's probably better to do it first however Mr. Mauldin states.

THE COURT: Yes. All right. What's the doctor's name?

MS. MAYES: Dr. Tross, T-R-O-S-S. And, Your Honor, I have prepared a written order. I'll step out and get the written order momentarily, Your Honor. I believe in the past these assessments have been done in the holding area. She would just need a security officer present with her. I believe it takes twenty to thirty minutes at most. Maybe possibly less than that.

THE COURT: All right. Dr. Tross, how are you today?

DR. TROSS: I'm well, Your Honor.

THE COURT: I'm sorry to impose upon your schedule, but we have a trial that's ready to go forward and I need your assistance, so let's go ahead --

DR. TROSS: Of course.

THE COURT: -- and let the process take place.

BAILIFF: This is the name of the madam forelady.

THE COURT: They've already done it?

BAILIFF: Yeah, they said let's go ahead and do it while we're here.

THE COURT: Counsel, Juror Number 139 is your foreperson.

(Recess taken.)

(State's Exhibit Number 1 through 5 were marked for identification.)

BAILIFF: All rise. Please keep your seats. Court's now in session.

THE COURT: All right, Solicitor.

MS. MAYES: Your Honor, Dr. Tross has completed the orientation assessment and she's ready to give the Court a report.

THE COURT: All right. Fine. Dr. Tross, you can stand right there. I mean, come on up just so the court reporter can hear you.

Yes, ma'am. Can you tell me what your findings are?

DR. TROSS: Well, in meeting with Mr. Patterson, currently there is no presence of delusions or hallucinations or psychotic behavior of any sort that would suggest he is not able to proceed. There isn't anything in his presentation now that would make me question my original findings in December of 2015 to

question his competency to proceed. He is oriented to who he is right now, where he is and why he's here. He was fairly cooperative with me during the evaluation. He seems to be attending to what's happening right now.

THE COURT: All right. Any questions of the doctor?

MS. MAYES: None from the State, Your Honor.

THE COURT: Okay.

MR. MADSEN: None from the defense.

THE COURT: Thank you very much, Doctor. We appreciate you coming. And the State has a copy of the order for you.

DR. TROSS: Yes, sir, I have it.

THE COURT: You have it? Okay. Good.

All right. You may proceed. I'm not sure which order you wish to proceed, but that's fine.

MS. MAYES: Your Honor, we have Captain Bruce Wade with the West Columbia Police Department. He will be addressing both the Jackson v. Denno matter and then also he will address at least partially one of the components concerning the Neil versus Biggers photo lineup identification.

THE COURT: All right. Call your first witness.

MS. MAYES: The State calls Captain Bruce Wade.

BRUCE WADE,

having been duly sworn, testified as follows:

THE CLERK: Once you're seated, state your full name; spelling your last on the record, please.

THE WITNESS: My name Bruce Wade, W-A-D-E.

DIRECT EXAMINATION (In-camera)

BY MS. MAYES:

Q. All right. And, Captain Wade, where are you employed?

A. West Columbia Police Department.

Q. And how long have you been with the West Columbia Police Department?

A. Almost eleven years.

Q. All right. And during that time, have you had the opportunity to work in the area of criminal investigations?

A. Yes.

Q. And as a detective?

A. Yes.

Q. Now I want to take you to the original incident date, which was May 9th of 2012. Can you tell us what involvement you had initially with the incident report concerning a robbery at the K & M Jewelry store?

A. I responded to the K & M Jewelry store in reference to a robbery where shots were fired and upon me getting there I got with the officers that made it to the scene before me, they advised me what was going on, and I also received a statement from Mr. Mancine on that particular day.

Q. And who was Mr. Mancine?

A. The store owner.
Q. And who was the person that the armed robber would have had contact with during the course of the robbery?
A. Mr. Mancine and his mother, Mrs. Mancine.
Q. All right. Now did the suspect flee the scene?
A. Yes.
Q. Was anything left behind at the scene of significance?
A. Yes. A hat was left behind.
THE COURT: A what?
THE WITNESS: A hat.
THE COURT: Okay.
BY MS. MAYES:
Q. And can you tell us what connection the hat had to the robbery, if any?
A. Well, I reviewed the video also when I was at the store and in the video you could see that the suspect was wearing a hat that was just like the hat that was found on the ground outside the store.
Q. All right. So can you tell us whether or not the hat that was found outside of the crime scene, outside of the jewelry store, whether or not it was taken into evidence?
A. Yes, it was taken into evidence.
Q. Can you tell us whether or not it was submitted to the State Law Enforcement Division for analysis?
A. Yes.

Q. Ultimately, as an investigator in this case, do you know whether or not DNA swabs, DNA samples, were taken from the hat?

A. I know it was taken, but I can't tell you who took it. I don't -- I'm not sure if it was taken at SLED or by West Columbia.

Q. And ultimately did you receive notification from the State Law Enforcement Division concerning that DNA analysis on the hat?

A. Yes.

Q. In what form or format did you receive notification?

A. A letter in the mail.

Q. And do you know the date that you received that letter from the State Law Enforcement Division?

A. I can tell you. On November 12, 2012.

Q. All right. And, specifically, can you tell us whether or not the State Law Enforcement Division was able to identify a person associated with that DNA profile?

A. Yes, a James Bubba Patterson.

Q. And once you received the name from the State Law Enforcement Division concerning the match to the DNA profile, James Bubba Patterson, what did you do with that information?

A. I put it in a system called SCIEx to see if I could find any other reports that he was linked to and I did find

other reports that he was linked to.
Q. And, specifically, did any of those reports lead you to a possible vehicle?
A. Yes.
Q. And where was that vehicle located?
A. It was located at Eagle One Towing.
Q. And did you have the opportunity to go and view that vehicle yourself?
A. Yes, I did.
Q. Can you tell us whether or not the vehicle that you viewed was consistent with the general description of the vehicle that the suspect had been in on the date of the robbery?
A. Yes, it was.
Q. Can you tell us what, if anything, else was significant about that vehicle?
A. I noticed the vehicle -- if I'm not mistaken, it was a Plymouth Voyager, but it had a Dodge Caravan rear door on it, or vice versa, it was a Dodge Caravan and it had a Plymouth back door on it, but it was one of the two.
Q. All right. What, if anything, was significant about the back door being a different make than the actual model of the vehicle?
A. Well, I know the day of the robbery I was told that the store owner had shot the back window out of the

vehicle and I did notice that the back window -- the whole hatchback was different from the make of the vehicle when I went to the tow yard.

Q. All right. So that back door or back hatch had been damaged during the original robbery?

A. Yes.

Q. And had been replaced on the date that you viewed the vehicle?

A. Yes.

Q. And what date was it that you actually viewed the vehicle on the Eagle One Towing lot?

A. That was November 15, 2012.

Q. All right. Once you observed that vehicle and you had received the notification from the State Law Enforcement Division concerning the DNA match, what, if any, efforts did you make or take to follow up with the victim, Mr. Mancine?

A. I put a photo -- well, I had SLED create a photo lineup, which contained a photo of Mr. Patterson, and in that photo -- there were six photos in what we call the lineup and I showed it to Mr. Mancine and he was able to identify Mr. Patterson as the suspect.

Q. All right. I'm gonna show you what is currently premarked as State's Exhibit Number 1 and ask you whether or not you recognize that document?

A. Yes, ma'am.
Q. How so?
A. This is the same photo lineup I showed Mr. Mancine.
Q. And who prepared that photo lineup?
A. SLED.
THE COURT: You said you did it?
THE WITNESS: SLED.
THE COURT: SLED did it?
THE WITNESS: Uh-huh.
THE COURT: Okay.
BY MS. MAYES:
Q. And do you have with you a backup copy or a photocopy of that --
A. I do.
Q. -- State's Exhibit 1?
MS. MAYES: All right. Your Honor, at this time I'm going to share State's Exhibit 1 with the Court.
THE COURT: Yes, ma'am. How about defense counsel?
MR. MADSEN: (Nods head.)
THE COURT: Defense counsel indicates he's seen it.
BY MS. MAYES:
Q. Now taking a look at your copy of what is State's Exhibit 1, Detective Wade, can you tell us whether or not all of the photos appear to have similar background images?
A. Yes.

Q. Do all of the photos appear to come from the same source?

A. Yes.

Q. Can you tell us whether or not all of the photos in the lineup show men of the same race?

A. Yes, that's correct.

Q. Of the same general head shape?

A. Yes.

Q. Can you tell us whether or not the photos appear to contain no facial hair or no extraneous facial hair?

A. No, they don't appear to have facial hair.

Q. Can you tell us whether or not that photo lineup in State's Exhibit 1 is black and white?

A. Yes. Yes, ma'am. It's black and white.

Q. Now when once you received this photo lineup from the State Law Enforcement Division, what, if any, instructions did you give to Mr. Mancine regarding the possibility of making an identification?

A. My normal protocol when showing a photo lineup when I make contact with the victim, I tell them I've got a photo lineup I'd like for them to see, it's a series of six photos and that the suspect may or may not be in this photo lineup, but if you see the person who committed the crime against you, I would like for you to pick them out.

Q. All right. Did you at any point suggest any

particular photo?
A. No.
Q. Was Mr. Mancine given an opportunity to review that photo lineup?
A. Yes, ma'am.
Q. Was he able to make an identification?
A. Yes, ma'am.
Q. How so?
A. He -- he identified Mr. Patterson as the suspect in Photo Number 3.
Q. All right. Were any notations made on that photo lineup by Mr. Mancine?
A. Yes, he circled the photo and put his initials in it and on the back side of it he wrote down "This is the guy that robbed our store May 9, 2012", and signed and dated up under it.
Q. All right. And that's noted on the back of the lineup?
A. Yes, ma'am.
Q. And whose handwriting is that notation in?
A. In Mr. Mancine's.
Q. Now on the photo lineup they are numbered?
A. Yes, ma'am.
Q. The number three has a circle. Who made that circle?
A. Mr. Mancine.

Q. And the photo itself is circled. Who did that circle?
A. Mr. Mancine as well.
Q. And the initials are there, F-M, who noted the initials?
A. Mr. Mancine.
Q. Can you tell us whether or not Mr. Mancine appeared to have any difficulty making that identification from the photo lineup?
A. No, ma'am. As I recall, he picked him out in less than a minute.
Q. Now once he was able to make that photo identification of the suspect, James Bubba Patterson, that in conjunction with the DNA profile match that you'd been notified of and the vehicle that had been located, what, if any, further efforts did you make in this investigation?

THE COURT: Excuse me. What was the date of the identification of the photo lineup?

MS. MAYES: Yes, sir, Your Honor. If you could give us that date, Detective Wade?

THE WITNESS: It's November the 15th, 2012.

THE COURT: Okay. The same day?

MS. MAYES: Your Honor, that would actually be about six months later. The CODIS hit from the State Law Enforcement Division was on November 12, 2012.

THE COURT: Yeah. I'm asking when he got the photo

lineup. When did he present it to the --

THE WITNESS: If I'm not mistaken, it was the same day.

THE COURT: That's what I said. The same day. Okay.

MS. MAYES: Thank you, Your Honor.

BY MS. MAYES:

Q. Now, Detective Wade, when were warrants obtained for Mr. Patterson?

A. I'll have to look to give you that exact date. I'll have to look to give you the exact date. November the 16th, 2012.

Q. And once warrants were obtained, was he arrested?

A. Yes, he was arrested.

Q. And where was he brought after his arrest?

A. To the West Columbia Police Department.

Q. And who had contact with him there at the West Columbia Police Department?

A. I did.

Q. Do you have any notations regarding that contact?

A. I do.

THE COURT: What was the date of this again?

THE WITNESS: That would have been November the 16th, 2012.

THE COURT: Okay.

BY MS. MAYES:

Q. And what time do you estimate you had your contact with him, Detective Wade?
A. It was about 1600 hours, which would be 4:00.
Q. Can you tell us whether or not he was advised of his Miranda rights?
A. He was.
Q. By who?
A. By me.
Q. And can you read into the record exactly in what format or in what way was he advised of his Miranda rights?
A. It would be on paper.
Q. Okay. And can you read into the record exactly what you shared with him on that date?
A. Yes. I would have had him fill out the date, the time and fill out his personal information, which would be his name, his address, his phone number, his date of birth, Social Security number, and tell me what grade of school he had finished, and I would also ask him if he could read and write and have him circle and initial whichever one it would be, and then I would explain to him that the Constitution required that you be informed you have the right to remain silent, anything you say can and will be used in court as evidence against you. You're entitled to talk to a lawyer now and have him or her present now or at any time during questioning. If you

cannot afford a lawyer, one will be appointed to you without cost. Do you understand these rights? And I would have him select "yes" or "no" and he did select "yes" and circled it and initialled it and after that I advised him if you decide to answer questions now without a lawyer present, you will still have the right to stop answering questions at any time. You also have the right to stop answering questions at any time until you talk to a lawyer and I asked him --

Q. Okay. Could you slow down a little bit for the court reporter?

A. Yeah. I'm sorry. Yes.

Q. Please continue.

A. And I asked him did he understand everything I've read him up to this point and he told me "yeah" and he signed saying -- initialled each one of them and signed saying he understood. And then I read him a waiver of Miranda rights, which says I'm willing to make a statement and answer questions. I understand and know what I'm doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me, and he signed and dated that as well.

Q. Did he appear to understand those rights?

A. Yes.

Q. Was he threatened in any way in order to waive his

rights?
A. No, ma'am.
Q. Or in order to obtain a statement from him?
A. No, ma'am.
Q. Was he promised anything in exchange for a statement?
A. No, ma'am.
Q. And at this point in time, tell us what, if any, conversation you had with Mr. Patterson after he had waived his Miranda rights.
A. I told Mr. Patterson I wanted to talk to him about a robbery at a jewelry store in West Columbia. He told me that he had only been to the West Columbia-Cayce area four times in his life. I told him that I had his DNA that was collected from a hat. At that time he became irate, started cursing and ripped up his Miranda rights form.
Q. Okay. So once he ripped up the Miranda rights form, did you continue the interview at that time?
A. No, it was stopped at that time.
Q. So he told you that he had been to West Columbia or Cayce four times?
A. Yes.
Q. And did you document or make note of that admission as well?
A. Yes.
Q. Now who actually obtained the arrest warrants in this

case?
A. I did.
Q. What is the height and weight for Mr. Patterson?
A. Five-five, 150.
Q. Five foot five and 150 pounds?
A. Yes, ma'am.
Q. Now during the course of the investigation of the jewelry store, can you tell us whether or not they had surveillance video?
A. They did.
Q. Did you have an opportunity to review the surveillance video for the date of the robbery on May 9th?
A. Yes, ma'am.
Q. And can you tell us whether or not any additional video surveillance was obtained?
A. It was a video obtained from days before where Mr. Patterson also came into the store late in the afternoon.
Q. Can you tell us whether or not you also viewed a video surveillance tape from May 7, 2012?
A. Yes, ma'am.
Q. And having viewed those videotapes, can you tell us whether or not the suspect has contact with anyone inside the store on that video surveillance?
A. Yes, he had contact with Mr. Mancine both days.

Q. Okay. And you've had an opportunity to view both of those videos?
A. Yes, ma'am.
Q. How far apart would you estimate they are during the course of those transactions on May 7th and May 9th?
A. I'd say less than two feet.
Q. And can you tell us whether at any point in time Mr. Mancine looks at the suspect directly in his face?
A. Yes, he made contact with him multiple times.
Q. Are they actually conversing at any point during the videos?
A. Yes, ma'am.
Q. And what time was this robbery?
A. Give me a second. If I can find the picture, I'll tell you. It was around 2:30 on May the 9th, 2012. 2:30 PM.
Q. And can you tell us -- you've been inside the jewelry store?
A. Yes, ma'am.
Q. Is there lighting inside the jewelry store?
A. Yes, ma'am. Across the whole front -- there's a window across the whole front of the store that lights the store up.
Q. That would be windows that allow for natural light?
A. Yes, ma'am.

Q. Is there lighting inside the store such as overhead?
A. Yes, ma'am.
Q. And this robbery occurred during daylight hours?
A. Yes, ma'am.
MS. MAYES: I beg the Court's indulgence.
BY MS. MAYES:
Q. Can you tell us whether or not those videos were retrieved and made evidence in this case?
A. Yes, ma'am, they were.
Q. To the best of your knowledge, was the Defendant's statement freely and voluntarily given?
A. Yes, ma'am.
Q. And can you tell us during the course of showing that lineup to Mr. Mancine did you do anything to suggest who the suspect was?
A. No, ma'am.
MS. MAYES: Nothing further at this time, Your Honor.
THE COURT: Cross-examination?
CROSS-EXAMINATION (In-camera)
BY MR. MADSEN:
Q. Detective Wade, what was the date that you brought my client in to speak with him?
A. Give me one second and I can give you an exact date. November 16, 2012.
Q. And where did you meet with him at?

A. The West Columbia Police Department.
Q. Was there anyone else in the room with you?
A. Yes.
Q. Who was that?
A. Investigator Jones. Mark Jones.
Q. Anyone else besides Investigator Jones?
A. No, sir.
Q. Did you record this interview?
A. No, sir.
Q. You have the capability to do that, don't you?
A. Yes, sir.
Q. And, in fact, you actually recorded an interview that you had with Mr. Mancine --
A. That's correct.
Q. -- and his attorney, correct?
A. Yes, sir.
Q. But you chose not to do it on this date?
A. Yes, sir.
Q. You had said that you went over his rights with him?
A. That's correct.
Q. And did you use a form?
A. Yes, sir.
Q. And did he sign on that form?
A. He did.
Q. Do you have a copy of that?

A. No, sir.
Q. Where is that at?
A. Your client tore it up.
Q. Okay. What happened to the torn up pieces?
A. I'm not a hundred percent sure, but as I recall he actually ate it. I remember him chewing it up when he ripped it up.
Q. Can you show me in your report where it says that he actually ate it?
A. No, sir.
Q. It's not in there?
A. No, sir.
Q. So after you go over his rights with him, you tell him what?
A. I told him I wanted to talk to him about a robbery at a jewelry store in West Columbia.
Q. And what did he say?
A. He told me he had only been to West Columbia three or four times in his life -- the West Columbia-Cayce area three or four times in his life and that he had no involvement in a robbery and I explained to him that I got his DNA out of a hat.
Q. Okay. So he denies that he did anything with the robbery, correct?
A. Correct. Yes, sir.

Q. And then you tell him that you've got his DNA in a hat and at some point in time he tells you he wants an attorney and rips up the Miranda form?
A. That's correct.
Q. You didn't mention to Ms. Mayes that he had told you he didn't have any involvement in the robbery.
A. Well, yes, he told me he didn't have any involvement in the robbery.
Q. And he denied doing it?
A. Yes, that's correct.
Q. Why did you decide not to record it that day?
A. It's rare that I record a suspect. That's not my normal protocol.
Q. Why is that?
A. No reason. That's just -- we just don't record suspects. Well, we rarely record suspects. I'll put it like that.
Q. But you record witnesses?
A. Yes, all the time.
Q. Now let me ask you about this lineup. Who created the lineup?
A. SLED.
Q. And that was sent to you as a black and white lineup?
A. They sent one in black and white and one in color, but we normally use the black and white version.

Q. Why did you decide to do the black and white instead of the color?
A. I think it -- in my opinion, I think it's harder for them to pick out a photo in black and white than it is in color.
Q. And with -- does West Columbia have a protocol dealing with the showing of photographic lineups?
A. No, sir.
Q. So basically you kind of decide what the protocol's going to be, correct?
A. Almost every -- almost every investigator say basically the same thing.
Q. Well, what you do mean by that?
A. When, you say do we have a protocol, do we have something in writing saying that?
Q. Do you have something in writing that says how you're supposed to show a lineup?
A. No, sir, we don't, but we train all officers to show a lineup the same way.
Q. And how is that?
A. That you let the victim know I've got a photo lineup to show you, it will be a series of six photos, the suspect may or may not be in this photo lineup, but if you see the person who committed this crime against you, I'd like for you to select him in the photo lineup.

Q. You said that SLED created the lineup. Who at SLED created the lineup?
A. I'm not sure.
Q. Well, who did you converse with there?
A. I'm not sure. It's a generic form we fill out, send it to SLED and somebody shoots us a photo lineup back.
Q. And so do you have that copy of that form that you sent to SLED?
A. I don't have it with me.
Q. You don't have it in your case file?
A. No, sir.
Q. And what do you put on this form?
A. Basically the person's name, date of birth, their Social Security number and what crime they were in involved in and our case number.
Q. You had spoken and recorded a statement from Mr. Mancine, I believe, on 5-9, correct?
A. Yes, sir.
Q. The same day as the armed robbery?
A. Yes, sir.
Q. And he gave you a description of the individual during that interview, didn't he?
A. He did.
Q. And I think the description was a black male, five-seven to five-eight, early forties, and 120 pounds,

correct?
A. That sounds correct.
Q. And did he indicate whether or not the person had anything on their head or was wearing anything on their face?
A. He was telling me he was wearing a hat.
Q. How about anything else on their face?
A. I don't recall him telling me, but in the video I think the guy had on sunglasses.
Q. Okay. You could see that in the video?
A. Yes.
Q. And they're pretty big sunglasses, aren't they?
A. I'm not sure. I just remember sunglasses.
Q. It covers the eyes?
A. Yes.
Q. They appear to be dark?
A. Yes.
Q. And so you said that no one has any facial hair on here. Does it not appear that number three, my client, in this photo has a small mustache above his lip?
A. To me, yeah, you're right. It looks like there may be a little pencil line there. That's correct.
Q. And none of the other individuals have any type of mustache or any type of facial hair?
A. Well, if I look closely there, it looks like number

five might have a little pencil line also.
Q. And number five has -- his hair is much longer than everyone else's, isn't it?
A. That's correct.
Q. And would you agree with me that my client, number three, looks like he's the oldest of the group?
A. In my opinion, I would say number one or number six was the oldest person in the group.
Q. Would you say that all these individuals look like they're in their forties?
A. Yes.
Q. And you would agree that at least on here number five, number six, number one -- all except for number two have substantially more hair than my client in this photo, correct? He's got -- number five has more hair and number six has more hair in the photo?
A. I think number four -- two, three and four have about the same amount of hair and the others do have a little bit more hair.
Q. Okay. Well, two looks like he's balding, doesn't he?
A. No, sir, not to me. He looks kind of gray around the edge, but not balding.
Q. And you say it took Mr. Mancine about a minute to pick out the photograph?
A. A little bit less than a minute.

Q. Now when he came in to do that photographic lineup, since you record witnesses, did you record that time that you sat down with him?
A. No. No, he didn't come into the store -- he didn't come into the police department. I met him at the store that particular day.
Q. Okay. So you took this to the store?
A. Yes, sir.
Q. And now did you show a lineup to anyone else that day?
A. Yes, I showed the lineup to his mother as well.
Q. Where did you show the lineup to him in the store?
A. Right at the counter. At the jewelry counter.
Q. Okay. So kind of like where you walk in? I mean, I'm guessing you're showing up there during business hours?
A. Yes, but there was no one in the store but him and his mother.
Q. Okay. So you come in and you just kind of, I guess, put it on the counter like a transaction or how does it go about?
A. I told him I wanted to show him and his mother a photo lineup and I asked his mother to go over to another room and I showed him the lineup and after I showed him the lineup and he picked him out of the lineup, then the mother came out and I showed her. And, yes, she was unable to pick him out of the lineup.

Q. Okay. Was it the same lineup?
A. Yeah, it was the same lineup, but a different -- Mr. Patterson's photo was in a different location. It wasn't in the same spot as number three that day.
Q. Okay. So the pictures are kind of switched around, but the same people?
A. Yes, sir.
Q. And she was not in the room?
A. No.
Q. Where did she go?
A. I think -- there's a little room off -- I think they eat lunch there and I think she might have stepped right in there.
Q. Who did you show the lineup to first?
A. Mr. Mancine.
Q. How long did it -- did Ms. Mancine take a look at it?
A. Do you mean how long did she look at the actual lineup?
Q. Yes, sir.
A. She looked at it for a while, but I know she didn't pick out the suspect.
Q. Okay. When you initially interviewed Mr. Mancine and you recorded that, did you do that at the jewelry store or did you do that at West Columbia?
A. At the jewelry store.

Q. Did you carry a recorder with you?
A. I think I had somebody leave and go get a recorder.
Q. And you didn't think when you showed him a lineup it would be smart to have -- you're the case officer on this? In other words, you're the chief investigator?
A. Uh-huh.
Q. You're responsible for everything, correct?
A. Correct.
Q. So you know which one is the person that you think it is as far as what the DNA has come back, correct?
A. Yes.
Q. You didn't think it would be smart to have another officer or what they call a blind officer, someone who doesn't know who's in the lineup, show it to Mr. Mancine?
A. No, sir. That's not our normal protocol.
Q. That's not normal protocol to have a blind officer? That's not something that you're trained or it's suggested to do?
A. No, sir.
Q. How about instead of using a sixpack using a flip chart? Have you ever heard of that?
A. I have heard of it.
Q. And you've never heard that that's a better way to do it than just a sixpack?
A. No, I've never heard it's a better way to do it. I've

heard of people doing it, but we don't do that.
Q. Well, tell me in what context you've heard people doing it.
A. I heard a major that used to work with us say that it's suggested -- she brought up one time that maybe we should do a flip book, but everybody else in the department was like no, we think the sixpack would be a better way to go.
Q. But there was someone who had talked about hey, this is a better way to do a lineup, but y'all said no, we like the sixpack better?
A. Yes.
Q. And have you ever heard about someone doing a blind lineup? In other words, having an officer not connected with the case go in there and show a lineup so that they don't give any kind of unintentional cues to tell someone who to pick out?
A. Local law enforcement, I've never seen it done. I have only seen that done on The First 48.
Q. What is First 48?
A. A TV show.
Q. Okay. It's a cop show, isn't it?
A. Yeah.
Q. And you know the reason why that they do that is so, like I said, they don't unintentionally influence the

lineup, correct?
A. Uh-huh. Yes.
Q. And you don't think that would be a better procedure?
A. I'm not sure. I didn't suggest him to pick anybody out, so I would think it would be the same.

MR. MADSEN: That's all the questions I have.

THE COURT: Redirect?

MS. MAYES: Yes, sir, Your Honor.

REDIRECT EXAMINATION (In-camera)

BY MS. MAYES:
Q. Just to clarify, Captain Wade, on May 7th, based on the video surveillance that you viewed, what, if anything, was the suspect wearing over his hair?
A. A like a church-style hat is what I call it. I think it's called a fedaro or something like that.
Q. A fedora?
A. Fedora.
Q. And on May 9th, the day of the robbery, what, if anything, was the suspect wearing over his hair?
A. A hat that looked very similar to the same hat.
Q. A fedora?
A. Yes.
Q. Was hair ever an identifying feature in this case?
A. No.
Q. Was the victim ever able to give you or anyone else

in the investigation any type of hair description?
A. No.
Q. And that's because the suspect had been wearing the hat?
A. That's correct.
Q. Now I want to show you what is State's Exhibit 1, and I believe when you were being asked questions earlier on facial hair you were looking at a copy of a copy of a copy?
A. That's correct.
Q. But now looking at this original black and white photo lineup that was prepared by the State Law Enforcement Division, do you see any significant facial hair on any of those six individuals?
A. None of them have significant facial hair. It's like a little pencil line, what they call a pencil mustache, maybe under Mr. Patterson's lip and I think I see one over number five's lip also.
Q. Are you able to determine with certainty that that is hair?
A. No.
Q. Was facial hair ever part of the description that you were provided?
A. No, ma'am.
Q. Now Mr. Madsen was asking you about Mr. Mancine's mother and she is Tokye Mancine?

A. That's correct.
Q. Was she also present at the jewelry store on the date of the robbery, May 9, 2012?
A. That's correct.
Q. Have you had the opportunity to review the video surveillance as to her degree of interaction with the suspect?
A. Yes, ma'am. She had limited interaction with him. It was more of him dealing with Mr. Mancine.
Q. All right. When he came into the store on May 7th -- or the suspect came into the store on May 7th, who was he conversing with?
A. Mr. Mancine. I don't even recall seeing Mrs. Mancine in the store that particular day.
Q. All right. And then two days later on the date of the robbery, who was the suspect interacting with prior to pulling out the weapon?
A. Mr. Mancine.
Q. And who was it that he actually pulled out the weapon and pointed it at?
A. Mr. Mancine.
Q. All right. And then at some point is Mrs. Mancine present on the video?
A. She is.
Q. Based upon your observations, was her degree of

interaction with the suspect the same or equal to that of Mr. Mancine?

A. No.

MS. MAYES: I beg the court's indulgence.

BY MS. MAYES:

Q. I'm gonna show you what is currently packaged and has been provided by Officer McCraw and can you tell us whether or not you're familiar with that item?

A. Yes, ma'am.

Q. And what is located inside that item?

A. It's the DVD store video of the armed robbery.

MS. MAYES: All right. And, Your Honor, at this time we would ask Captain Wade to break the seal of this item of evidence.

THE COURT: No objection?

MR. MADSEN: I don't really see the relevance on --

MS. MAYES: It's gonna relate to the additional witness following Captain Wade, Your Honor, but because the seal has not been broken we need Captain Wade to do it at this time.

THE COURT: All right. Go ahead and open it.

MS. MAYES: I beg the Court's indulgence.

BY MS. MAYES:

Q. And how many CDs or DVDs were inside this envelope, Captain Wade?

A. Two DVDs.
Q. All right. And can you tell us whether or not these are the DVDs from both May 7th and May 9th?
A. Yes, ma'am.
MS. MAYES: Nothing further of Captain Wade at this time, Your Honor.
THE COURT: Anything further?
RECROSS EXAMINATION (In-camera)
BY MR. MADSEN:
Q. If you just broke the seal on those, how do I have copies of them?
A. Well, I can say this.
Q. Those videos, if you just broke the seal on them, how do I have copies?
A. You probably got a copy of my copy because I have copies also.
Q. Okay. And then as far as lineups, besides Mr. Mancine and Mrs. Mancine, no one else was showed a photographic lineup?
A. No.
MR. MADSEN: That's all the questions I have.
THE COURT: All right. You may come down. Thank you.
(Witness excused.)
THE COURT: Next witness.

MR. BELL: Thank you, Your Honor. At this time the State would call Mr. Frank Mancine to the stand.

FRANK MANCINE,

having been duly sworn, testified as follows:

THE CLERK: Once you're seated, state your full name, spelling your last, please.

THE WITNESS: Frank Mancine, M-A-N-C-I-N-E.

DIRECT EXAMINATION (In-camera)

BY MR. BELL:

Q. Mr. Mancine, where are you from?

A. Originally?

Q. Yes, sir.

A. I was born in South Korea.

Q. Okay. And where do you live now?

A. I live in Irmo.

Q. What do you do for a living?

A. I'm a jeweler.

Q. Where at?

A. 507 Meeting Street. K & M Jewelry.

Q. Okay. Who actually owns that jewelry store?

A. My mother.

Q. And what is your capacity at that jewelry store?

A. I'm the manager, jeweler.

Q. And in 2012, were you employed there?

A. Yes.

Q. Now do you recall something out of the ordinary occurring to you on May 9th of 2012?
A. May 9th, yes.
Q. Can you give us a brief description of what happened that day?
A. I had a gentleman come in to the store wanting to look at some necklaces, gold necklaces, and basically after showing him a few he pulled out a gun and wanted us to fill up the bag.
Q. Now this individual, prior to pulling out a gun, did you have a chance to speak to him?
A. Yes.
Q. And what was the context of that conversation?
A. Just looking for pieces of jewelry for himself.
Q. Did you have an opportunity to view his face --
A. Yes.
Q. -- and his body?
A. Yes.
Q. Tell us a little bit about your store. Do you have interior lighting?
A. We do.
Q. Tell us about your lighting. Is it ceiling lighting?
A. It's a ceiling light. It's a drop lighting with, I believe, they're halogen bulbs.
Q. And was it functioning on May 9th?

A. Yes.
Q. When this incident occurred, do you recall what time of day it was?
A. Yes, it was right after noon, around 2:30.
Q. Does sunlight enter your business?
A. The light? Yes, it does.
Q. Did you have good visibility inside of your store that day when it happened?
A. I did.
Q. Do you wear corrective lenses?
A. I do.
Q. Were you wearing them like you were supposed to?
A. I do. I did.
Q. Now you gave us a brief description. I want you to tell me a little bit more about the individual. Do you recall what he was wearing?
A. Yes. He had a -- that day he had a suit jacket on and a white shirt, fedora hat and sunglasses.
Q. Do you recall the color of that jacket?
A. I believe it was black.
THE COURT: It was what?
THE WITNESS: Black.
BY MR. BELL:
Q. Do you recall the color of his pants?
A. I believe that also was black.

Q. How big were the glasses he had on?
A. I would just say normal sunglasses.
Q. Now that particular individual that walked in your store that day on May 9th, did you ever see him before?
A. Yes, I had.
Q. When?
A. He came two days prior at closing time.
Q. How do you know it was the same person?
A. He had the same outfit on except for he was carrying -- well, both days he did carry a -- a dry-cleaning bag.
Q. To be clear, when you said he had the same outfit on, what are you talking about?
A. It was a man in a suit.
Q. Did he have a hat on?
A. Yes.
Q. Do you recall if on May 7th if he had a jacket or not?
A. He did, but I don't think he was wearing it. I think it was over his arm.
Q. Now on May 7th when you saw him, did you have an opportunity to speak to him on that day?
A. I did.
Q. And what was the context of that conversation?
A. He just said he wanted to browse.
Q. How long was that conversation?
A. The conversation itself was probably less than a

minute.

Q. During that minute, did you have an opportunity to look at his face?

A. I did.

Q. Were you able to make out features of his face even though he had glasses on?

A. I did.

MR. BELL: I beg the Court's indulgence.

BY MR. BELL:

Q. Mr. Mancine, did you have a functioning surveillance system in your business on the dates of May 7th and May 9th?

A. We do.

Q. What kind of camera system?

A. Just a regular security system. It's in-house.

Q. Was it functioning on those two days in question?

A. It was.

Q. Did law enforcement speak to you about extracting surveillance --

A. Yes.

Q. -- from those videos?

A. Yes, sir.

Q. And did you aid them in that attempt?

A. Yes.

Q. Do you know if they were successful in recovering any

surveillance?
A. Yes.
MR. BELL: Permission to approach the witness, Your Honor?
THE COURT: Sure.
BY MR. BELL:
Q. Mr. Mancine, I'm handing you two CDs. If you would take a look at those, do you see anything that would indicate that you have viewed those videos?
A. Yes.
Q. And how do you know that you've seen the contents of those two videos?
A. I initialled both CDs.
Q. And what are those initials to be clear?
A. F-M.
(State's Exhibit Number 6 and 7 were marked for identification.)
BY MR. BELL:
Q. Now I want to move on for a moment and go to November 15th of 2012. Do you recall making contact or having contact with law enforcement on that date?
A. I do.
Q. Do you recall why you were speaking to law enforcement on that date?
A. I believe they said they had a lineup for me to look

at.

Q. Now did they tell you who you were going to find in that lineup?

A. No.

Q. Where did you meet them to look at that lineup?

A. They came to the store.

Q. What store was that?

A. K & M Jewelry.

Q. Now in the several month period between the incident and the photo lineup, had you seen anything in the news about your case?

A. Yes, I think I did.

Q. Did any of it relate to who actually robbed you?

A. No.

Q. Had you ever become aware of who law enforcement thought robbed you?

A. No.

Q. When you were shown the lineup on November 15th, did you have any idea in the world as to who robbed you?

A. I had no clue.

Q. Were you aware that there were DNA results out there when you looked at the photo lineup?

A. I did not.

Q. Now when law enforcement showed you the photo lineup, how did they present it to you?

A. The officer basically wanted to make sure that there was no one else in the store.

THE COURT: I can't quite hear you.

THE WITNESS: The officer came in and made sure that there was no one else in the store as far as customers and asked us if we could view the lineup and approached me and basically put the lineup on the counter in front of me, laid it down, and asked if I could -- if I knew anybody visually in the lineup.

BY MR. BELL:

Q. I'm handing you what is marked as State's 1. Do you recognize that?

A. Yes.

Q. And what is that?

A. That was the lineup he gave me on that day.

Q. How do you know it's the same one?

A. My initials are on it.

Q. Now when that photo lineup was handed to you, did you say they held it up for you?

A. No, they laid it on the counter.

Q. Did they hover over it?

A. No.

Q. Did they point or gesture in any way?

A. No.

Q. It did they allow you to take your time?

A. Yes.
Q. Did you have on your corrective lenses that day?
A. I did.
Q. When you were looking at those pictures, were you looking for specific facial hair to pick out your person?
A. No.
Q. Were you looking for a specific hair type?
A. No.
Q. Did you ever have a chance to see the hair type of the two -- of the person that came in on those two dates in your store?
A. No.
Q. If you had to name one identifying characteristic, what were you looking for on the individual?
A. His nose and mouth feature.
Q. When you say mouth future, what do you mean?
A. He had bigger than average lips.
Q. And were the sunglasses or hat somewhat obscuring his lips on May 7th and May 9th?
A. No.
Q. Were you able to look at that photo lineup and find the person who had the same lips as you saw on those two dates?
A. Yes.
Q. How long did that take you to come to a conclusion?

A. I want to say a few seconds.
Q. Did you have any doubt about the person you selected being the same person in your store on May 7th and May 9th?
A. I do not.
Q. Mr. Mancine, I'm handing you what's marked as State's 2. Do you recognize that picture?
A. Yes.
Q. And what is that a picture from?
A. That was from the two days prior.
Q. And do you recall the date of that?
A. I believe it was May 7th.
Q. Do you know what that picture was extracted from?
A. Yes, our security video.
Q. And that's the same video that we mentioned earlier on the CD?
A. Yes.
Q. Now the counters in your store, roughly how wide from front to back are they?
A. They're approximately twenty inches.
Q. Okay. Is that a little less than two feet?
A. Yes, sir.
Q. And when you made contact with that individual on May 7th, how far away would you say you were from his face?
A. Approximately two feet.

Q. Did you have an opportunity on May 7th to look directly at his face during these conversations?
A. I did.
Q. I'm handing you what's marked as 3 and 4. Would you take a look at those?
A. Yes.
Q. Do you recognize those?
A. Yes.
Q. What are those from?
A. Those are from the day of the robbery.
Q. And what are those pictures extracted from?
A. From the video surveillance.
Q. And those are the -- one of the same videos we mentioned earlier?
A. Yes.
Q. And what date was that?
A. May 9th.
Q. Now are those the same counters that we saw in the May 7th picture?
A. Yes.
Q. And, once again, how wide are those counters?
A. Approximately twenty inches.
Q. And the two pictures you're looking at in 3 and 4, how far are you from the individual when you're speaking to them?

A. Approximately two feet.
Q. And do those pictures reflect that you would have been looking at his face?
A. Yes.
Q. Does the lighting appear to be normal on those two days?
A. Yes.
Q. And did you have your corrective lenses in on those two days?
A. I did.
Q. During the length of time from the incident to when you conducted or when you picked out the gentleman from the photo lineup, did anybody at any point in time suggest to you who you should pick out of the photo lineup?
A. No.
Q. Did anybody at any point in time suggest the identity to you of who robbed you?
A. No.
Q. Did law enforcement in any way, shape or form encourage you to pick one selection over another?
A. No.
Q. Was it completely voluntary and of your own accord?
A. Yes.

MR. BELL: Please answer any questions Mr. Madsen may have for you.

THE COURT: Cross-examination?

CROSS-EXAMINATION (In-camera)

BY MR. MADSEN:

Q. How are you doing, Mr. Mancine?

A. I'm doing all right.

Q. Am I saying -- am I pronouncing your last name correct?

A. Mancine, yes.

Q. Okay. So, Mr. Mancine, you say this fella comes in the store two days before?

A. Correct.

Q. So on the 7th?

A. Yes.

Q. Was anyone else in the store with you?

A. There was.

Q. Who was in the store that day?

A. My mother.

Q. You and her are pretty much the employees?

A. Basically, yes.

Q. And how long is that individual in the store?

A. Which individual?

Q. The -- on the 7th.

A. My mother?

Q. When the fellow comes into the store. No, not your mother.

A. He was in there for approximately two or three minutes, I believe.
Q. And what does he do while he's in there?
A. He looks around, kind of scans over everything.
Q. Do you get anything out for him?
A. That day I do not believe I did.
Q. Do you see him when he comes into the store immediately or are you doing something else?
A. I do see him. I was -- I was wiping the top of the showcases near the entrance when the person walked in.
Q. Like glass cleaner type of --
A. Yes.
Q. In a jewelry store, you probably try --
A. A lot of glass.
Q. -- to keep the glass clean?
A. (Nods head.)
Q. And so the individual comes in. You had said he was wearing a suit. Do you specifically recall what he was wearing?
A. It looked like a white shirt, suit pants.
Q. Do you remember the color?
A. Dark. I would say black.
Q. Anything on his face?
A. It looked like sunglasses.
Q. Do you remember seeing sunglasses on his face?

A. Right now I don't, but --
Q. Okay. Fair enough. When the individual comes back in on the 9th, how long is he in the store?
A. I would say less than ten minutes.
Q. Are there other customers in the store?
A. There are.
Q. Do you know what their names were?
A. Tommy was one of them and I believe it was his girlfriend with him.
Q. So boyfriend and girlfriend, you and your mother?
A. Correct.
Q. And when the individual comes in the store, what are you doing?
A. I -- I approached him and said hi, how are you doing.
Q. Are Tommy and -- were you doing anything else? Were you waiting on the other customers or ringing anybody up?
A. No, I believe my mother was with the other customers.
Q. Okay. The other two, Tommy and Amanda, your mother is dealing with them?
A. I believe so, yes.
Q. Do you recall what you were doing when the fellow comes in?
A. I don't.
Q. And so you come in contact and I guess you show him some --

A. He asked for some particular jewelry and I showed him the jewelry that he was asking for.
Q. What kind of jewelry was that?
A. Necklaces.
Q. Necklaces? Like gold necklaces or anything specific? Herringbone or chain or --
A. He just said gold necklaces.
Q. Do you keep those all in just one area?
A. Most of the necklaces are in the front, the main --
Q. So when you -- when you say front, if I come in -- I guess your showcases, I'm assuming, are kind of like a "U"?
A. Correct.
Q. And when you say the front, I guess you mean like you walk straight in and right there?
A. Correct.
Q. And at some point in time the fellow pulls out a gun, correct?
A. Correct.
Q. And that comes from, I guess, left side, left hand?
A. I believe so.
Q. You had spoken to Detective Wade, I guess, later that day and you had indicated or said something about that you were feeling lightheaded or nervous or something. Could you explain that to me?
A. During the robbery, yes.

Q. Tell me what you mean by that.
A. I just felt flush. I mean, there was a gun pointed in my face.
Q. And that's a scary thing obviously?
A. Uh-huh.
Q. And so you had told, I guess, Detective Wade you weren't feeling well? I mean, did you feel like you were gonna pass out, hyperventilate?
A. Something like that. I just wasn't feeling normal.
Q. And the -- the fellow got, I guess, some necklaces out of the case?
A. He got --
Q. He had a bag or something like that?
A. He got plenty of necklaces out of the case.
Q. And he threw the bag at you or your mother or somebody?
A. He first threw it at the pregnant woman that was in the store.
Q. Amanda?
A. Amanda.
Q. And what did she do with the bag?
A. She didn't do anything. She was frightened. She was frozen.
Q. I mean, did she catch it? Did she drop it? Did she hand it to somebody?

A. I think he threw it and it hit the ground in front of her.
Q. Okay. Who picked it up?
A. I believe it was maybe Tommy.
Q. Okay. And at some point in time did he get it back or who ended up with the bag?
A. He ended up getting it back.
Q. And did you put jewelry in the bag for him?
A. I did not.
Q. Did your mother put jewelry in the bag for him?
A. I believe she did.
Q. Anyone else?
A. Just himself.
Q. And I think when you spoke to Detective Wade you described the individual as a black male?
A. Correct.
Q. Five-seven to five-eight?
A. I don't recall, but that sounds right.
Q. All right. I guess, forties?
A. Uh-huh.
Q. And 120 pounds?
A. Correct.
Q. And today you say that you were really focussed because he had unusually large lips and that's what you focussed on?

A. They kind of point out.
Q. What do you mean?
A. They're big. You can see a profile of someone's lips. My lips are small. They're just -- there's different characteristics.
Q. But that's what you kind of focussed on was the lips?
A. Not just that. He had a nose and just the whole facial features from below the eyes.
Q. The individual had sunglasses on, right?
A. Correct.
Q. And so it was that -- the unusually large lips is what you focussed on. Anything about his teeth? Did you see those?
A. No.
Q. And at some point in time the individual leaves the store, correct?
A. Correct.
Q. And they're there under ten minutes?
A. I believe it was less than ten minutes.
Q. And you end up -- I guess when they're leaving you fire a gun at them?
A. At him, yes.
Q. At him. Where was the gun? How do you -- tell me how you get the gun.
A. It was in the back room on the shelf.

Q. So describe -- I've never been in your store. So I walk in and there's this big room with the U-shaped glass.
A. And right in the middle of that there's a door that goes in the back.
Q. Like so if I walk straight in from the door, I can go through the back?
A. Correct.
Q. Okay. And then there's -- you said there's a room in the back?
A. There is where I do jewelry repairs.
Q. Do you have -- is there just one room off that main room or that's just it?
A. That's it.
Q. So you don't have like a separate office or anything?
A. No.
Q. And so where do you keep the gun there?
A. I had it on the shelf like right on the wall, the interior wall.
Q. And so you -- did you keep that gun loaded?
A. Yes.
Q. So you grabbed the gun and you end up firing at the fellow has he leaves?
A. Correct.
Q. And that's towards, I guess, Meeting Street, which is -- you've got kind of a -- if your store is -- if you're

where your store is, you've got parking in front of the store? Because this is kind of a strip mall, I guess, for lack of a better word?

A. Correct.

Q. And then there's parking here and then there's Meeting Street, that's, I guess, a four-lane road that goes in front of the store?

A. Correct.

Q. And so you fire at the fellow when he gets -- or while he's leaving?

A. At the door, yes.

Q. And then how many times do you fire there?

A. I believe once and then it jammed the second.

Q. So your gun jams?

A. Correct.

Q. And what do you do?

A. Try to un-jam it.

Q. When you are trying to un-jam it, do you figure out what's happened to it?

A. I -- it looked like it was jammed because I could see the jam in the gun.

Q. When you say the jam in the gun, was there like a cartridge stuck or --

A. The bullet was -- there was two bullets stuck in, I guess, the chamber.

Q. Did you end up taking the bullets out?
A. Yes.
Q. And you're successful doing that?
A. Yes.
Q. And I think the video shows you trying to do that, but that takes a period of time, right?
A. It takes probably to ten, fifteen seconds, I think.
Q. When you end up coming out of the building, do you come through that middle back area or do you have another area that you can kind of get around the showcase?
A. No, I was -- by the time I had -- I was in the middle of the store when I un-jammed it or cleared it.
Q. And so then you ended up leaving and giving chase, correct?
A. Correct.
Q. When is the next time you see the individual that robbed your store?
A. In the van.
Q. In the van?
A. (Nods head.)
Q. So you get out -- you can see because you've got pretty big glass right there. You can see that the individual goes, I guess, to the right if you're standing in the store?
A. (Nods head.)

Q. And so that's the way you end up giving chase?
A. (Nods head.)
Q. How did you end up -- and you correct me if I'm wrong. I guess that's Shuler Street right there?
A. I don't know. I believe so. I don't know.
Q. Okay. What made you decide to go right as compared to still going straight down Meeting Street?
A. We've had previous dealings where people would park in that area.
Q. Okay. So just an educated guess?
A. Yes.
Q. And so then you see -- tell me about when you see the van. Do you see the fellow get in the van or --
A. I saw -- I can't recall exactly, but I saw him in the van and I was halfway up the road as he's driving out.
Q. And you see in the van through the front windshield, the driver's side, the passenger side?
A. The passenger side.
Q. Okay. So the person drives out, you see that and then you fired a round then?
A. Correct.
Q. So by the time --
THE COURT: Wait. Say that again.
THE WITNESS: Huh?
THE COURT: You fired a round at the van?

MR. MADSEN: Fired a round at the van.

THE COURT: After the first firing in the store?

MR. MADSEN: There's a second shot.

THE COURT: Okay.

BY MR. MADSEN:

Q. And you end up, I guess, hitting the back glass of the van?

A. Correct.

Q. But by the time you see the van, you're about halfway down -- we think that's Shuler Street, but you're about halfway down that street?

A. Uh-huh.

Q. So give me an idea how far are you from the van?

A. When I first see it?

Q. Yes.

A. When I first see it, it's probably seventy feet. I'm not -- yeah.

Q. Sure, sure, sure. About seventy feet and then when you fire at the back of the van, give me an idea.

A. I would say at least twenty feet closer.

Q. And so where's the van -- when you first see it, where is it located at? Is it parked? Is it moving?

A. It's parked. It's parked with the head of the van pointing out to get ready to go, which he did.

Q. Okay. If I'm coming down the street and you say it --

is it parked -- is it pulled away from you, is it kind of sideways to you?

A. Sideways to me.

Q. Okay. So it's like this (demonstrating)? It's perpendicular to you?

A. Correct.

Q. And then it pulls out and goes?

A. The opposite direction.

Q. So it's going -- it makes a left?

A. Correct.

Q. And then when it makes that turn, you fire at the back?

A. Correct.

Q. So you take a look at a lineup, I guess, at your store on November 15th of 2012, correct?

A. I believe that's the date, yes.

Q. About four years -- well, a little bit less than four years ago.

A. Almost.

Q. Does anyone come in with Detective Wade?

A. I can't recall.

Q. And do you recall if anyone else was in the store besides you and your mother?

A. I believe it was just me and her that day or at that time.

Q. And do you remember who takes a look at the lineup first?
A. I believe it was me.
Q. And where does your mother go?
A. She was -- she was moved to the side somewhere. Either the back room or the -- where the bathroom is. I can't remember. I was just focussed on what was going on in front of me.
Q. Is the bathroom off that back room?
A. It's -- when you come in, we have the back room and then the bathroom is to the left on its own.
Q. Is it a public bathroom or just one --
A. No.
Q. Just one for you all?
A. (Nods head.)
Q. And how did she end up in that room?
A. I don't -- I'm not sure if she went in that room. I just knew that she was not near me.
Q. Okay. But she could have been in the big room with you?
A. With me?
Q. Yes.
A. When I did the lineup?
Q. Uh-huh.
A. No.

Q. Well, how do you know if --
A. Because it was just me in the vicinity.
Q. Okay. Well, I'm not talking about whether she's standing next to you or can look over your shoulder or anything like that, but she could have been in that big room though?
A. The jewelry store?
Q. Yes.
A. Yeah.
Q. And you heard Detective Wade testify that you were able to pick someone out of that lineup and it took you less than a minute?
A. Correct.
Q. How about when your mother takes a look at the lineup? Where are you; do you recall?
A. I was -- I wasn't near her. That's all I remember.
Q. You don't remember if you went back to your jewelry repair shop or the restroom or whether you were just there?
A. No, I don't recall.

MR. MADSEN: No further questions, Your Honor.

THE COURT: Redirect?

MR. BELL: Thank you, Your Honor.

REDIRECT EXAMINATION (In-camera)

BY MR. BELL:

Q. Mr. Mancine, you testified a few moments ago that you

told Captain Wade that you estimated the suspect was five-seven to five-eight. Do you recall that?
A. I don't recall that, but I believe that's what --
Q. And do you recall when you met with Captain Wade to give that description?
A. Yeah, I believe it was that day.
Q. Was it at your store?
A. It was.
Q. Is that the initial description that you gave?
A. No, I believe I gave another description to another officer.
Q. And in proximity to the incident, when did you give that initial description?
A. I think it was -- it was much sooner after the incident.
Q. And what was that initial description that you gave?
A. I believe I said he was five-five.
Q. And what weight?
A. I want to say 150.
Q. Did you give an age range?
A. I can't recall. Maybe mid forties.
Q. Now have you ever experienced what is commonly referred to as an adrenaline rush?
A. Yes.
Q. On May 9, 2012, did you experience an adrenaline rush?

A. I did.
Q. Did that make you unable to see or hear clearly?
A. No.
Q. When you pursued the suspect outside your business after firing the first shot and saw the van pulling out, how did you know that was the van to shoot at?
A. From what I recall, I just knew it was him because I just saw -- just saw his face there. It was on the side of the van.
Q. Would you have fired if you weren't certain --
A. No.
Q. -- you were firing at the person who just robbed you with a gun?
A. No.
Q. At the time, was there any doubt in your mind that you were firing at the right vehicle?
A. No, there was no doubt.

MR. BELL: No further questions.

THE COURT: Any further?

RECROSS EXAMINATION (In-camera)

BY MR. MADSEN:

Q. Mr. Bell just asked you -- you said initially you gave a description of five-five, 150, mid forties, correct?
A. Correct.
Q. And I'm assuming black male also?

A. Correct.
Q. And then you speak with Detective Wade hours later. Why did you change it?
A. I don't know.
Q. I mean, just reflection?
A. It could have been anything. I mean, there was a lot going on that day. I was -- it was a pretty traumatic experience.
Q. Sure. Excited, upset, adrenaline rush. And you specifically said or told Wade that you had mentioned something about not feeling well?
A. Correct, during the robbery.
Q. During the robbery?
A. (Nods head.)

MR. MADSEN: That's all the questions I have.

THE COURT: All right, sir. You may come down.

(Witness excused.)

THE COURT: Approach the bench, counsel, please.

(Proceedings held at the bench; not reported.)

(Pause in the proceedings.)

THE COURT: All right. Let's continue with Mr. Patterson's case. How do you wish to proceed?

MS. MAYES: Your Honor, we have completed all of our witnesses regarding both Jackson v. Denno and the Neil v. Biggers issue. I'm not sure if the defense intends to call

any witnesses.

MR. MADSEN: We do not.

THE COURT: All right. What do you have next, Solicitor?

MS. MAYES: The next matter would be the search warrant on the vehicle and there is a motion by defense counsel to suppress that search.

THE COURT: All right. And what would be after that?

MS. MAYES: That would be the extent of any motions by the State or where we would be offering any witnesses, Your Honor.

THE COURT: And Mr. Madsen?

MR. MADSEN: Judge, they've got a business record that I anticipate that they're going to try to put in that we object to and are going to move to suppress or redact. We can certainly handle that when they get to that point if Your Honor would prefer.

THE COURT: I think we need not get into that point. They may even decide not to do it.

MR. MADSEN: We've got motion for sequestration, Your Honor.

THE COURT: No problem. Any problem with that?

MS. MAYES: No, Your Honor. We would simply ask for the victims to be exempt pursuant to statute and for our chief officer, Investigator Sullivan, to remain in the

courtroom as needed.

THE COURT: All right. Motion's granted subject to those two conditions. You don't have to leave right now. You don't have to leave right now. He's talking about for trial purposes. Yes, sir.

MR. MADSEN: Judge, I've also got a motion to elect on the charge of the armed robbery or the grand larceny. We could probably take care of that very, very quickly; although before we get into the search warrant I would like to argue on the Jackson v. Denno and the identification. Like I said, my motion should be pretty quick.

THE COURT: Okay. I was just trying to figure whether we're gonna -- let's try to wind up the Denno and the Biggers issue and then we'll hear from you on the search warrant and the motion to elect. That's our schedule.

All right. Go ahead.

MR. MADSEN: Judge, under the Jackson v. Denno, obviously Detective Wade brings him in -- you know, generally when something comes in, it's going to come in by a client or an individual because it's an admission against interest, so I don't think that what Detective Wade says qualifies to that. He indicates that he gets in there and tells that he has DNA, my client denies involvement, he asks him or tells him that he's been over to West Columbia three or four times.

THE COURT: That's the only statement he made.

MR. MADSEN: That's the only statement that they made. I don't believe that that's any type of admission that fits under hearsay. Additionally, Your Honor, under 402 or 403 I don't think that that is relevant necessarily, and if it is relevant, I don't think -- under 403, I think it's more prejudicial than probative. You know, the fact that someone -- his address is in Columbia. The fact that someone has been over to Cayce or West Columbia three or four times that doesn't indicate that they have done anything wrong and certainly I don't think unusual that someone has come right across the river and the Cayce-West Columbia area is, you know, right up the road from Richland.

THE COURT: Let me hear from the State. What's probative about that statement?

MS. MAYES: Your Honor, it does show that he is, I believe, familiar with the area of West Columbia-Cayce and his statement was that he had been in the area at least four times.

THE COURT: Well, I understand that, but what's -- what's probative about it with regard to this crime? I mean, I've -- I've been there, too.

MS. MAYES: Well, for him to be a resident of Columbia, which will come out during the course of the

testimony, it requires him crossing over the river into Lexington County and that's the very area where the offense occurred and he then fled the scene and there will be testimony about the direction he went and we're trying to establish that he was at least familiar with the area.

THE COURT: Okay. The motion is granted.

Now you said you wanted to argue about the -- you wanted to move forward on the warrant? I mean, the -- not the search warrant, but the Biggers hearing and the -- I didn't grant anything with regard to Biggers.

MR. MADSEN: No, sir. And Your Honor has the lineup. If Your Honor would look at the lineup, while they're all black males, there is difference with hair, there is difference with facial hair; my client being the only one -- I'll get it, Your Honor -- being the only one with a mustache, but a thin mustache, in that lineup, Your Honor. As you heard, Mr. Mancine testified that he kind of focussed on the lips, that they were larger than normal lips, Your Honor. We do believe that the lineup is suggestive. If you look at the factors, if it is suggestive, you have the opportunity to view from what you've heard from him. At most he says that a couple of days before this the individual came in and was in for less than five minutes and then on the May 9th of 2012 less than ten minutes. The State elicited testimony that indicates

that he was relatively close to the individual, within two feet by his testimony, but it is an extremely generic description that he gives not only to the initial officer but also Detective Wade when he talks with him a couple of hours later basically saying that it's a black male, giving a height and a weight. There was no indication as far as any type of facial features and he doesn't say to any of those, so there's nothing included in there that indicates anything about shape of a nose, lips, teeth, anything along those lines. He also testified, at least as far as the degree of attention, Your Honor, that he was excited and/or felt a rush, Your Honor, lightheaded, just because of the fact of the -- I guess the anxiety or the stress of the situation, which is perfectly understandable, but I do think that that goes to the degree of the attention.

Additionally, the third element is the accuracy of the prior description. As you heard from him, within a couple of hours he had given various generic descriptions of the individual; one time saying -- apparently initially saying that the individual was five-five, 150 pounds and was a black male, the second time indicating that the individual was a black male, five-seven to five-eight, 120 pounds, so that individual had lost about thirty pounds within a couple of hours, Your Honor.

Additionally, the testimony came out that when he

showed him the lineup the incident occurred on May 9th of 2012. The lineup was shown on November the 15th of 2012 or some six months later. We are a little bit troubled and I believe that it has been considered patently suggestive to show lineups to individuals in the same room. That's a little bit muddled, although his mother doesn't make a -- doesn't pick anyone out of the lineup, Your Honor, but for that reason we would ask that the lineup be suppressed.

Also there's testimony that there are sunglasses that are covering a portion of the face like any sunglasses would, Your Honor, and so I think that at least on the degree of attention that that weighs against Mr. Mancine's ID.

THE COURT: All right. Thank you. Let me see those. Where are those camera reproductions?

All right. What's the State's position?

MS. MAYES: Yes, sir, Your Honor. The State's position is that the photo lineup was not unduly suggestive in any way. The State is going to pass up to the Court at this time the case of State versus Patterson.

THE COURT: That's coincidental.

MS. MAYES: Yes, sir, Your Honor.

THE COURT: You know what my law clerk's name is?

MS. MAYES: Patterson?

THE COURT: Ms. Patterson.

MS. MAYES: In this case, Your Honor, the court applied the totality of the circumstances review for the identification by photo lineup. The standard for admissibility of a photo identification is whether the procedure used was so impermissibly suggestive as to give rise to a substantial likelihood of misidentification and that is clearly not what we have here. A totality of circumstances supports this was an identification made without undue suggestion or influence and the identification was based on the victim's ability to recognize the suspect.

Your Honor, the testimony is that he had at least two occasions to view the suspect directly in front of him. He conversed with the suspect on both occasions. Both of those events took place during working hours in broad daylight with in-store lighting in addition to the natural light from the full set of windows outside the jewelry store. His testimony was that he spoke with the Defendant approximately two feet away, that he looked at the Defendant straight in the face, and that is reflected in the screen caps from both of those videos that have been submitted as evidentiary items in this case. He testified that he recognized significant facial features including nose, mouth and lips. Your Honor, I do also point out that there was no intention to look for facial hair as that was

not a part of any of the initial description of the suspect. He also was not looking at head hair because the suspect had worn a hat on both occasions and head hair was never a part of the initial description either.

Your Honor, also he was able to give a description to the responding officer that the suspect was approximately five foot five and mid forties. That matches the suspect's actual physical characteristics of being five foot five and mid forties at the time of his arrest.

Your Honor, as to the point made by defense counsel where he is arguing that there is or may appear to be some type of facial hair in those photographs, you've got the best copy of that in front you, what is State's Exhibit 1. That is actually a collection of photos compiled by the State Law Enforcement Division based on DMV photographs and we have here that same DMV photograph of the Defendant, of James Bubba Patterson, in color, and there certainly does not appear to be any facial hair. I believe what -- what counsel may be looking at there is simply a shadow or some type of pigmentation in that black and white photo lineup, but regardless, Your Honor, that would be clearly insignificant because it did not play any type of role in the victim's ability to identify the suspect.

So, Your Honor, looking at the totality of the circumstances, I also would point out that this was a

very significant event, he was being robbed at gunpoint following his conversation with that suspect, and due to the circumstances it allowed for more acute attention to the suspect that he was looking directly at. Your Honor, there was nothing here to give rise to this identification being impermissibly suggestive and for that reason we believe that the photo identification is fully admissible.

THE COURT: All right. With regard to the photo lineup, I find that cross-racial identification is always a little bit suspect, but I find that the photographs taken -- or in the lineup are substantially similar. I might comment that in my opinion one of the photos, Number 6, and Number 3, which is the photo of the Defendant, have some relation to each other. They seem to have the same sort of eye structure, but nevertheless, I don't feel that this -- State's Exhibit 1 when shown to the victim, Mr. Mancine, was unduly suggestive or the manner in which the photograph was shown to Mr. Mancine was suggestive in any way. Officer Wade testified that he made no indication one way or the other, even whether the Defendant's photo was even in this lineup, although there may be some suggestion of that just because if someone -- he was only presented one lineup, but as to the identification the testimony from Wade is that there was an immediate identification of the Defendant.

Now given the fact that I don't find the lineup itself to be unduly suggestive, I must look at the identification process by the victim. The opportunity to view the perpetrator in my opinion was somewhat heightened by the fact that the victim says he saw the Defendant in his store two days prior to the -- the actual incident, the actual robbery, and that he was cruising around -- walking around and looking at the merchandise in the store. That -- in my opinion that gave the victim some heightened perhaps sense of -- of identification by the fact that when -- I'm sure if I -- people are in this business must always be sensitive to the potential of robbery and someone who just walks casually around the store may be in the process of identifying the location of whatever he sees as potential goods or something that he wishes. In other words, the casing of the store in the first instance would seem to me to heighten the attention of the owner when he saw the assailant come in on the second occasion, which was merely two days later. I think the degree of -- well, the opportunity to view the Defendant at the -- on the date of May 9th, the testimony is the store was well-lit and there was no reason -- it's a one-on-one identification, there's no indication that there's a big crowd in the store or anything distracted the store owner/victim from seeing and clearly viewing the Defendant. The degree of attention I

must believe is somewhat heightened by the fact that the Defendant allegedly had a gun pointed at the victim.

Now there's probably some surveys that will tell you that the heightened degree of attention is more often on the gun than it is at the holder of the gun, but this witness, Mr. Mancine, seemed in his testimony to me to be very credible in terms of his attention to the facial features of the Defendant. Now the accuracy of the description is varied, but in my opinion it's not varied substantially. When Mr. Mancine testified that he had -- I forget the words, but he -- he got excited, I can understand telling the officer at one time he was five foot seven and the other time he was five foot five. I mean, he recognized fact that he was not a tall man or a very heavy man. He was of slighter build. He doesn't use those words, but I don't see that that degree -- that that accuracy of the description is so disparate that it's not credible, so I find his description to be credible. Plus he -- well, he says he saw him later. The degree of certainty is almost absolute in my opinion. He said he looked at the lineup and pointed and the officer confirms that he pointed him out immediately upon looking at the -- at the lineup.

The length of time between the crime and the -- seeing the lineup, I'm looking at State v. Cheeseboro

where the length of time between the crime and the lineup was seven months and the court found that that was not -- considering the totality of the circumstances that was not an undue length of time between the crime and the -- and the identification. So I don't know how much -- I don't put a lot of credibility, let's put it this way, into the fact that he says he chased the perpetrator some distance and saw him through the passenger window of a van which was out in front of him. That doesn't give me much comfort in terms of the identification, but he says he recognized him and I have nothing to contradict that. There were no -- obviously there were no other people in the van, at least there's no testimony there was somebody else in the van that he could have been confused about. He said he ran around the corner knowing that there was parking available at that particular place and that's where he found the Defendant, in a van.

So with all of these, and I'm not -- I don't quite remember the surveillance video testimony because, frankly, in looking at the surveillance video I can't tell much either, maybe there was something there, but all in all I find that, yeah, I'm gonna allow the identification of the Defendant in court by the victim and respectfully disagree with and overrule your objection.

And I've already ruled on the Miranda issue, so let's

proceed with your other suppression motion.

MR. MADSEN: Judge, we move to suppress the search warrant based on the Fourth Amendment to the U.S. Constitution, Article 1, Section 10 of the State Constitution and also the statute, which is 17-13-40. There are multiple things that we disagree with about the procedure. I will tell Your Honor that the search warrant was executed by Chuck Bramlet of the West Columbia Police Department.

THE COURT: Tell me what -- factually what happened.

MR. MADSEN: Well --

THE COURT: When, where, who, what.

MR. MADSEN: Judge, the search warrant -- there was a vehicle that was ended up being towed by Richland sheriff's department and put in a yard. It was towed, I believe, by Eagle One Towing.

THE COURT: Is that this alleged -- this van?

MR. MADSEN: That's supposed to be this van that they had made reference to.

THE COURT: All right.

MR. MADSEN: They ended up getting a search warrant on that van for 11-19 of 2012. I believe that Lieutenant Odom was the affiant on that search warrant. Is he with the Richland sheriff's department. I believe he -- there was an officer from West Columbia who was a -- their CSI

officer, Chuck Bramlet, went out. Mr. Bramlet took photographs. I believe Mr. Bramlet is the one that collected anything that was inside of that van. I will tell Your Honor it's probably been six months, it might be a little longer, Mr. Bramlet has died, he had a heart attack, so we don't believe that a foundation can be laid for that.

Additionally, we have questions as far as the affidavit of the search warrant and have objections based on the constitutional amendments and also the South Carolina Code 17-13-40.

THE COURT: Pardon my ignorance, but what county is West Columbia in?

MR. MADSEN: It's all in Lexington.

THE COURT: All in Lexington. Okay. That line goes all over the place.

MR. MADSEN: Basically the river.

THE COURT: Okay. What's the State's position?

MR. BELL: Your Honor, we are prepared to present testimony as to those issues. The essential facts he gave are accurate. Initially Captain Odom drafted the search warrant affidavit at that time.

THE COURT: Who does he work for?

MR. BELL: He's with the West Columbia Police Department, Your Honor.

THE COURT: Okay.

MR. BELL: Excuse me. I mixed up my names, sir. Captain Bruce Wade with West Columbia initially drafted the affidavit for the initial search warrant as he was the investigating officer. However, upon find out that Eagle Towing would fall within Columbia's jurisdiction, that is when they contacted and reached out to -- at the time it was Lieutenant Odom. Now he is a captain with the Richland County Sheriff's Department. At that point in time Captain Odom essentially did a verbatim copy of the affidavit drafted by Investigator Wade. One of the West Columbia officers assisted and attended the hearing with the magistrate when the search warrant was sworn out.

THE COURT: Was it a Richland County magistrate?

MR. BELL: That's correct, Your Honor. Dutch Fork to be exact. Your Honor, eventually they go out to the Eagle One Towing lot, they locate the van which matches the VIN and tag number as described with particularity in the search warrant. They are able to match that that is the particular van they were looking for; the only exception being as you heard from testimony from Captain Wade earlier the rear hatch of the vehicle had been replaced with that of a Dodge Caravan, which would be odd because the rest of the vehicle is a Plymouth Voyager as indicated in the title history for that VIN number.

Your Honor, Chuck Bramlet did pass away; however, given that this was in Columbia Lieutenant Odom was there for the entirety of the execution of the search warrant as well as signing the -- co-signing the return that was submitted November 20th.

THE COURT: So he, Odom, was there with Bramlet?

MR. BELL: That's correct, Your Honor.

THE COURT: Go ahead.

MR. BELL: And the return was filed back with the same magistrate, Your Honor, November 26th. That's about six days after it was signed out; well within the ten days required by law.

Your Honor, all of the essential procedural requirements were intact. There was an affidavit. It was under sworn testimony at the time, it was signed by a neutral and detached magistrate. The only issue, if there is one at all, would be the time with which the search warrant was signed out compared to the incident at hand. Your Honor, Captain Odom will testify that he also submitted to the magistrate subsequent oral testimony to assist alongside with the written affidavit and that testimony was related to the reason that van was in a Columbia tow lot to begin with. The reason it was in a tow lot is because the Richland County Sheriff's Department and the Columbia Police Department had an incident

involving that van which ended up with the towing of the van.

So Captain Odom did proffer to the magistrate that he believed that vehicle was not only involved in the incident in West Columbia from earlier in the year, but also in a more recent involvement and that evidence would be useful to both investigations.

THE COURT: Well, let's get something on the record.

MR. BELL: Your Honor, at this time the State would call Captain Odom to the stand.

JOSEPH ODOM,

having been duly sworn, testified as follows:

THE CLERK: Once you're seated, sir, state your full name, spelling your last on the record, please.

THE WITNESS: Joseph Odom. Last name spelling, O-D-O-M.

DIRECT EXAMINATION (In-camera)

BY MR. BELL:

Q. Captain, what is your first name?

A. Joseph.

Q. And who are you employed by?

A. Richland County Sheriff's Department.

Q. And in 2012, who were you employed by?

A. Richland County Sheriff's Department.

Q. In what capacity?

A. I was a lieutenant for the regional area of what they call Broad River Road, Region 4.
Q. And do you recall in November of 2012 being contacted for assistance in a search warrant related to James Bubba Patterson?
A. I do. I had a -- was contacted by phone briefly and an investigator, crime scene investigator, I believe, Chuck Bramlet, had basically come over with an affidavit and we talked about things and I proceeded in trying to help him get in front of a magistrate.
Q. And why was it necessary for you to assist?
A. The way I understand it, if another agency is trying to execute a search warrant, magistrates commonly will -- there's really no such thing as countersigning a search warrant from another county, they want a search warrant in the county that they preside in, and it's our protocol an investigator will come out and assist in doing that. Unfortunately, they were tied up on something, I couldn't get anybody over. I have -- it's not what I do, I'm patrol division, but I have in the past typed up search warrants for narcotics and things of that nature, so I felt like I could assist him.
Q. And in this particular case, did you ultimately draft a Richland County search warrant?
A. I did.

Q. And where did you come about the contents of that search warrant?
A. There was an affidavit handed to me.
Q. Do you recall who provided you with that affidavit?
A. As well as I recall, it was Bramlet, Chuck Bramlet, and it was from Captain Wade.
Q. And was that affidavit complete when handed to you?
A. Yes.
Q. And how did you utilize that affidavit?
A. I -- to be honest with you, I basically copied the contents of what was in that and put it on a Richland County search warrant.
Q. Did you have any personal knowledge of the contents of the search warrant?
A. As far -- to be honest with you, it kind of rung a bell and the van was involved months earlier with something we had and I had privy to that because I was involved in that particular thing with us. We had come across that van back in late May and given a short chase.
Q. Ultimately, did you complete a copy of the affidavit as provided to you?
A. Yes, I did.
Q. And did someone from West Columbia assist with that process?
A. Yes, they did.

Q. Did they also accompany you to the hearing?
A. They did and we gave brief background to Judge Maurer, the Dutch Fork magistrate, as to what all it entailed.
Q. Captain, I'm handing you what is marked as State's 5. Please take a look at that document. Do you recognize that?
A. Yes, I do.
Q. And what is that?
A. It is a search warrant for 11-19-2012 with my name on it.
Q. And is that the search warrant that you drafted for this particular case?
A. Yes, it is.
Q. If you would flip to Page 3 of that packet, what is that document titled at the top?
A. At the very top it's an affidavit.
Q. And the contents of that document, where did they come from?
A. You mean the affidavit?
Q. The contents of the affidavit.
A. That come from West Columbia.
Q. Okay. And under the description of premises to be searched, would you please identify that into the record, please, sir. The second paragraph.
A. Okay. Any and all materials that will aid

investigators in an on-going investigation of an armed robbery.

Q. I'm gonna cut you off. I apologize. But it's under the caption description of premise to be searched. If you'd read that paragraph for me.

A. I apologize. A white in color 1995 Plymouth Voyager van, South Carolina tag [redacted]. And VIN -- would you like me to read the whole VIN?

Q. That's all right. You can skip on over.

A. Okay. Belonging to James Bubba Patterson. This vehicle has a white Dodge Caravan door on the back of it. The listed item to be searched is in possession of Eagle One Towing, located at 10019 Broad River Road, in Irmo, 29063.

Q. Are VIN numbers unique to vehicles?

A. Yes, they are.

Q. Would any other vehicle that you were searching for have the same VIN number as indicated in the search warrant?

A. As far as I know, no, to my knowledge.

Q. Now as to the reason the search warrant was sworn out, would you briefly summarize the contents of that portion of your affidavit?

A. There was an armed robbery that occurred back on May 9th. The perpetrator had left in a van and

subsequently after further investigation with West Columbia Police Department they had come up with a link with Mr. Patterson and that the Richland County Sheriff's Department had towed a van to a tow lot and that it might be related to their investigation and could have evidence -- evidential evidence in the vehicle.

Q. Ultimately did you take this packet, including the search warrant and the affidavit, and present it to a neutral and detached magistrate?

A. Yes, I did.

Q. And what magistrate was that?

A. It was Judge Mel Maurer. He's been Dutch Fork magistrate for approximately thirty years.

Q. Is Judge Maurer employed by any law enforcement agency?

A. No, sir, he's not. He's employed by the State.

Q. Does he get paid by any law enforcement agency?

A. No, sir.

Q. Who accompanied you to that hearing?

A. Chuck Bramlet.

Q. And what date was that hearing on?

A. That would have been on the 19th of November, 2012.

Q. And is there a signature above the line titled signature of judge?

A. Yes.

Q. And whose signature does that appear to be?
A. That is the distinctive signature of Mel Maurer.
Q. Also flipping over to the affidavit, is that also signed by the judge?
A. Yes, it is.
Q. And what judge that?
A. Mel Maurer.
Q. Is that the same judge we just spoke of?
A. Yes, sir.
Q. And on what date was that signed?
A. 19th of November, 2012.
Q. Is there also an another signature above the affiant line?
A. Yes, it is.
Q. Whose signature is that?
A. That would be mine, Lieutenant Joseph Odom, at the time.
Q. Now ultimately did you assist in the execution of this search warrant?
A. Yes, I did.
Q. And were you able to locate a vehicle at Eagle One Towing with a matching VIN and tag number as indicated in the search warrant?
A. Yes, I did. We located it in the back lot where they had stored it.

Q. And did you ultimately take an inventory of the vehicle?
A. Yes, we did. I just -- he was by himself and I helped and assisted with -- he did everything. I just stood by and helped with whatever he needed help with.
Q. And are you aware of whether or not a return was properly filled out and filed back with the magistrate court?
A. Yes, I filled out the return, inscribed it and turned it back in to the judge.
Q. And do you recall what date that return was signed?
A. I believe it was on the 26th -- 26th of November.
Q. And is it signed by a judge?
A. Yes, it was.
Q. What judge?
A. Mel Maurer.
Q. Are there also signatures of the officers executing the warrant?
A. Yes, there were.
Q. And can you recognize either of those signatures?
A. There's my name and Charles Bramlet.
THE COURT: That's on the return?
MR. BELL: That's correct, Your Honor.
THE WITNESS: Yes.
BY MR. BELL:

Q. Now the date that the return was filed was -- you mentioned was November 26th. How many days after the search warrant was signed is that?

A. I believe it's six or seven.

Q. Is that less than ten days?

A. Yes, sir.

MR. BELL: I beg the Court's indulgence.

BY MR. BELL:

Q. Captain, are you aware of when Eagle One Towing came into possession of that particular van?

A. Originally, no.

Q. Are you aware today?

A. I take that back. I misunderstood the question. I am aware. We actually took possession of it on the 24th of May.

Q. And do you recall when the armed robbery incident roughly occurred?

A. I believe it was on the 11th or -- I wasn't even aware of a robbery or anything in West Columbia at the time. We -- it did not link or anything at the time when we towed the vehicle. We had suspected it had been involved in something with us or with somebody else, but we never could link anything.

Q. So roughly how many days from the incident to when that vehicle was towed?

A. It would have been about fourteen days.

THE COURT: How many days?

THE WITNESS: About fourteen days. From the 11th to the --

MR. BELL: Your Honor, I'm providing a copy of the search warrant to the Court for your review.

THE WITNESS: I believe we -- if I can look on something real quick.

BY MR. BELL:

Q. Captain, that's fine. A ball park figure is fine.

A. Okay.

Q. Captain, in filling out the affidavit for the search warrant, did both Richland County Sheriff's Department and West Columbia feel that there may be pertinent evidence in that van --

A. Yes.

Q. -- related to the armed robbery?

A. Yes, we did.

Q. And did y'all believe that the -- that evidence would at all be changed by the time the search warrant was executed?

A. It was in a secure lot, but we wanted to get to it as quick as possible.

Q. So did you believe that even though the search warrant was executed in November there still might be relevant

evidence to the May incident?
A. Correct, because it had been in a secured lot since -- since we had towed it and I was not aware that it was even still up there until Chuck Bramlet come to the office.
Q. Did the vehicle ever leave that tow lot after it was towed on May 24th?
A. To my understanding, no.
Q. One last question, Captain. You mentioned -- to be clear, did you provide any oral testimony along with your written affidavit to the magistrate?
A. I did.
Q. Okay. And were you under oath or sworn at the time that you gave that testimony?
A. Yes, I was.
MR. BELL: Please answer any questions defense may have for you.
THE COURT: How about Bramlet? Did he testify in front of the magistrate?
THE WITNESS: He -- he stood by with me and to -- to my memory he was actually just standing there and would answer any questions the judge would ask, but I was the only one sworn in.
THE COURT: He was not sworn?
THE WITNESS: To my recollection, no.
THE COURT: Thank you.

THE WITNESS: I processed it.

THE COURT: You may ask, sir.

CROSS-EXAMINATION (In-camera)

BY MR. MADSEN:

Q. Captain Odom, how are you doing today?

A. Good, sir. How are you?

Q. So you get involved because you get a call from someone in West Columbia saying hey, could you help us out with this search warrant?

A. Basically, yes. It's our protocol an investigator with us will usually assist another agency in getting a warrant and for whatever reason I couldn't get one over there to help.

Q. But you were in -- I guess you were in charge of patrol at that point in time or --

A. Yes. I'm still in the same position, just one rank up. I run a patrol division of about thirty.

Q. So would it be fair to say you didn't interview any witnesses from West Columbia?

A. No, sir.

Q. And didn't take any statements. Basically you took -- I guess you say an affidavit. It wasn't sworn or anything when it was given, it was just basically typed up in that form?

A. No, it was an affidavit form and it was just typed up

and he said this is what we've got.

Q. And so you just basically retyped it yourself on the search warrant or did someone do that for you?

A. I actually retyped it and I'm slow at it.

Q. Okay. So you took that and I believe the solicitor had asked if you had any personal knowledge. You didn't have any personal knowledge as far as what went on over in West Columbia with the armed robbery?

A. No, sir.

Q. But there was apparently something else with the van which is the reason it got towed?

A. Correct.

Q. And that kind of jogged your memory, but that was unrelated to this armed robbery?

A. Unrelated, yes.

Q. And, in fact, I think that you basically put at the end of the section that says reason for affiant's belief that the property sought is on the subject premises, you put after reading Investigator Bruce Wade's affidavit. It wasn't really an affidavit, it was on an affidavit form.

A. Correct.

Q. I feel that a search of the vehicle could lead to evidence that would assist investigators in this case, correct?

A. Correct.

Q. And that was pretty much your knowledge is what you had read and then what you ended up putting back on there?
A. Correct.
Q. And then you had mentioned that -- did you and Investigator Bramlet go straight to Eagle One Towing?
A. No. As I was looking it over, it was the next day. Because if you look at the times, it was like 5:00 in November, it was almost dark. They come to me late and, like I said, I'm a little -- I'm a little slow in typing, so by the time we got it I had the judge -- asked him if he would stay and we went over and it was after 5:00 in the afternoon in November, so the next day we went out at -- I want to say it was around 2:00 in the afternoon when he came back the next day.
Q. And in relation to this case when you either went to the magistrate or went out to Eagle One Towing with Investigator Bramlet, did you ever generate any type of report or take any notes or do anything?
A. I'll be honest with you, I did not.
Q. Okay. And that's been four years ago now or close to it?
A. It has been.
Q. And in your position as a captain of patrol, I'm sure you're probably pretty busy over there in Richland; are you not?

A. Especially that part of -- that area, yes.
Q. What kind of things does patrol do? I mean, what kind of falls under your supervision?
A. Anything and everything. Anything from complaints from the public, you know, we handle all calls in the regional area of Broad River, which is a pretty long area. It's twenty-six miles long.
Q. A pretty busy area?
A. One of the busiest in the county these days.
Q. How many officers kind of report to you in that area?
A. I have twenty-three. I've lost a couple in the last couple of weeks due to promotion, but usually I average twenty-six officers.
Q. Can you give me an idea on a general shift or a day how many reports are coming out of that area?
A. As far as actual reports, it varies, but I would put it at -- in a 24-hour period thirty reports.
Q. So almost -- I mean, getting close to a thousand for a month, correct?
A. It's a busy place.
Q. And so then when you go the next day, do you take any photographs of this van?
A. No, I did not.
Q. Do you collect any evidence from the van?
A. No, I did not.

Q. Investigator Bramlet does all of that, correct?
A. Yes, sir.
Q. You basically said you just kind of stood around and then if he needed help, you would give him help, but he was responsible for the documentation and the collection of everything?
A. Correct.
Q. And you had mentioned -- as far as whether it had left the tow lot, that you just kind of assumed it didn't, but you don't have any actual kind of personal knowledge, do you?
A. No, sir, I do not. I just assumed it.
Q. And that Eagle One tow lot, is that a private facility?
A. It is. It's got, you know, a barbed wire facility in the back where it was. Concertina wire across the top of a eight-foot fence, I believe.

MR. MADSEN: That's all the questions I have.

MR. BELL: Thank you, Your Honor.

REDIRECT EXAMINATION (In-camera)

BY MR. BELL:

Q. Captain, what is the purpose of a return on a search warrant?
A. To make sure everything's been properly documented, inscribed and get it back to the judge so it's filed in

their office and make sure everything was done properly in executing the warrant.

Q. And the return filed on this particular search warrant, does it accurately reflect what y'all located and found in that van?

A. Yes, it does.

Q. And did you have a chance to actually independently see those things with your own eyes?

A. Yes, I did.

Q. And you can confirm that the things listed on the return actually were located with the van?

A. Yes.

MR. BELL: No further questions, Your Honor.

THE COURT: All right. You may come down, sir. Thank you very much.

(Witness excused.)

THE COURT: Any other witnesses on this issue?

MR. BELL: No further witnesses, Your Honor.

THE COURT: From the defense?

MR. MADSEN: We don't have any witnesses, Your Honor.

THE COURT: All right. Let me hear what your position is.

MR. MADSEN: Judge, first of all, as you've heard from the testimony, he just basically provided a piece of paper; no testifying that anyone had any personal knowledge. He

just ends up getting that piece of paper. What I would point the Court to is a case of State versus Michael Dunbar, which is 354 South Carolina 479. Now on that case, Your Honor, that was actually a Lexington county case and I believe what ended up happening was law enforcement ended up busting an individual for drugs. Based on some of their dealings with that individual, a detective or an Investigator Rainwater with the Lexington sheriff's department called the magistrate and when he called the magistrate searching a search warrant for a hotel room he telephoned this magistrate to discuss the probable cause for the issuing of that search warrant. He did not himself go to the search warrant {sic} to obtain the warrant, but he instead sent an Officer O'Quinn, and I'm going to read from the opinion. It says when O'Quinn arrived at the magistrate's office and the magistrate was on the telephone with Rainwater, O'Quinn testified the magistrate drafted the affidavit based on the information received over the telephone by Rainwater. O'Quinn stated that he merely signed the affidavit after reviewing it and did not offer any information to the magistrate involving the probable cause of the search. O'Quinn admitted he did not -- or he had no personal knowledge of the facts contained in the affidavit other than an awareness that five ounces of cocaine had been delivered to undercover

agents. O'Quinn was stationed in a marked patrol car during the surveillance of a gas station and testified that it would not have been conducive for him to be in line of sight. O'Quinn did not speak with the confidential informant nor with Dunbar and was not present and did not observe Rainwater retrieve the cocaine that was the basis for the search warrant, but after signing the affidavit O'Quinn delivered the warrant to the officers in the waiting hotel room.

Your Honor, that was -- the Court of Appeals in that case found that because that officer did not have personal knowledge -- that because O'Quinn had no direct personal knowledge of numerous facts he could not have been sworn to the truth of the statement of the facts in the affidavit. At oral argument the State said that he was swearing that he believed the statements were to be truthful, which I think is very similar to this, and that the statutory affidavit requirement is not met when one officer recites facts over the phone to a magistrate and the magistrate drafts the affidavit and subsequent an affiant who offers no facts establishing probable cause signs the affidavit. I think that that's important.

Now I would like to point out to Your Honor that State versus Dunbar, even though the Court of Appeals reversed that conviction, the South Carolina Supreme Court came back

in 356 South Carolina 138 and said hey, Court of Appeals, you decided it on a statutory ground. In other words, what we were arguing, the search warrant statute here, you decided on a statutory ground, but Dunbar when he was at the trial only argued the Fourth Amendment and the statutory constitution, the Article 1, Section 10, and because of that they remanded it down and reversed the South Carolina Court of Appeals; however, the logic I believe is appropriate from that original Dunbar case and I am raising the statutory problem here that you have an affiant who says I have no personal knowledge, I didn't interview any witnesses, I basically retyped a page of information that was given to me, you heard no other testimony, and on that basis, Your Honor, at least for that limited purpose there we believe that the search warrant is invalid and obviously anything that's taken out of that it should be suppressed, Your Honor.

We have a second argument that deals with the -- obviously Investigator Bramlet documenting the evidence, but we believe that just based on the search warrant and what is the procedure that they followed that under the logic under the first Dunbar case that that search warrant should be suppressed.

THE COURT: The State's position?

MR. BELL: Thank you, Your Honor. Responding first to

the case involving an officer calling a magistrate directly and having the magistrate draft the affidavit --

THE COURT: That's not this case.

MR. BELL: It isn't, Your Honor, so we'll move on from that point. Your Honor, there's a few things that make this case stand out and, first off, the case law is fairly well-settled that magistrates are allowed to consider hearsay for the purposes of probable cause in issuing a search warrant so long as they have the opportunity to determine the veracity or truth or reliability --

THE COURT: All right. What's the hearsay here?

MR. BELL: Well, Your Honor, from the defense's position they're trying to say that the hearsay comes from either Captain Wade, who drafted the original affidavit, which was then copied by Captain Odom, or that there's hearsay coming in because Chuck Bramlet is no longer with us.

THE COURT: Well, and Chuck Bramlet didn't testify either in front of the magistrate. That's why I asked if he was sworn.

MR. BELL: Yes, Your Honor. He was present, however, and should the magistrate have had any questions about his veracity or his ability to reliably provide facts to the court through that affidavit, the magistrate certainly could have asked the question, but I believe

the magistrate's silence on that issue speaks volumes as to their belief that Chuck Bramlet was a reliable source for the affidavit.

Additionally, Your Honor, Captain Odom testified that he had -- he didn't necessarily have personal knowledge from having worked the armed robbery case; however, he was aware of a subsequent run-in with the van that did link back to this armed robbery case. That does give Captain Odom some personal knowledge of the facts of the warrant.

THE COURT: That's a stretch.

MR. BELL: Your Honor, on that very same topic, he also -- Captain Odom also testified that he gave supplemental sworn testimony to the magistrate about those additional run-ins with the vehicle and how he had known that it was involved in an armed robbery; that ultimately they came up with an identification based somewhat off of the run-in with CPD on May, I think it was, 24th, also indicating additional prior knowledge of the contents of the search warrant, Your Honor.

As to a final -- as to a final argument, You Honor, is that standing may be at issue because this property is arguably abandoned. This property had been sitting on the tow lot for nearly six months from May 24th to November 26th when the search warrant was executed. Eventually this van would actually be sold by the tow

company because it was never claimed. The case law is fairly settled as well that even if property is abandoned due to police action such as this case where the van was seized pursuant to an arrest --

THE COURT: You don't need a warrant -- you don't need a search warrant to search an abandoned vehicle.

MR. BELL: Well, in abundance caution we would always try to have our law enforcement get a search warrant instead of just going and searching, Your Honor.

Your Honor, as to the case law on that particular point, I want to cite to the Court State versus Dupree, which is 319 South Carolina 454. That's a 1995 Supreme Court case, Your Honor. So we would first argue that the property was abandoned.

THE COURT: Tell me this. Who's the affiant?

MR. BELL: Your Honor, the affiant is -- at the time it would have been Lieutenant Odom.

THE COURT: And he swears he knows this?

MR. BELL: Pardon, Your Honor?

THE COURT: He swears he knows all the facts contained in this affidavit?

MR. BELL: Your Honor, from his conversations with Captain Wade, Chuck Bramlet and his review of the affidavit from Captain Wade, he is.

THE COURT: Now let's clear that up. Was it really an

affidavit from Captain Wade?

MR. BELL: Your Honor, it was a --

THE COURT: Was it a sworn statement?

MR. BELL: No, Your Honor.

THE COURT: Okay. Let's quit calling it an affidavit then.

MR. BELL: Your Honor, it was a document prepared by Captain Wade to be presented to a magistrate captioned affidavit; however, he realized the jurisdictional issue ahead of time that that document --

THE COURT: He didn't sign it in front of a notary?

MR. BELL: No, Your Honor.

THE COURT: Okay.

MR. BELL: Your Honor, the facts are very detailed if you read through them in the affidavit itself. Those facts certainly rise to a level of being a sufficient underlying basis in facts and information for the magistrate to make a probable cause determination.

THE COURT: Well, just out of curiosity, and I'm asking because I don't know, this multi-jurisdictional criminal activity must take place every day and these affidavits may be signed in a jurisdiction where the crime did not occur. How are those things handled from a procedural standpoint? I just don't know. It seems to me that you're gonna have this problem every time you go

outside your jurisdiction to get a magistrate to sign a warrant of any kind. Do you know the answer to that?

MR. BELL: Your Honor, from my experience, what I can say is I know we used to do co-signing of warrants; however, Richland County doesn't participate in that, so in this particular case that's why we have a funky procedure as it may be, but it used to be that we would co-sign and now we have to present and have a --

THE COURT: I never had a lawyer admit it was a funky procedure.

MR. BELL: I'm not saying improper, but it is odd.

THE COURT: Well, I know Judge Maurer. I don't think he would have done anything that he would think was improper, but it does raise some legal issues.

Mr. Madsen?

MR. MADSEN: Judge, as I said, just as the logic in the first Dunbar and not saying that the magistrate drafted this affidavit, I just --

THE COURT: I know.

MR. MADSEN: -- read that from that, but because O'Quinn had no direct personal knowledge of numerous facts, he could have not sworn to the truth of the statements in the affidavit. He's just -- I mean, the captain's testimony was he didn't have any personal knowledge. He did say he had some sworn testimony, but

that was about that van over in Richland, not the armed robbery. There's been no testimony and, in fact, I think Your Honor elicited or said that, I mean, Investigator Wade certainly could have gone over there and given an affidavit or testimony; he did not. Investigator Bramlet did not give any sworn testimony. So you have someone over there saying hey, you know -- and, in fact, if you look at the warrant itself I think it basically says hey, I read what Investigator Wade gave me and based on that I think, and so I believe it's like the logic and it --

THE COURT: Does that sounds like hearsay to you? Does that sound like hearsay to you?

MR. MADSEN: Yes, sir, but we don't believe that he has any personal knowledge and to his credit he testified to that and so we think that that logic -- and, like I said, Dunbar was reversed by the Supreme Court because at the trial level they argue Fourth Amendment and Article 1, Section 10 and did not argue the statute, which is what the Court of Appeals used to reverse, and we're arguing not only the constitution, but also the statute.

THE COURT: All right. I'll tell you what I'm gonna do. I'm gonna take this under advisement and I'll let you know in the morning.

Anything you'd like for me to read in the way of bedtime reading? Anything you want to hand up in the way

of case law? I'll let you know in the morning. Anything else this afternoon?

MR. MADSEN: Judge, I've got just, real quick, on a motion to elect.

THE COURT: Okay. Go ahead.

MR. MADSEN: Judge, I know under the motion we're moving to -- or that the State elect between the grand larceny and the armed robbery. I will tell Your Honor there are cases, State versus Lawson, 279 South Carolina 266. It's a 1983 case that indicated that larceny was a lesser included of robbery and that it violated the constitutional rights to punish an individual twice for the same offense. It then went to State versus Austin, which is 299 South Carolina 456, which was a 1989 case, and it indicated that a petit larceny conviction should be set aside as a lesser -- or as a lesser included of robbery. I will tell you the court then changed gears and on Joseph versus State, which is 351 South Carolina 551, which was a 2002 case, they held that because grand larceny had a dollar component to it that it was not a lesser included of robbery. But we would just move, Your Honor, that the State elect between the larceny. Our position is that the -- obviously if you have a robbery, you have a larceny, but it's basically a larceny that's done either by force, intimidation or threat and we believe under the

Eighth Amendment, Article 1, Section 15, that it would be cruel and unusual punishment, and also under our state constitution.

THE COURT: What's the State's position?

MS. MAYES: Yes, sir, Your Honor. These are completely different elements in these two offenses. Armed robbery is, of course, the use of a weapon or what appears to be a deadly weapon to feloniously take from the person any items by means, threats or intimidation, and then, of course, the larceny involves actually taking the items, carrying them away potentially, and that is done with the intent to permanently deprive the owner thereof and convert the property for one's own use, and that's a completely additional element than exists for armed robbery, so these are separate elements.

MR. MADSEN: Judge, the only thing I would say is that as Your Honor has probably seen there was case law that talked about the sufficiency of an indictment in robbery when they don't allege the -- what is it -- the aspiration of the property, which is taking it away, so I don't know if that's necessarily the crux of our argument.

THE COURT: It just says take from the person or presence of the staff. All right. I believe they're separate offenses. I'm gonna deny your motion respectfully.

MR. MADSEN: Thank you, Your Honor.

THE COURT: All right. 9:30?

MS. MAYES: Yes, sir, Your Honor. I believe we may have some cases to submit to the Court. Do you want us to e-mail your law clerk?

THE COURT: She plans on working late tonight.

MS. MAYES: We should have them in thirty minutes or so.

THE COURT: She gets paid overtime. Thank you very much.

MS. MAYES: Thank you, Your Honor.

MR. BELL: Thank you, Judge.

(Whereupon, the proceedings were concluded for April 11, 2016, at 4:47 PM.)

(The following proceedings were held on April 12, 2016, beginning at 9:41 AM.)

BAILIFF: All rise. The Honorable G. Thomas Cooper presiding.

THE COURT: Thank you be seated. Good morning, counsel.

MR. MADSEN: Morning.

THE COURT: All right. Is the State ready to proceed?

MS. MAYES: Yes, sir, Your Honor. After consultation with defense counsel, I believe it may be easiest for judicial economy to have the evidence custodian in here.

She's got a lot of boxed up evidence that's sealed and that will prevent us having to bring her in every time we need an item, and I don't believe there's an objection to that.

THE COURT: Is that correct?

MR. MADSEN: That's correct.

THE COURT: All right.

MS. MAYES: And she's gonna go ahead and break the seal on the box to make the evidence available at this time.

THE COURT: As to defense motion to suppress the search warrant and the fruits of that search, we looked at the Dunbar case last night and several others, and I find that -- let me just go through my sort of analysis just for the record. The search warrant that was obtained by Captain Odom was based on Captain Wade's -- what appeared to him to be an affidavit, but -- it was on an affidavit form, I believe, but it was not signed, it was not sworn to, but certainly gave Captain Odom some basis for feeling that Captain Wade believed the contents of that statement, we'll call it, to be truthful. And in taking that before the magistrate he, in the Court's opinion, believed that what Wade had put in his statement to be truthful and he, therefore, swore in front of the magistrate that he believed that -- at least he believed the contents of the Wade statement were truthful.

In reviewing Dunbar -- and I will tell you also we have reviewed a case called State versus Bailey, which is a case -- well, I'm not sure if it's a Lexington County case or not, but it's a -- Jake Moore and Stanley Myers were representing the appellant, but it's a 2016 case. It's an unreported case from the Court of Appeals decided in February of this year and it goes -- it talks about Dunbar and the holding of Dunbar and the language of Bailey and I quote from -- because it quotes from Dunbar. It says generally affidavits must be made on the affiant's personal knowledge of the facts alleged in the petition. The affidavit must show in some way that the affiant is personally familiar with the facts so that he could personally testify as a witness. That's Dunbar. But they go on to say, and Dunbar goes on to say, it's permissible, however, for a magistrate to issue a search warrant based upon hearsay knowledge that is not a result of direct personal knowledge of the affiant or information given to the affiant if other officers can support probable cause for the search warrant. Unlike the affiant in Dunbar it is clear that the affiant here, that's Bailey, Officer Mauldin was supplied with the information by other officers in support of the affidavit. Accordingly, the use of hearsay information from other officers by Investigator Mauldin to support probable cause for the search warrant

was proper. Magistrates can issue search warrants based on hearsay information that is not a result of direct personal observations of the affiant and probable cause for a search warrant can be supported by information given to the affiant by other officers. Further, nothing in Dunbar suggests that an issuing magistrate must specifically be told that the affiant is basing his affidavit on hearsay when it is not based on personal knowledge and Bailey cites no other law in support of such a position. At any rate, the trial court properly observed a fair reading of the affidavit reveals information that would indicate to the magistrate that Officer Mauldin had obtained the information from other officers.

I think that statement of the law, plus I think that Officer Odom believed -- I think that was his testimony, that the vehicle to be searched or the object of the search was believed to have been involved in other illegal activities, whether in Lexington County or Richland County, and he had some other additional motive to pursue the search warrant in this case. So, Mr. Madsen, I must respectfully deny your motion.

Is the State ready to proceed?

MS. MAYES: Yes, sir, Your Honor. We just have one brief matter to discuss with Mr. Madsen.

MR. MADSEN: Judge, I would just mentioned based on

Captain Odom's testimony yesterday, I kind of worry that they might be trying to get in some 404(b) evidence when he's talking about it and so they think that might be late morning. I mentioned to them I was a little bit worried about that and that I do think that we would have to flesh that out before that comes in because, A, it's got to meet the requirements of 404(b) as one of the exceptions, but it also has to be clear and convincing.

MS. MAYES: Your Honor, I think we would limit that testimony and we can proffer it once we get to a potential witness on that matter.

THE COURT: It didn't sound very strong to start with.

MS. MAYES: And it's probably gonna be late, late morning, if not until after lunch, that we would broach that area.

THE COURT: Okay. Well, you know, they may object and we'll proffer it at that time.

MS. MAYES: We would offer testimony that there was a traffic stop and the vehicle was impounded and then beyond that we would proffer any testimony.

THE COURT: If necessary.

MS. MAYES: Yes, sir.

THE COURT: All right. Ready for the jury?

MS. MAYES: Yes, sir, Your Honor.

THE COURT: Bring the jury -- ready for the jury?

MR. MADSEN: (Nods head.)

THE COURT: Bring the jury, please.

(Whereupon, the jury enters the courtroom at 9:52 AM.)

THE COURT: Good morning, ladies and gentlemen. We're now ready to begin the trial.

Madam Clerk, will you swear in the jury, please.

(Whereupon, the jurors were duly sworn by the Clerk of Court.)

THE CLERK: Was there anyone on the jury panel not able to take the oath as administered? If so, please stand. All jurors under oath, Your Honor.

THE COURT: Thank you.

All right, ladies and gentlemen. Before we actually begin the trial, I want to just take a few minutes to explain our procedure, but even before I do that I want to tell you that a trial probably will be different from what you might expect. Now many people do not have the chance to attend actual court hearings as you are now doing and they may think that from watching television or movies or reading books that trials are always full of drama and intense action. While some of these things may be true at times, this trial is not for entertainment. It's a fundamental part of our democracy in a search for the truth in an effort to make sure that justice is done between the parties before the court. Searching for the

truth and making sure that justice is done is often a slow, deliberate and repetitive process, the opposite of what you might have seen on television or in the movies or read in books. This courtroom is a place of honor dedicated to the protection and preservation of citizens' rights through what many have called the greatest justice system ever created.

The attorneys appearing before you are advocates for the parties they represent, but first and foremost they are officers of this court, sworn to uphold the integrity and fairness of our judicial system and to help you in a search for the truth. You should expect them to be professional, competent and ethical in the representation of their client's interest and remember that you also have taken an oath to try this case to reach a fair and just verdict and you're also expected to be professional, reasonable and ethical.

You've been selected as fair and impartial jurors whose purpose it is to find and determine the facts in this case. You are the sole judges of the facts in this case. If at any time I make any comment about the facts, you must disregard those comments.

Now as I told the entire jury panel, three indictments have been brought against the Defendant. They are for armed robbery, possession of a weapon during a violent

crime, and grand larceny. You need to keep these three indictments and the charges in mind as the evidence comes before you to see if the evidence meets the criteria to support these indictments. But these indictments are simply the charge by which the case is brought into court and they're not, as I told you earlier, in any sense evidence of any of the allegations they contain.

The Defendant has pled not guilty to these indictments and the State, therefore, has the burden of proving each of the elements of the indictments beyond a reasonable doubt to you and it will be your duty, ladies and gentlemen, to decide whether the State has met that burden. It's especially important that you perform your duty of determining the facts diligently and conscientiously because ordinarily there's no way to correct an erroneous determination of the facts by the jury. If you comply with your oath to impartially determine the facts of this case, you will have fulfilled your duty as jurors and no one will have the right to criticize your verdict.

But on the other hand, and with equal emphasis, the same law that makes you the judge of the facts makes me the judge of the law. You must accept and follow the law even though you may disagree with it. I cannot tell you what the facts are, you should not disagree with me about what

the law is or what the law should be. Your job is to take the law as I explain it to you and apply it to the facts as you find from the evidence and the testimony of the witnesses and any other evidence that may be introduced during the course of the trial and after doing that you will render your verdict; a true and just verdict under the solemn oath you just took as jurors.

Now the procedure that we'll follow is basically the State will present its evidence first in the form of witness testimony and/or exhibits that will be made a part of the record. The Defendant will then have the opportunity to present his defense bearing in mind, however, there's absolutely no burden on the Defendant to present any evidence at all. Following that, the attorneys will be allowed to sum up their case and I will instruct you on the law of the State of South Carolina as it applies to this case and after that the case will be turned over to you for a decision.

Now let me remind you of two legal principles that we will follow during the course of this trial. The first is a legal yardstick you will use in judging or measuring the evidence in this case. That legal yardstick is called the burden of proof. And in a criminal case the burden of proof, that is the responsibility of proving the case, is on the State of South Carolina to prove guilt to you beyond

a reasonable doubt. Should the State fail to meet that burden, it would be your duty to find the Defendant not guilty. There's absolutely no burden whatsoever on the Defendant to prove or disprove anything. There's no burden on the Defendant to testify or to present any evidence because the burden is and remains on the State to prove guilt beyond a reasonable doubt.

And, second, I ask you to recall my earlier comment to the entire jury panel concerning the presumption of innocence. This is a cardinal and fundamental law that a defendant will always be presumed innocent of the crime or crimes for which he is indicted. The presumption of innocence is not just a simple legal theory or simple legal phrase, it is a substantial right to which any accused, including this Defendant, is entitled.

Until I advise you to begin your deliberations, I, again, will ask you not to discuss this case with anyone, including your fellow jurors, friends, family members or anyone involved in the case, and after the case is submitted to you, you must discuss it only in the jury room with your fellow jurors.

Now in just a moment the attorney for the State will make what is called an opening statement. The attorney will explain to you what the issues in this case are, or at least what the attorney thinks the issues are, and what the

evidence will prove. The attorney for the Defendant will also make an opening statement. What these attorneys tell you during their opening statements is not evidence in this case. It is only their contention as to what the issues are and what the evidence will show. The evidence in this case will be presented to you by the testimony of sworn witnesses from this witness stand and by any exhibits that might be introduced during the course of the trial. In determining what the true facts are, you must decide whether or not the testimony of any witness is believable. In deciding whether to believe a witness, you have the right to consider whether the witness has an interest in the result of the trial or whether the witness is prejudiced toward either the State or the Defendant and the opportunity for the witness to have seen the matters and things about which the witness may testify on the stand.

Now, ladies and gentlemen, you and I do not ask questions of the witnesses. We do not offer any exhibits. This is not CSI. Your duty is to listen openly and honestly to the evidence, keep an open mind, do not form any conclusion or judgments until you've received and considered all of the evidence in the case, the arguments of the attorneys and my final instructions to you on the law. If you cannot hear a particular witness or myself or

one of the attorneys, please let us know so we can have them speak up more clearly. If your view of an exhibit is obstructed, let us know and we'll correct that. If you need to bring something to my attention during the course of the trial, please notify one of the bailiffs. If you do need to contact me, it may be necessary for the bailiff to require that you put such a question or concern in writing so we can have a record of it and I'll respond to you as quickly as I can to the extent the law permits me to do so.

So, ladies and gentlemen of the jury, I want to thank you for your kind attention. I trust you will give the same kind of undivided attention to the attorneys and parties in this case and we will now begin with opening statements.

Solicitor, you may proceed.

MR. MADSEN: Judge, I think we have a matter prior to the openings.

THE COURT: Approach, please.

(Proceedings held at the bench; not reported.)

THE COURT: You may begin with the opening statements.

MR. BELL: Thank you, Your Honor. May it please the Court?

THE COURT: Yes, sir.

MR. BELL: Out of the ordinary. That's why Frank Mancine is here as a victim today; because something

happened to him that was outside of the ordinary. Now Frank is probably gonna take this stand and tell you that's one of the exact reasons that he remembers what happened to him as well as he does. But make no mistake that May 9, 2012, began ordinarily.

Frank Mancine woke up, he ate his breakfast, he brushed his teeth, he got dressed for work, and just like he had done almost every single day since 1993 he went to his family-owned jewelry store, K & M Jewelers, in West Columbia and opened the doors for business. And throughout the morning, just as he'd done so many times before, he saw the customers as they came in and out. He tidied up the store. He made sure everything was the way it was supposed to be, but it would be early that afternoon when something would occur that would forever take this day and put it outside the ordinary for Frank Mancine, for his mother, and for the other two customers in the store at the time.

Because on that May 9th of 2012 afternoon James Bubba Patterson waltzed into that jewelry store wearing a dress hat, a dark suit, sunglasses and a gun. And after initiating some conversation with Frank Mancine under the guise of looking at the gold necklaces, Frank opens up the counter, shows him a couple of different items and then not long after Bubba Patterson pulls that gun and sticks it in Frank's face and in the face of his mother and in the

direction of the other two customers in the store at the time. It doesn't take long for Bubba Patterson to lean over the counter on his own and start scooping out gold jewelry from the open countertop and he stuffs it in a sack; an amount that an insurance company would later qualify as being $25,000 worth of gold. Out of the ordinary.

Now after he stuffs all the gold in the sack, Bubba starts retreating out of the store, but Frank isn't totally unprepared. Fearing for himself, his mother, his customers, his store, he retrieves his own firearm and fires one shot at Bubba as he's leaving, but he misses and the gun jams. He clears the jam from the firearm and then pursues Mr. Patterson out of the building and as he comes out of the building and starts running into the direction that he saw the suspect run, he runs over the top of a hat, the same kind of hat that he saw the robber with. He then crosses the corner of the building and as he gets around the corner of the building he sees the same person who just robbed him at gunpoint hurriedly pulling an older model gray van or silver van out of the parking lot and heading away from him. In that instant, he fires one more shot and strikes the rear of the vehicle shattering out the back glass. Out of the ordinary.

It doesn't take long for law enforcement to respond

and at that time Frank gives an initial description to law enforcement of five feet, five inches, 150 pounds, between forty and forty-five years of age, black male. Sometime later law enforcement reaches back out to Frank with a photo lineup and the photo lineup has six photos of a gentlemen with similar features and the way that they came up with that photo lineup is because they went to the scene that day and they recovered that hat that Frank pointed out, the same hat that they could see in surveillance video the robber had been wearing. They send that hat off to the State Law Enforcement Division, know as SLED, who runs DNA testing. And who does the DNA come back to? One person. James Bubba Patterson. So they use that information to put together a lineup but without ever telling Frank Mancine that they have a DNA match. Frank Mancine looks at the six pictures of similarly featured people and immediately says, "That's the man who robbed me". And the individual that he selected was then identified as James Bubba Patterson.

Now law enforcement could have stopped there, but they didn't. They wanted to track down the van that the suspect escaped in and in November of that same year, 2012, they find out that there's a van matching the description located in a tow lot in Columbia. So they go out there and they find a van that does match the

description. It's a white Plymouth Voyager with one exception. The rear hatch that should have had glass shattered out of it had been completely replaced, but it wasn't replaced by the same model hatch. It was replaced with a Dodge Caravan hatch with intact glass. They run the VIN number, a unique ID for a vehicle, through the DMV title registry and on the date of May 9, 2012, that vehicle belonged to one person, James Bubba Patterson. Out of the ordinary.

Now you're gonna hear a lot about the law throughout the trial, so I won't waste your time on that now. I do want to point out one thing. You're gonna hear about reasonable doubt and what reasonable doubt is over and over and over again, so if you would allow me to be the one to tell you what reasonable doubt is not. Reasonable doubt does not mean beyond all doubt. There are very view things in this world that you can be a hundred percent sure of and our law does not require absolute certainly. It simply requires that after you've heard the evidence and all things considered you're firmly convinced of James Bubba Patterson's guilt. And the obstacle of reasonable doubt is not one that we intend to simply inch by today. By the end of this trial we're firmly convinced that the evidence and the facts of this case will obliterate that obstacle and that you'll be firmly convinced of James Bubba Patterson's

guilt on all charges.

THE COURT: Mr. Madsen.

MR. MADSEN: May it please the Court, solicitors?

Not guilty. James Patterson is not guilty of robbing K & M Jewelers on May 9th. What you will hear through the course of this trial is speculation, conjecture and assumption. Speculation, conjecture and assumption. I looked these up. Let me define them for you. Speculation is the forming of a theory without firm evidence. Speculation is the forming of a theory without firm evidence. Conjecture is an opinion formed on the basis of incomplete information. Conjecture is an opinion formed on the basis of incomplete information. An assumption is accepting something without proof. Assumption is accepting something without proof. Or, as I've kind of been told, if you assume something, you make an ass out of you and me. Speculation, conjecture and assumption.

Let me tell you a story. There was a fellow who lived in Lexington and he travelled for his job every once in a while. It wasn't a constant thing, but probably about a couple of times a month that he would have to go on a trip somewhere else throughout the United States. Well, he was in one of those companies and it's a lot cheaper to travel from -- or to fly from Charlotte than it is from Columbia and so his company made him do that. Well, one day he gets

up and he knows he's got to take basically a redeye to go someplace else for a morning meeting. So he works at his office and he gets kind of involved with what he's got going on and he suddenly looks down at his watch, oh, I need to get to Charlotte. So he hops in his car, he heads up 77 toward Charlotte. Right outside of Rock Hill after dinnertime he hits an accident. He's already started late, he's hit this accident which has made him a little bit later, and all of a sudden as we know when you go to an airport, you've got to check in and you've got to get there, they won't hold the plane for you. He's worried. He hasn't had anything to eat, it's past dinnertime and he's worried, he's upset, he's anxious. He doesn't want to miss this flight because he's got an important meeting someplace else. He makes it to the airport in time, he checks through, gets through TSA. He's going, he's hungry, he's mad, he's miserable, he's upset that he's had to drive. He sees out of the corner of his eye one of those little stores and he sees some Otis Spunkmeyer cookies that they're selling there that happens to be his favorite. He hasn't had anything to eat, he's hungry, he's worried, he's upset. He runs in there real quick and buys his favorite, chocolate chip, and just gets a package. His idea is I'm gonna board the plane, I'm gonna get on. Because his company makes him go to Charlotte, believe it or not it's

also kind of one of those no frills airlines, so he's not going to get anything to eat. He grabs those cookies real quick, throws the money down and heads to the gate. He doesn't have to wait. He basically is -- they're calling it and he walks on. He's had a bad day already. He's worried, he's upset, he's anxious. He gets onto that flight and he sits down in his seat which is an aisle seat, which is what he always prefers, and as people are on there and he looks and beside him is a lady and on the other side of that lady is a toddler, a young child that's obviously not having a good day either. He's kind of fussing and screaming and he thinks, you know, how can my luck get any worse. I'm gonna have to be on this plane for a couple of hours with this toddler on here who's just crying and screaming and he's just kind of miserable. He takes his little carryon and puts it underneath, puts his cookies underneath, and thinks hey, I'll just wait and once the plane takes off and gets going, I'll have the cookies, I'll feel a little bit better, I'll just try to rest, so he does that.

The plane takes off. The kid's still fussing and fighting with the mother. He's still kind of miserable. They get up and he looks over and the lady reaches down and he sees that she's pulled out the Otis Spunkmeyer cookies. She takes one out, gives one to her child, which

seems to kind of pacify him a little bit, but he can't believe it. They're his cookies. He's had a miserable day, he's hungry, he's having to travel someplace across the country and she has the audacity to take his cookies and give them to the child. And, you know, God doesn't like ugly, but, I mean, he was -- if his eyes could pierce, just the way he kind of looks, and he just -- as that flight goes on and he looks over, he can smell the cookies. He just kind of stews for that entire flight. And he stews and he stews and he makes sure at the end of the flight when they're getting off to look and just say to the lady "I hope your child enjoyed the cookies". She said he did. And he's thinking what audacity to take my cookies and do that and he lets them out and then he reaches under and gets his bag and sitting next to his bag are his cookies. They had purchased some cookies also. He speculated, there was conjecture, and he assumed. Well, in Lexington County, in South Carolina, in the United States and in this courtroom, you cannot convict someone of speculation, conjecture and assumption.

As you heard the Solicitor talk a little bit about reasonable doubt, and the judge will charge you, James Patterson's not guilty. As he sits there scribbling furiously on that notepad, he's not guilty. It is the State's sole burden of proof to prove him guilty beyond a

reasonable doubt. It's the State's sole burden of proof to prove their case to each of you unanimously beyond a reasonable doubt. Mr. Bell doesn't tell you the fact that they don't get any fingerprints inside the business, that they never recover any of the jewelry off of James, that they never had any evidence that he's fenced it or sold it. $25,000 worth of jewelry. No evidence of where any of it goes. You're not gonna hear any of that. You know what you're gonna hear? You're gonna hear about an incomplete investigation. An investigation that is ripe with speculation, that is ripe with conjecture and assumption. You're gonna hear about that incomplete investigation and the things that they didn't do.

James Patterson is not guilty. He is not guilty of robbing K & M Jewelers. He is not guilty. Thank you.

THE COURT: Solicitor, call your first witness.

MR. BELL: Thank you, Your Honor. At this time, the State would call Mr. Frank Mancine to the stand.

FRANK MANCINE,

having been duly sworn, testified as follows:

THE CLERK: Once you're seated, state your full name; spelling your last on the record, please.

THE WITNESS: Frank Mancine, M-A-N-C-I-N-E.

MR. MADSEN: Judge, may we approach?

THE COURT: Yes, sir.

(Proceedings held at the bench; not reported.)

DIRECT EXAMINATION

BY MR. BELL:

Q. Good morning, Frank.

A. Good morning.

Q. Frank, where do you currently live?

A. I live in Irmo.

Q. And how long have you lived there?

A. Approximately seventeen years.

Q. What kind of work do you do for a living?

A. I'm a jeweler, sales.

Q. Where at?

A. K & M Jewelry.

Q. And who owns that jewelry store?

A. My mother.

Q. How long has she owned it?

A. Since '93. About twenty-two years, twenty-three years.

Q. And how long have you been involved with the business?

A. Since day one.

Q. In what capacity do you work there?

A. I'm a jeweler there. I do sales.

Q. Do you consider yourself knowledgeable about the products you sell?

A. I do.

Q. Do you keep up to date on the valuation of precious metals and things of that nature?
A. I do.
Q. Okay. Now, May 9, 2012, does anything stand out to you about that day?
A. It does.
Q. Frank, I'm gonna ask you now to walk us through briefly what happened on May 9th.
A. In the afternoon, we had two customers in the store. My mother was assisting with them and the gentleman came into the store wearing a suit and a dry-cleaning bag in his right hand.
Q. What color suit did he have on?
A. He had a dark suit. I believe it was black.
Q. Go ahead.
A. He came in and approached me in the front and asked to see some necklaces and I showed him a few. He basically just wanted to keep looking at some necklaces and eventually he pulled out a pistol.
Q. Now aside from wearing a dark suit, was there anything else that stands out about his description?
A. Yeah, he had a hat on and sunglasses.
Q. Now after speaking to him about the necklaces and him pulling that firearm, what happened next?
A. He pulled out a bag, a dark bag, a black bag, I

believe, and he started yelling to fill it up.
Q. Did you?
A. I did not. He then threw it at one of the customers and she was a pregnant lady, which I told him that she's pregnant, and he yelled back he didn't care.
Q. I want to stop you right there. So after he threw the bag over there, did he ultimately recover the bag?
A. He did.
Q. And who ended up filling it?
A. He filled most of it up.
Q. How did he go about doing that?
A. He leaned over the showcase and starting grabbing them. First, he grabbed a tray, filled it up, and then he started grabbing necklaces.
Q. And other than necklaces, was there any other kind of items he was pulling out of that box?
A. Bracelets.
Q. And what kind of metal were those made of?
A. They're all ten karat gold.
Q. Is that a valuable metal?
A. It is.
Q. Once he stuffed the sack, what happened next?
A. He started to exit and turned around and I reached for my pistol and I shot at him.
Q. Now the individual that came into your store that day

and pulled the gun on you, prior to that day had you ever seen him before?

A. I had.

Q. And when did you seen him before?

A. Two days prior.

Q. How do you know it was the same person?

A. He had the same outfit on.

Q. And when you say the same outfit, could you be a little bit more specific?

A. He had the sunglasses, the fedora hat, the dry-cleaning bag.

Q. Now tell us a little bit about how that contact went a few days prior.

A. It was closing time and I was near the entrance by the door. He walked in and I asked him if I could help him. He basically said he just wanted to look around and he said that -- I tried to assist him a little bit and then he walked out.

Q. So you had -- did you have a conversation with him that day?

A. I did.

Q. Did he ultimately buy anything?

A. No.

Q. On that particular day, did he leave without any sort of problem?

A. That day he just left. No problem.
Q. Is your store equipped with a surveillance camera?
A. It is.
Q. How many cameras did you have at the time?
A. I believe it was four.
Q. Back in 2012?
A. I -- I believe so.
Q. Were all of them functioning at the time?
A. I can't recall.
Q. Were you able to provide any of that surveillance to law enforcement?
A. We were.
Q. And the camera that you had mounted in 2012, where was it mounted?
A. Right facing the front. The front of the store -- or the back of the store facing front.
Q. And is it mounted on a table?
A. It's mounted on the wall.
Q. Is it lower on the wall or higher on the wall?
A. It's higher on the wall.
Q. What kind of angle is that camera facing?
A. Slightly downward.
Q. Did you have a better face-to-face view than the camera?
A. I did.

MR. BELL: Permission to approach the witness, Your Honor?

THE COURT: Yes, sir.

BY MR. BELL:

Q. Frank, I'm handing you what is marked for ID as State's 6 and 7. Do you recognize those two CDs?

A. I do.

Q. And what are the contents of those CDs?

A. The surveillance of the two -- of the days.

Q. And which days are you speaking of? Do you recall the dates?

A. It should be for the day of May 7th and May 9th.

Q. Okay. And how do you know that you've viewed the contents of those two CDs?

A. I initialled them.

Q. Okay. And do you see your initials present there?

A. I do.

Q. And what are those initials?

A. F-M.

Q. Did you provide these to law enforcement?

A. I did.

MR. BELL: Your Honor, at this time the State would move State's 6 and 7 into evidence.

MR. MADSEN: No objection.

THE COURT: Without objection.

(State's Exhibit Number 6 and 7, video surveillance CDs, were admitted into evidence.)

MR. BELL: Permission to publish, Your Honor?

THE COURT: Yes, sir.

(Whereupon, State's Exhibit 6 was played for the Court and jury beginning at 10:26 AM.)

BY MR. BELL:

Q. Frank, are you able to make out that video okay?

A. Yes, sir.

Q. What date is this particular surveillance video from?

A. It looks to be May 9th.

Q. And is that the date that the incident occurred?

A. Yes, sir.

MR. BELL: Okay. Your Honor, I'm gonna try to restart this. It doesn't appear to be playing correctly.

(State's Exhibit Number 6 was played for the Court and the jury beginning at 10:28 AM.)

BY MR. BELL:

Q. Now I want to pause for a moment, Frank. I'm gonna back it up a couple of seconds. Frank, the individual in the top left of this video, who is that?

A. That's the female customer that we had in the store.

Q. And the gentleman who just walked into the store, who is that?

A. He's the -- the armed robber.

Q. Now is that outfit the outfit you're referring to earlier on the incident date?
A. Yes.
Q. Is that the same kind of hat you're referring to?
A. Yes.
Q. And on the bottom right of the screen there's an individual's shoulder we can kind of see. Who is that?
A. That is me.
Q. Okay. What's occurring at that point in time?
A. He's just coming in to look and then was getting ready to ask me for some necklaces to see.
Q. Did you have some conversation with him at that point?
A. I did.
Q. Are you speaking with him while this is going on?
A. Yes, sir.
Q. What are you doing right now?
A. He asked to see a couple of chains.
Q. Are those counters locked?
A. They are.
Q. Did you have to unlock it prior to opening it?
A. I did.
Q. Are you talking to him face-to-face right here?
A. I believe so.
Q. Even though the camera angle is high, from your advantage point were you able to see his face?

A. Yes.
Q. Were you able to make out features?
A. Yes.
Q. What kind of features about him stood out to you?
A. His -- his nose, his mouth, his lips.
Q. When you say lips, what do you mean?
A. He had prominent lips.
Q. Frank, when he threw the bag, who was he throwing that bag at?
A. I believe he was throwing it to the female.
Q. What kind of items is he dumping into that bag?
A. Gold necklaces and bracelets.
Q. Frank, who is -- who is the individual on the bottom of the screen that keeps coming into frame?
A. That's my mother.
Q. Now, Frank, when he turns around and then suddenly crouches down and bolts, what is occurring at that point in time?
A. I shot at him.
Q. Did you strike him?
A. I did not.
Q. Was he aware you shot at him?
A. I believe he did.
Q. Who is that in the top right?
A. That is me.

Q. And what are you attempting to do right there?
A. Un-jam the gun.
Q. Did he ever come back to the store on that day?
A. He did not.
Q. At this time, Frank, I want to show you State's Number 7, which you identified as being from May 7th. Is that video from your store?
A. It is.
Q. And what day is that?
A. I believe it was Monday, May 7th.
(Whereupon, State's Exhibit Number 7 was played for the Court and jury at 10:35 AM.)
BY MR. BELL:
Q. Who is that in the top left of the picture?
A. That is me.
Q. What time of day is this?
A. It was closing time.
Q. Are you having any conversation while he's moseying around the store?
A. We are.
Q. What is occurring at this point in time?
A. Just conversing, asking him what he's interested in. He's just basically saying he was browsing.
Q. Are you looking at him while you're talking?
A. I am.

Q. Does he have anything on his face?
A. Yes.
Q. What is on his face?
A. The hat and sunglasses.
Q. Were you still able to make out facial features?
A. Yes, I was.
Q. What kind of facial features?
A. The nose and the mouth.
Q. Does anything stand out to you?
A. Yes.
Q. What?
A. His lips.
Q. Why?
A. They were prominent.
Q. Is there a dry-cleaner near your store?
A. Not that I know of.
Q. Did it strike you as unusual for someone to come in with dry-cleaning?
A. Yes.
Q. And what did you just do right there at the end of the video?
A. Closed. Flipped the closed sign.

MR. BELL: I beg the Court's indulgence.

BY MR. BELL:

Q. Frank, I want to show you a couple of pictures. I'm

handing you what's marked as State's 2, 3 and 4. Would you take a look at those? That first picture, what does that appear to be a picture from?

A. The first day that I saw him.

Q. One more time.

A. The first day that I saw him, May 7th.

Q. And do you recall the date?

A. Yes, May 7th.

Q. What was that picture extracted from?

A. Our video surveillance.

Q. Okay. And does that fairly and accurately represent what the video shows?

A. Yes.

Q. Now on to the next picture. What do the next two pictures appear to be from?

A. May 9th.

Q. And do those also fairly and accurately represent the surveillance video?

A. Yes.

MR. BELL: Your Honor, at this time the State would move State's 3, 4 and 2 into evidence.

MR. MADSEN: No objection.

THE COURT: Without objection, 2, 3, 4 into evidence.

(State's Exhibit Number 2, 3 and 4, photographs, were admitted into evidence.)

MR. BELL: Permission to publish, Your Honor?

THE COURT: Yes, sir.

MR. BELL: Thank you, Your Honor.

BY MR. BELL:

Q. Frank, once again, referring to State's 4, what date is this screen capture from?

A. May 9th.

Q. And the counter that is in between the two of you, are you aware of how wide your counters are?

A. I believe them to be twenty inches.

Q. And how much feet roughly is that?

A. Less than two.

Q. Did he appear to be leaning in towards you over the counter?

A. Yes.

Q. Was he potentially closer than twenty inches?

A. Yes.

Q. During this transaction, did you have an opportunity to take a good look at his face?

A. I did.

Q. The lighting in your store, what kind of lighting do you have?

A. We have spotlights above.

Q. Are there windows?

A. There are.

Q. Do you receive any sort of external lighting?
A. We do. Sunlight.
Q. How was the visibility overall in your store?
A. Inside it's good.
Q. Now I want to talk a moment about the items seen being taken from the counter in that video. You mentioned it was different kinds of items. What kind of metals was it?
A. It was mostly ten karat gold.
Q. And after the incident occurred, did you have to create an inventory of the items that you believed were taken?
A. We did.
Q. And what was the purpose of creating that inventory?
A. For insurance.
Q. Did you reduce that inventory to writing?
A. Yes.
(State's Exhibit Number 8 was marked for identification.)
BY MR. BELL:
Q. Frank, I'm handing you what's marked for ID as State's 8. What is that document?
A. It's an inventory of the items.
Q. Is that the inventory that you created?
A. Yes.
Q. And is that an original?

A. This copy here?
Q. Correct.
A. As in the one that we wrote?
Q. Right.
A. It's a copy of the original.
Q. Does that copy fairly and accurately represent the original as you created it?
A. Yes.
Q. Ultimately, did you total up everything included on this inventory list?
A. We did.
Q. And do you recall what the total of the inventory came out to be?
A. Approximately twenty-nine thousand.
Q. And were you ultimately reimbursed any amount by insurance?
A. For most of it we were.
Q. How much were you ultimately reimbursed?
A. Twenty-four thousand.
Q. Why is the value less than twenty-nine thousand?
A. We had the deductible and we -- also the gold -- the value of gold went up and our insurance wasn't updated.

MR. MADSEN: No objection.

THE COURT: Without objection.

BY MR. BELL:

Q. Frank, one quick clarification. The prices that you list on each section of this inventory sheet, is that what's called a retail or a wholesale value?

A. Can I see that again?

Q. Certainly. Referring to State's 8.

A. It's -- the price I told you was the wholesale value. The price that's on here is the resale.

Q. Okay. And what is the difference between those two -- those two numbers?

A. As far as the total?

Q. What do they mean?

A. Profit.

MR. BELL: Your Honor, at this time the State would move State's 8 into evidence.

THE COURT: Without objection.

(State's Exhibit Number 8, an inventory, was admitted into evidence.)

BY MR. BELL:

Q. Frank, how many years have you been in the jewelry business?

A. About -- approximately twenty-three years.

Q. And is gold hard to move?

A. No.

Q. Could you explain what you mean?

A. As far as selling it?

Q. Yes, sir.
A. People barter with it, people -- they can sell it at the flea markets, sell it online, mail-in orders.
Q. In 2012, did you have to transfer paperwork or titles or ownership documents to trade gold?
A. No.
Q. Now once the individual left your store, was that the end of the incident?
A. No.
Q. Tell us about what happened starting with as he was leaving your store on May 9th.
A. From when I left?
Q. As he was leaving your store.
A. I -- I pursued him. I ran out the door and I believe I saw his hat on the ground. That's the direction I went.
Q. What direction -- walking out of your store, what direction did he go?
A. To the right.
Q. And did you see him go that direction?
A. I did.
Q. You went out and what did you see next?
A. I saw his hat.
Q. Did it appear to be the same hat he had on?
A. It did.
Q. Would you consider that a common hat?

A. No.
Q. As you ran past the hat, what happened next?
A. I ran around the building and I was running up the street and I noticed him in the van.
Q. And where did you see this van?
A. On the corner up the street. I don't know the names of the corner.
Q. Were you able to make out the occupant of the vehicle?
A. Yes.
Q. Did you have any doubt whatsoever --
A. No.
Q. -- who was in the vehicle? How many occupants were in the vehicle?
A. Just him.
Q. And do you recall what kind of van it was?
A. It looked like a minivan.
Q. Okay. Do you recall if it was new or old?
A. It looked like an older model.
Q. Do you recall what kind of color it was?
A. I believe I said it was a light color; silver, gray, grayish.
Q. What happened after you saw the van?
A. I -- he pulled out really fast and I was running up the street and I shot the back window.
Q. And when you say the back window, were you referring

to the rear hatch?
A. Correct.
Q. What happened when you shot the window?
A. He -- he swerved and then kept going.
Q. What happened to the window itself?
A. It shattered.
Q. Did it shatter incomplete or completely?
A. Completely.
Q. After firing the shot, do you continue to pursue?
A. I don't recall.
Q. Where did you end up going after the shot that you just took?
A. Back to the store.
Q. And did you ultimately make contact with law enforcement?
A. Yes.
Q. How long did it take them to arrive roughly?
A. I can't be exact, but I would say less than five minutes.
Q. Do you recall who you made contact with?
A. No.
Q. Do you recall what agency you were speaking with?
A. No.
Q. Were they law enforcement?
A. Yes.

Q. Now when they first arrived -- when they first arrived, did you end up giving them an initial description?
A. I believe I did.
Q. And do you recall what your initial description of the suspect was?
A. I believe I do.
Q. And what was it?
A. I believe it was five-five, approximately 150 pounds.
Q. Did you give any other descriptive details?
A. Hat, sunglasses.
Q. Now as to the description, what did you say the height was?
A. Approximately five-five.
Q. Is that accurate?
A. Yes.
Q. What was the weight?
A. Approximately 150.
Q. And when you say 150, what kind of measurement is that?
A. Pounds.
Q. Is that accurate?
A. Yes.
Q. What ethnicity?
A. Black.
Q. And you said that was how long after the incident

occurred when you gave that description?
A. I can't recall.
Q. Was it shortly thereafter or a long time after?
A. No, it was fairly soon thereafter.
Q. Was it fresh in your memory?
A. Yes.
Q. Did you tell them about what kind of clothing he had on?
A. That he had on?
Q. Correct.
A. Yes.
Q. And what did you describe to them?
A. A hat, sunglasses, a suit, with a dry-cleaning bag.
Q. Now do you recall the color of the hat?
A. I believe it was dark, black.
Q. Now --

MR. BELL: I beg the Court's indulgence.

(State's Exhibit Number 9 was marked for identification.)

BY MR. BELL:
Q. Frank, I'm handing you what's marked for ID as State's 9. I'd like you to extract the item from that bag, but please don't hold it up, try to keep it down at this time.
A. Pull it out of the bag?

Q. Yes, sir.
A. Can I rip the tape?
Q. Yes, sir. Would you, please, identify that item.
A. It looks like a hat.
Q. Does it appear to be the same one that you saw on the individual?
A. It looks like it.
Q. Does it also appear to be the same one seen on the sidewalk after the incident?
A. Yes.
Q. And what color does that appear to be?
A. It's black.
Q. Referring, again, to State's -- first State's 2 -- referring to State's 2, does the color of the hat in those three photos, State's 2, 3 and 4, appear to be the same color as what's in front of you?
A. It's lighter in the video, but it is black.
Q. And are you certain that the hat sitting in front of you is the one that you saw on the head of the suspect?
A. Yes.
Q. So, once again, Frank, why is it that in the surveillance video the hat appears to be a different color?
A. From the light.
Q. And what kind of lighting, again, do you have in the jewelry store?

A. We have the overhead spotlights coming down.
Q. Is that a bright light source?
A. It is.
Q. If you would, please, put that hat back inside the bag.
A. (Witness complies.)
Q. Were you ever contacted again after providing a description to law enforcement and telling them what happened? Did law enforcement ever contact you again?
A. They have.
Q. And what was the purpose of the next time they contacted you?
A. They wanted me to look -- look at a lineup.
Q. And did you agree to do that?
A. Yes.
Q. When did that take place?
A. I believe it was in November.
Q. By then did you have any prior contact with law enforcement about who was gonna be in the lineup?
A. No.
Q. And where did the lineup take place?
A. At our lo -- at our store.
Q. I'm handing you what's marked as State's 1. Would you, please, identify that document.
MR. MADSEN: Judge, I would renew my in limine

motion.

THE COURT: All right. Overruled. Go ahead.

THE WITNESS: It's the six picture photo lineup that they brought.

BY MR. BELL:

Q. And does that appear to be the same photo lineup that you saw on that day?

A. Yes.

MR. BELL: Your Honor, at this time we would move State's 1 into evidence.

MR. MADSEN: Judge, I've got an objection at this point in time. I don't think that a proper foundation has been laid.

THE COURT: All right. Mark it for identification.

MR. BELL: Yes, sir. Marked as State's 1 for ID purposes at this time.

BY MR. BELL:

Q. Now when they handed you the document, how many individuals were in it?

A. Six.

Q. And how did they present the document to you?

A. They laid it on top of the showcase.

Q. Did they hold it up for you?

A. No.

Q. How was it laid on the showcase?

A. Just flat in front of me.
Q. And did they hover over you at the time?
A. No.
Q. Did they make any sort of gestures or suggestions as to who you should pick?
A. No.
Q. Did you have any idea whatsoever as to who was supposed to be in the lineup?
A. No.
Q. How long did it take you to make a selection from the lineup?
A. I would say a few seconds.
Q. And what selection on that lineup did you choose?
A. Number three.
Q. And how did you notate that that was your selection?
A. I circled it and initialled it.
Q. And are your initials present?
A. Yes.
Q. What are those initials?
A. F-M.
Q. The pen markings around number three, all of those markings belong to who?
A. Me.
Q. And upon making that selection, what did you tell law enforcement?

A. He was the guy that robbed us.
Q. And, once again, Frank, during your initial description, did you give them an age range that you believed the suspect was?
A. I did. I believed it was around forty, mid forties.
Q. When you looked at that photo lineup, was there any doubt that you had selected the person out who had robbed you?
A. Now doubt.

MR. MADSEN: Objection, leading, Your Honor.

THE COURT: Overruled.

BY MR. BELL:
Q. Frank, backing up to the incident itself on May 9th, after he drew that gun on you and was waving it around, who all did he point it at?
A. Everybody.
Q. And when you say everybody, how many people is that?
A. A total of four.
Q. Does that include yourself?
A. Yes.
Q. And while he's waving the gun around, what is he saying, if anything, at all?
A. He's yelling at everybody to fill it up basically.
Q. And is there anything else that he's yelling or saying or demanding?

A. I can't recall.
Q. And when he's waving that firearm around and demanding that people help him, what was the reaction of your customers, your mother, yourself?
A. The female customer was terrified and actually her boyfriend was kind of shocked, he couldn't move.
Q. What did the female customer do during the incident?
A. She ran behind the showcase to hide.
Q. Did she stay standing?
A. No, she was lying down.
Q. Is that reflected in the surveillance video we watched earlier?
A. I believe it does.
Q. When the gun was pulled on you, how were you feeling?
A. Pretty shocked, pretty -- not well.
Q. What does "not well" mean?
A. I felt a little flushed, a little anxiety, I guess.
Q. Have you ever heard of what's commonly referred to as an adrenaline rush?
A. I have.
Q. And did you feel an adrenaline rush at all on May 9th?
A. I think I did.
Q. And when did you feel it?
A. When the gun was pulled out.
Q. Did that affect your ability to perceive what was

happening to you?

A. No.

Q. Did that blind you or affect your vision?

A. No.

Q. Do you wear corrective lenses?

A. I do.

Q. And were you wearing those corrective lenses when all of this occurred?

A. I was.

Q. Are you sure of that?

A. Yes.

Q. Do you feel that the shock of having a gun pointed at you affected your judgment at all?

A. I don't believe it did.

Q. Finally, Frank, the man who robbed you at gunpoint, do you see him today?

A. I do.

Q. Where is he seated?

A. Sitting right over there.

Q. Can you tell me what color shirt?

A. In the white shirt.

Q. Do you have any doubt in your mind?

A. No.

MR. BELL: Please answer any questions the defense may have.

CROSS-EXAMINATION

BY MR. MADSEN:

Q. How are you doing this morning, Mr. Mancine?

A. All right.

Q. So you've worked at K & M for over twenty years, correct?

A. Correct.

Q. And you had told Mr. Bell that the perpetrator -- that you believe he came in a couple of days before on the 7th?

A. True.

Q. Near closing time?

A. Correct.

Q. About how long was he in the store?

A. A couple of minutes.

Q. A couple of minutes. Would you be surprised that it was fifty seconds, under a minute?

A. I wouldn't be surprised.

Q. And was there anyone else in the store at that point in time?

A. Yes.

Q. Who else?

A. My mother.

Q. No customers?

A. No customers.

Q. Did you see what -- the individual, when they came in,

did you see where they came from?
A. Yes.
Q. Where did they come from?
A. To the right of the store.
Q. And what were you doing when they came in?
A. I was cleaning the showcases.
Q. Glass?
A. Glass, yes.
Q. Do you do a lot of that?
A. I do.
Q. As a jewelry store with the cases, you try to keep those clean, right?
A. For the most part, yes.
Q. Do you do that multiple times a day?
A. Probably two or three times a day.
Q. And so on the video I think we see you spraying them down and, I guess, wiping them with a towel or a paper towel?
A. Correct.
Q. And the individual when they came in, did you see what they were driving?
A. No.
Q. And what was the individual wearing?
A. He had it looked like a suit-style shirt, pants, hat, sunglasses.

Q. And did you notice any type of facial hair?
A. I don't recall.
Q. How about on the 9th? What were you doing when the individual walked in?
A. I believe I was just standing there. I don't recall.
Q. You don't recall what you were doing?
A. Not as far as the actual time that he came in.
Q. Were you assisting the -- you said something about, I guess, a couple of customers in there, correct?
A. Correct.
Q. Were you assisting them or doing anything on their behalf?
A. No.
Q. Your mother was doing that?
A. Yes.
Q. And so you just don't recall what you were doing prior to the individual coming in?
A. Correct.
Q. Did you see the individual actually come in or did you just kind of notice him afterwards?
A. I don't recall.
Q. How long was the individual in the store total; do you recall?
A. To be exact, I don't know.
Q. You testified at a previous hearing about ten minutes.

A. About ten minutes.
Q. Would you be surprised to know that the video is only three minutes?
A. It wouldn't surprise me.
Q. A big difference?
A. I don't keep track of time of every little thing.
Q. Sure. And so the individual comes in and they're wearing sunglasses?
A. Correct.
Q. Large sunglasses?
A. I don't know what's large to you might be large.
Q. Well, do you remember when you told the officer that the individual was five-five, 150 pounds, that you also told them that they were wearing large sunglasses?
A. I don't recall.
Q. You had said something about prominent or large lips. Did you tell that individual that the person had large lips?
A. I don't recall.
Q. So your description was black male, five foot five, 150 pounds, and that's it?
A. At that time?
Q. Yes, sir.
A. He had a suit on, a laundry bag.
Q. Well, I'm talking about physical features.

A. At that time that sounds --
Q. Right when it was fresh in your mind?
A. Uh-huh.
Q. And you actually speak with another investigator an hour or two later, I think, with your attorney, correct?
A. Yes.
Q. Is that done at your shop or is that done at the West Columbia Police Department?
A. It was at the store.
Q. And you gave an audio statement then, didn't you?
A. I believe I did.
Q. And, like I said, your attorney Adrian Falgione was there with you?
A. Correct.
Q. Did you call him right after it happened --
A. I did.
Q. -- and have him come out?
A. Yes. He's a family friend.
Q. And you told Investigator Wade then that the individual was five-seven to five-eight, I think 170 pounds, but still a black male, right?
A. I don't remember that.
Q. You don't remember telling him that?
A. I don't -- I don't remember the weight.
Q. Do you remember saying anything about prominent or

large lips?

A. I don't recall that.

Q. You can't see the eyes --

A. Correct.

Q. -- because the perpetrator has sunglasses on, correct?

A. Correct.

Q. Obscures a pretty large portion of the face?

A. Just the eyes.

Q. Do you remember that -- did that individual have any facial hair?

A. I don't recall.

Q. Anything you noticed about the mouth with the teeth?

A. No.

Q. Now when the individual pulls the gun, he pulls it from his left side, correct?

A. I believe so.

Q. And he pulls it and he's holding it with his left hand?

A. Correct.

Q. And where's the bag come from?

A. From -- I don't remember. I believe it could have been underneath the dry-cleaning bag, I believe.

Q. But you didn't see the bag come out?

A. I don't recall.

Q. And when that comes out though, you're pretty close to

that individual, right?
A. Right.
Q. A couple of feet?
A. Probably.
Q. And you don't remember what it came -- or when it came out?
A. I was too busy looking at the gun.
Q. I got you. I mean, having a gun put in your face is a scary thing, isn't it?
A. It is.
Q. You got upset and I think you even told Investigator Wade that you, you know, just kind of felt lightheaded?
A. Correct.
Q. Understandable. It's scary when something like that happens. Have you had to go through something like that before?
A. I actually have.
Q. You don't get used to something like that, do you?
A. No, you don't.
Q. And so the fellow throws the bag at you or your mother or --
A. The female customer.
Q. And what does she do with it?
A. She didn't touch it.
Q. So it just lands on the ground?

A. Correct.
Q. How does he end up back with it, your mother end up back with it, you end up back with it?
A. I don't recall.
Q. So at some point in time you don't take the cases out and take that jewelry, I guess, the ten karat necklaces out and put them in the bag for him, do you?
A. I do not.
Q. He actually does that at some point in time, doesn't he?
A. Correct.
Q. He grabs those -- I guess you keep them like on jewelry trays?
A. Trays, yes.
Q. I'm assuming that that's probably so that you can kind of take them in at night and put them in a safe or something along those lines to keep them secure?
A. Correct.
Q. So you set them out and you display them or have them displayed and then you put those out every morning and then take those back up at night?
A. Yes.
Q. And I think the video shows the fellow kind of leaning over top and grabbing those things and I think he actually even grabs that jewelry tray because one of them ends up on

the floor, doesn't it?
A. I believe it did.
Q. So you don't end up putting anything in that bag. Your mother ends up putting some stuff in the bag?
A. I believe -- I believe so.
Q. You say you believe so?
A. I'm not -- I'm not a hundred percent.
Q. Okay. Fair enough. And the individual -- that whole area is just ten karat necklaces?
A. Yes.
Q. And if I understand correctly, you've got ten karat, then you go up to, what is it, fourteen karat?
A. Fourteen.
Q. And then is eighteen karat pure gold or at least pretty close to pure gold?
A. It's close.
Q. And what's in State's Exhibit 8, it lists kind of, I guess, the different descriptions of necklaces, the size, which I'm assuming how long it is?
A. Length, yes.
Q. And then the weight and then it lists the resale value?
A. Correct.
Q. In other words, that would be what if I came in, this top one, I would pay you thirteen hundred and five dollars

for?
A. Correct.
Q. But there's obviously -- you don't pay that amount for that?
A. No.
Q. Do you own all this jewelry or are you kind of -- is it almost kind of an consignment or is that inventory that you purchased?
A. No, it's owned. It purchased.
Q. So if this is the -- when you submit it for insurance, do you submit to them the retail or the wholesale?
A. The wholesale.
Q. So this isn't what you would have submitted to insurance because they wouldn't have accepted --
A. No, they did because they just want the weight and we gave them the value.
Q. Okay. What do you mean you gave them the value?
A. The value of the gold at that time.
Q. I got you. Okay.
A. They don't -- they don't care.
Q. They don't care about this, so they just ignore that point, they're just looking at this?
A. Correct.
Q. And to figure out this inventory, don't you have to -- do you have something that you have to check throughout

your entire store to see hey, what's missing because you don't know each and every one? Because out of those trays there's still some of the necklaces left, right?

A. Correct.

Q. So the fellow's got the gun in his left hand, he ends up getting some of that jewelry and he's taking off and you end up grabbing your gun?

A. Correct.

Q. You've got a room, I guess, that's kind of off the back part of the main area that's kind of a place where, I think, you repair jewelry?

A. Correct.

Q. And you kept the gun back in there?

A. Correct.

Q. And you kept it loaded?

A. Yes.

Q. So once he starts to turn and goes away, you've got to turn around, you've got to go back into that room, you've got to grab the gun?

A. I was already pretty much back there.

Q. So had you backed up while he was --

A. Correct.

Q. While he's grabbing stuff, you had kind of backed up towards the room?

A. Correct.

Q. And so he starts to take off and you fire a shot at him?

A. He turned around and I fired a shot at him facing me.

Q. And he takes off running?

A. Then he takes off running.

Q. And you know he goes to your right because you can see it through all those windows?

A. Correct.

Q. And K & M Jewelry is -- is it K & M Jewelry or Jewelers?

A. Jewelry.

Q. Okay. I just wanted to make sure I got it right. K & M Jewelry is in kind of a strip mall, right?

A. Correct.

Q. And so you have businesses to the left and you have businesses to the right?

A. Correct.

Q. And what is to your right? Because you're kind of in the middle of that strip mall.

A. To my immediate right, I believe, was an empty -- empty store at that time.

Q. And how about down past that?

A. I believe it was a hair salon.

Q. And then down past that?

A. There's, I believe, a post office.

Q. And then to your left is there a Subway maybe?
A. Subway.
Q. Now I think there's a law office, but what was on the corner to your left; do you recall?
A. It was empty.
Q. It was empty. And so all of those stores kind of have the same as your jewelry store, they've got those big windows that let a ton of light in?
A. Correct.
Q. And so the individual takes off and starts to go to the right. You're in the back center when you fire, correct?
A. Correct.
Q. So if this is kind of the middle of the store and your door is kind of right here. When you fire you're almost kind of straight on?
A. Correct.
Q. And you fire one shot?
A. Correct.
Q. And then the gun jams?
A. Correct.
Q. It's an automatic?
A. Yes. Semiautomatic.
Q. Semiautomatic. So generally when you fire a gun like that, it kind of re-chambers itself, doesn't it?

A. Correct.
Q. And for some reason this time it doesn't do that. I guess some bullets get stuck?
A. Correct.
Q. And we kind of see you come around and you've got a -- the setup is kind of like a horseshoe and you can -- there's a place where you can come back and walk through the center of your showcases, correct?
A. Correct.
Q. I think the video shows you kind of coming out -- let me show you State's Exhibit 4. You kind of come out -- there's a place to go over there?
A. Correct.
Q. Because you've got bathrooms back on that side, don't you?
A. One bathroom.
Q. And the video kind of shows you coming around and sees you kind of trying to un-jam the gun?
A. Correct.
Q. You eventually get it un-jammed?
A. Yes.
Q. And you end up coming out of the store and you saw the fellow go to the right so you go to the right?
A. Correct.
Q. When you come down to the right, when you get past the

store is, I believe, a road that's probably Shuler Street?
A. Okay.
Q. And you make a right on that?
A. Yes.
Q. And you see a van that's pulling out from some business or some --
A. It wasn't pulling out at the time.
Q. Okay. It was just sitting there?
A. It was -- I saw him in the van not moving.
Q. You saw him in the van and it was just stationary?
A. Correct.
Q. And then as soon as you see it, it pulls out?
A. Basically when I'm running up the road, I noticed that he -- he pulled out violently.
Q. And you fire a shot then and it shatters that whole back window?
A. Correct.
Q. When you see and shoot at that van, do you see anyone else out on the street?
A. No, I was just focussed on him.
Q. How about when the fellow's leaving the business and you shoot? When I'm looking straight out there, what am I looking at? If I'm standing in the front of your business, what is out in front of it?
A. A parking lot.

Q. There's a parking lot there and then, I think, once you get past the parking lot there's Meeting Street that's a four-lane highway that runs kind of perpendicular to your business?

A. Uh-huh.

Q. Now you indicate you were shown a lineup, but that was six months later, correct?

A. Correct.

Q. Do you remember the actual date that you were shown it?

A. No, I don't.

Q. And you said that they showed you the lineup. Who is "they"?

A. I believe they were West Columbia police officers or investigators.

Q. How many?

A. I believe two, but I can't be exact.

Q. So do they -- they don't do that at their office, they do that at your store?

A. They did come by the store, yes.

Q. So you've got two officers that come to your store and they kind of throw a lineup down and say take a look at this and see what you can tell us?

A. Yes.

Q. Were you ever shown besides that one any other

lineups?
A. No.
Q. Just a few -- couple more questions. You had indicated that when you shot that you didn't hit the fellow. How do you know that?
A. When I first shot?
Q. Yeah.
A. He kept running.
Q. And so once you un-jammed the gun and you come out and you run around, the next time you see the fellow he's in the van?
A. Correct.

MR. MADSEN: That's all the questions I have.

THE COURT: Redirect?

MR. BELL: Thank you, Your Honor.

REDIRECT EXAMINATION

BY MR. BELL:
Q. Frank, you testified a moment ago that the only descriptors you gave to law enforcement were height, weight and clothing. Is that what you told Mr. Madsen?
A. I believe so.
Q. Do you recall us also speaking about an age range that you provided?
A. Yes.
Q. And did you actually provide an age range to law

enforcement when they initially had contact with you?
A. I did.
Q. And, once again, what was that age range?
A. I believe it was mid forties.
Q. In your almost two decades as a jeweler, are you familiar with the methods of valuation of precious metals?
A. I am.
Q. And can you tell us a little bit about how a jeweler goes about staying up to date on something like gold prices?
A. The websites they have or places that we order will have the current prices shown for that date.

MR. MADSEN: Judge, I don't believe that this is subject to redirect.

THE COURT: Well, I'll allow a little bit of it. I agree with you, but I'm gonna give him some leeway trying to prove something.

MR. MADSEN: Thank you, Your Honor.

BY MR. BELL:
Q. And what kind of websites are you talking about that you use?
A. Mostly refineries or jewelers that we sell or buy from.
Q. And is there any particular site that is relied upon by jewelers to look up gold on certain dates at certain

times?
A. Yeah, I think most of them use Kitco.
Q. And is that a website utilized across the nation?
A. It is.
Q. Is it considered to be reliable?
A. Yes.
MR. MADSEN: Judge, I renew my objection.
THE COURT: I'll sustain the objection.
MR. BELL: Your Honor, if I may argue on the point?
THE COURT: I sustained the objection. Move on.
BY MR. BELL:
Q. Did the insurance company dispute the values that you provided them for reimbursement?
A. No.
Q. And the value that you provided them was what amount?
A. I believe it was twenty-nine thousand.
Q. And ultimately the insurance paid you based on your claim how much?
A. Twenty-four thousand.
Q. Would they have paid you that amount if they didn't believe your claim was accurate?
A. No, they wouldn't have paid it.
Q. You told Mr. Madsen you don't get used to something like that, referring to being robbed. Is that because being robbed stands out of the ordinary?

A. Yes.

Q. Do you tend to remember things that are out of the ordinary?

A. I try to, yes.

MR. BELL: No further questions.

MR. MADSEN: No recross.

THE COURT: All right. You may come down. Thank you very much.

(Witness excused.)

THE COURT: All right. Ladies and gentlemen of the jury, we're gonna take a short break at this time and let you go to the jury room. Do not discuss the case amongst yourself while you're in the jury room. We'll take about a ten minute break, a morning break.

(Whereupon, the jury retires to the jury room at 11:20 AM.)

THE COURT: All right. We'll stand at ease for about ten minutes.

(Recess taken.)

(State's Exhibit Number 10 through 14 were marked for dentification.)

BAILIFF: All rise. Court's now in session.

THE COURT: All right. Be seated. Thank you. Is the State ready to proceed?

MS. MAYES: Yes, sir, Your Honor.

THE COURT: Mr. Madsen, I understand you have an objection for the record?

MR. MADSEN: Yes, sir, Your Honor. I made an objection and we had had a sidebar and then after the openings were done we had approached. Also, Your Honor, I had an objection to Your Honor's initial statements to the jury, and obviously with all due represent I'm not trying to offend the Court, but the Court made mention a few times about the finding of the truth in your initial charge to the jury. I worry, Your Honor, that under State versus Daniels, which is 401 South Carolina 251, that when the Court's charging the jury that a trial is basically the finding of the truth that that is impermissibly shifting the burden. Generally, as we all know, it's the State's burden of proof to prove a case beyond a reasonable doubt. I gave your clerk the cite to the Daniels case where they had indicated in there that that is impermissible. That was in the context of the closing charge with the judge and it was found in Daniels to be a harmless error in that situation, but we do object to that, Your Honor, and don't believe that that is appropriate.

THE COURT: All right. Does the State have a position?

MS. MAYES: No position on that, Your Honor.

THE COURT: All right. Well, for the record, I

mentioned the search for truth one time and that was in my opening -- not even in my opening charge, it was a comment that the courtroom is a place of honor dedicated to the protection -- preservation of citizens' rights and talking about the attorneys appearing before you are to aid you in the search for the truth.

Now as you correctly point out, I've read the Daniels case, and that case deals with the charges to the jury. I didn't give any charge to the jury, I just made some opening remarks to them, which I agree you may interpret that as burden-shifting, I don't believe it to be that, and that the charge -- yeah, the charge in the Daniels case is much more specific about the search for truth and justice for all parties as an -- almost an afterthought to Judge Russo's charge. So I don't think that what I've done so far has in any way shifted the burden. I respectfully overrule your objection and let's proceed.

MR. MADSEN: Thank you, Your Honor.

THE COURT: Are you ready for the jury?

MR. MADSEN: Yes, sir.

MS. MAYES: Yes, sir, Your Honor.

THE COURT: Okay. Bring in the jury.

(Whereupon, the jury returns to the courtroom at 11:45 AM.)

THE COURT: All right. Solicitor, call your next

witness.

MR. BELL: Thank you, Your Honor. At this time the State would call Sergeant Ronald Fair to the stand.

RONALD FAIR,

having been duly sworn, testified as follows:

THE CLERK: Once you're seated, state your full name; spelling your last on the record, please.

THE WITNESS: It's Ronald Fair, F-A-I-R.

DIRECT EXAMINATION

BY MR. BELL:

Q. Sergeant, who are you employed by?

A. City of West Columbia.

Q. How long have you been with the City of West Columbia?

A. It will be eleven years in July.

Q. And in May of 2012, who had you been employed by?

A. City of West Columbia.

Q. And in what capacity?

A. As a patrol road supervisor, sergeant.

Q. Now do you recall having reason to respond to K & M Jewelers on May 9th of 2012?

A. I do.

Q. And what was the initial reason you were responding?

A. The initial reason was responding to an armed robbery.

Q. And do you recall what the address of that business is?

A. That's 507 Meeting Street.
Q. Is that a stand-alone building?
A. It is not.
Q. What kind of building is it?
A. It's a shopping center.
Q. Were there other open stores at the time?
A. There is.
Q. Sergeant, I'm showing you what is marked as State's 11. Can you recognize that photograph?
A. I can.
Q. What is that a photograph of?
A. That is the incident location; the shopping center at 507 Meeting Street.
Q. And does that aerial photograph fairly and accurately represent the area as it was in May of 2012?
A. It does.

MR. MADSEN: No objection.

MR. BELL: Your Honor, at this time the State would move State's 11.

THE COURT: Without objection?

MR. MADSEN: No objection.

THE COURT: Without objection.

(State's Exhibit Number 11, a photograph, was admitted into evidence.)

MR. BELL: Permission to publish?

THE COURT: Certainly.

MR. BELL: If I could ask the witness to step down.

(Whereupon, the witness steps down from the witness stand.)

BY MR. BELL:

Q. Sergeant, if you would come over here and hold the left side. If you would do me a favor and please indicate on that aerial photograph where K & M Jewelers is located.

A. It would be right in this area right here. This is the shopping center at 507 Meeting Street.

Q. And can you identify the street, the long-way street going perpendicular?

A. This is Meeting Street and this is Shuler Street.

Q. And if you'd please sit back down, sir.

(Whereupon, the witness returns to the witness stand.)

BY MR. BELL:

Q. And K & M Jewelers, what city is that located in?

A. It's in the city limits of West Columbia.

Q. And what county is that located in?

A. Lexington County.

Q. Is that within West Columbia's jurisdiction?

A. Yes, sir, it is.

Q. When you arrived, who else was on the scene?

A. I was the first one on-scene. There were four occupants inside the building; Mr. Mancine, Mrs. Mancine,

and a couple of other patrons of the business.

Q. How long did it take you to respond after receiving the call?

A. Probably less than a minute.

Q. And who did you make initial contact with?

A. Mr. Mancine.

Q. Do you recall what his demeanor was when you met with him?

A. He was pretty shooken up. He was probably scared would probably be the best description of him.

Q. Did you have a chance to have a conversation with him?

A. I did.

Q. And during that conversation, did he have trouble recalling facts or seeming unreliable to you?

A. No, his facts were pretty descriptive.

Q. And did he, in fact, provide you with a description of the suspect that robbed him?

A. He did.

Q. And do you recall the description that he gave you?

A. I do.

Q. And what was it?

MR. MADSEN: Objection, Your Honor. Hearsay.

THE COURT: Sustained.

BY MR. BELL:

Q. Did he ultimately tell you the entirety of what

happened?
A. He did.
Q. And did you have a chance to corroborate any of those facts?
A. I'm not understanding what you're asking me.
Q. Did you do any on-scene investigation that backed up the story he told you?
A. There was some on-scene investigation, yes.
Q. Did you see anything that stood out of the ordinary on the interior or exterior of the business?
A. On the exterior of the business there was.
Q. What was that?
A. A hat on the sidewalk.
Q. And did you collect that hat?
A. I did not.
Q. What did you do with it?
A. I had an officer stand by with the hat to secure the scene and the hat and then later it was collected by an investigator.
Q. And do you recall what officer you assigned to look over the hat?
A. It was Captain Morrison who volunteered to stand guard over that.
Q. And what was the purpose of having somebody watch over that hat?

A. So nobody would mess with it or move it or manipulate it.

Q. Now did you have a chance to look around the area and see if anything else backed up his story?

A. I did.

Q. And tell us about that.

A. I had walked with an investigator down Shuler Street, which is the street perpendicular to Meeting, and located glass that had shattered in the intersection of Center Street and Shuler Street.

Q. And what did you believe that glass to be?

A. The rear window to the suspect vehicle that fled the scene.

Q. Sergeant, I'm showing you what has been entered as State's 12. It's hard to see, but can you make out what this picture is?

A. That is a picture down the front of the shopping center toward Shuler Street.

MR. BELL: Your Honor, at this time the State would move 12, 13 and 14 into evidence.

MR. MADSEN: We don't have an objection.

THE COURT: Without objection.

(State's Exhibit Number 12 through 14, photographs, were admitted into evidence.)

BY MR. BELL:

Q. Once again, Sergeant, referring to State's 12, what are we looking at?
A. The sidewalk in front of the shopping center pointed toward Shuler Street.
Q. And what stands out in the photograph to you?
A. I can see an officer standing there, but I can't see anything else.
Q. Certainly. I'm handing you State's 12. Can you identify anything else in that picture?
A. I can. There's a hat on the sidewalk.
Q. And what is going on in that picture?
A. We've got investigators standing by and it's pretty much secured waiting on investigators to collect that evidence.
Q. Is that pretty much how you recall that scene looking that day?
A. I do.
Q. Referring to State's 13, what does that appear to be a picture of?
A. That is a hat with the Item A identified as evidence.
Q. And is that how you located the hat that day?
A. It is.
Q. Had you manipulated it in any way?
A. No, sir.
Q. What color did that hat appear to be to you on-scene?

A. Black.

Q. And referring to State's 14, can you make out anything in that picture?

A. That appears to be the intersection of Shuler and Center Street.

Q. And what is noticeable -- or notable about that -- that picture?

A. It looks like that's glass shards that's on the ground there.

Q. And would that match up with where you located the glass shards on that day?

A. Yes, sir.

Q. And that "G" marker, what is that?

A. The evidence marker that marks the evidence.

MR. BELL: Please answer any questions the defense may have.

CROSS-EXAMINATION

BY MR. MADSEN:

Q. So, Sergeant Fair, you get out there -- first you get dispatched to an armed robbery call?

A. Yes, sir.

Q. And you end up coming across that hat that they show in the picture?

A. Coming across which half are you --

Q. The hat that you have in --

A. Yes, sir, during the investigation I did come across the hat, yes, sir.
Q. That's what we're talking about.
A. I thought you said "half".
Q. Oh, half. I'm sorry. I mumble sometimes.
A. Yes, sir.
Q. Okay. That's the thing with the "A" on it. And then State's Exhibit 12, I guess that's the jewelry store here on the right?
A. Yes, sir.
Q. And so how far down is the hat from the entrance to that jewelry store?
A. If I had to guess in feet?
Q. Sure. That will work for me.
A. If I had to take a guess, ninety feet or so.
Q. So ninety feet down to the right?
A. Correct.
Q. And you said you get out there first. Who gets out there next?
A. Lieutenant Field was the second one on-scene with me.
Q. And were you a sergeant back then?
A. I was.
Q. And so you end up -- you told the Solicitor that you have -- you tell the captain to go stand with the hat?
A. I asked for somebody to stand; he volunteered.

Q. I was gonna say because ranking --
A. Yeah.
Q. You would have some guts to tell your captain what to do, correct?
A. Correct.
Q. But he decided that you're -- or you asked and he ended up standing out there with that hat?
A. Correct.
Q. Are you the one who calls in or puts out I guess what's called a BOLO --
A. Yes, sir.
Q. -- or "Be on the lookout"? So you take information and you kind of put on the radio hey, we're looking for an individual that matches this description?
A. Yes, sir.
Q. And the BOLO that you put out is going to be a van with a broken back window, a male, five foot five, black male, 150 pounds, early to mid forties, correct?
A. Correct.
Q. No other specific information about anything?
A. I believe at the time he was wearing a suit.
Q. A suit. But as far as facial features or anything, you don't put anything else like that in the BOLO that you called out, correct?
A. I -- I believe I added in that he had sunglasses.

Q. Had sunglasses? I think large sunglasses, right?
A. Yes, sir.
Q. And so besides that as far as any identifying physical or facial features, you would want to put that in there because five foot five, 150 pound black male in suit, that's not really anything unusual.
A. It would be if they were running down the street.
Q. Sure. Sure. But, I mean, as far as coming up with it, that's not an unusual physical description. A lot of people fit that description.
A. Could, yes, sir.
Q. Besides Lieutenant Fields and Captain Morrison, what other law enforcement officers come out there?
A. To the scene?
Q. To the scene.
A. We had Investigator Sully, Investigator Wade, I believe, was on-scene.
Q. Investigator Sully is James Sullivan here?
A. Yes, sir.
Q. Captain Wade?
A. Captain Wade.
Q. Who else?
A. There were a host of officers. I can't name every single one of them. At that time my corporal did come to the scene, but he was on perimeter. I had another officer

that was on perimeter.

Q. Who was your corporal who was on perimeter?

A. Corporal Hook.

Q. And then the -- who was the other officer that was also on perimeter?

A. Officer Tommy Todd.

Q. Tommy Todd?

A. Correct.

Q. And you had said that you had spoken to Mr. Mancine?

A. Uh-huh.

Q. Did you speak with anyone else?

A. I spoke with Mrs. Mancine briefly and I'd have to refer back to my report, if you wouldn't mind.

Q. Sure. I just want to know who you spoke with.

A. Yes, sir. A Mr. Warner and Ms. Knight. Those were the two individuals inside the incident location.

Q. Okay. So you spoke to all of those individuals, correct?

A. Correct.

Q. Did you speak with any -- anyone outside of the business?

A. I did not.

MR. MADSEN: That's all the questions I have.

THE COURT: Redirect?

MR. BELL: Thank you, Your Honor.

REDIRECT EXAMINATION

BY MR. BELL:

Q. Sergeant, Mr. Madsen was asking you about a BOLO you put out. What is a BOLO?

A. Be on the lookout.

Q. And what description did you put out in that BOLO?

A. It was a black male, five foot five, 150 pounds, wearing a suit, and originally I put out had a hat and large sunglasses.

Q. Do you recall if an age range was included in your BOLO?

A. I'm sorry?

Q. Was an age range included in your BOLO?

A. Yes, sir. It was forty to forty-five years of age.

Q. Would the information that you put in your BOLO match the figures on this board?

A. Yes, sir.

MR. BELL: No further questions, Your Honor.

MR. MADSEN: Nothing further.

THE COURT: All right, sir. You may come down. Thank you very much. May the witness be excused?

MR. MADSEN: Yes, sir.

THE COURT: Without objection.

(Witness excused.)

THE COURT: Next witness.

MR. BELL: Your Honor, at this time the State would call Captain Scott Morrison to the stand.

SCOTT MILES MORRISON,

having been duly sworn, testified as follows;

THE CLERK: Once you're seated, state your full name; spelling your last, please.

THE WITNESS: Scott Miles Morrison, M-O-R-R-I-S-O-N.

DIRECT EXAMINATION

BY MR. BELL:

Q. Captain, who are you employed by?

A. City of West Columbia Police Department.

Q. And how long have you been there?

A. A little over twenty-one years.

Q. And were you also employed by them around May of 2012?

A. Yes, I was.

Q. And in what capacity?

A. I was the captain over the patrol division.

Q. And do you recall on May 9th of 2012 having reason to respond to K & M Jewelers?

A. Yes, I do.

Q. And what was that reason?

A. There was an armed robbery at that location.

Q. Did you respond?

A. Yes, I did.

Q. Who was on-scene when you got there?

A. Sergeant Fair was on-scene and several other officers that were on that shift that day were on the scene already.
Q. When you came on-scene, what part did you take in the investigation?
A. When I first arrived, I just -- I was on the front of the business there. I'd been there for a few minutes, spoke with Investigator Sullivan. There was a hat laying there on the sidewalk. He asked if I could stand by with the hat and I did so for him at that time.
Q. While you were standing by the hat, did anybody manipulate or tamper with the hat?
A. No, sir, they did not.
Q. Did you manipulate the hat at all?
A. No, sir, I did not.
Q. Did you stand with the hat until it was collected?
A. Yes, sir.
Q. Captain, I'm showing you State's 12 and 13. Can you identify what is in State's 12?
A. Yes, sir. That is myself standing right there. That's the front of the location we're speaking about and that's the hat laying there on the sidewalk right there.
Q. And in 13?
A. That would be the hat laying on the ground just past where I'm standing, yes, sir.
Q. And what color did that hat appear to be?

A. It was dark in color.
Q. Can you describe any further?
A. No, sir. Just a dark in color hat.
Q. And no one tampered with it while you were on-scene?
A. No, sir, they did not.
Q. Was it collected in your presence?
A. Yes, sir.

MR. BELL: Please answer any questions Mr. Madsen may have for you.

THE WITNESS: Yes, sir.

CROSS-EXAMINATION

BY MR. MADSEN:

Q. Captain Morrison, how are you doing today?
A. I'm doing well. How are you?
Q. Good. So you get the call. How long does it take you to get out there?
A. Several minutes.
Q. Do you remember where you were at?
A. No, sir, I don't recall exactly where I was located at the time the call went out.
Q. So being captain on patrol, that basically means the officers that are in cruisers kind of going around West Columbia, that falls under you?
A. Yes, sir.
Q. How many officers is that?

A. On shift that day or total?
Q. How about both? How many is that on shift and how many is it total?
A. We have a total of thirty some odd officers on shift and that day there would have been anywhere from six to ten working depending on how many were there on other units.
Q. That falls right under your direct supervision?
A. Yes, sir. They did at the time, yes, sir.
Q. So you're not real sure where you were at, you get a call and you think that you're out there within several minutes. If you don't know where you're coming from, how do you know how long it takes after the call to get out there?
A. That was just my estimation at the time, sir.
Q. So just kind of an educated guess?
A. Yes, sir.
Q. But you don't specifically remember getting the call?
A. Exactly how long it took me to get there, no, sir. I don't know exactly to the second, no, sir.
Q. And when you get out there, I think you said that you're standing kind of around for several minutes and Investigator Sullivan asked you hey, could you stand with the hat?
A. Yes, sir.
Q. So did you interview any witnesses?

A. No, sir.
Q. Did you take any photographs?
A. No, sir.
Q. Your job was to stand with the hat?
A. At that time, yes, sir.

MR. MADSEN: That's all the questions I have.

THE COURT: Anything further?

MR. BELL: Very briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. BELL:

Q. Captain, are you trained in crime scene investigation forensics?
A. Yes. I've had crime scene classes, yes, sir.
Q. Did anybody else on-scene have more training in that category than you?
A. I -- yes, sir.
Q. Who was that?
A. Investigator Sullivan.
Q. Is that why he handled the investigation?
A. Yes, sir.

MR. BELL: No further questions.

RECROSS EXAMINATION

BY MR. MADSEN:

Q. How long had Investigator Sullivan been with your department?

A. At the time?
Q. Yes.
A. Sir, if I -- I would just be guessing. I'm not sure off the top of my head. I'd have to go back and look.
Q. He wasn't there when you started twenty-one years ago, was he?
A. No, sir, he was not.
Q. Not even close?
A. No, sir.

MR. MADSEN: That's all the question I have.

THE COURT: All right. You may come down. Thank you very much. May the witness be excused?

MS. MAYES: Yes, sir, Your Honor.

THE COURT: Without objection?

MR. MADSEN: Without objection.

(Witness excused.)

MS. MAYES: The State calls Jennifer Hubbard.

JENNIFER HUBBARD,

having been duly sworn, testified as follows:

THE CLERK: Once you're seated, state your full name, spelling your last, please.

THE WITNESS: My name is Jennifer Hubbard, H-U-B-B-A-R-D.

DIRECT EXAMINATION

BY MS. MAYES:

Q. All right. And, Ms. Hubbard, you're currently pregnant. Do you have any other children?

A. Yes, ma'am, I have two other children.

Q. Okay. And what are their current ages?

A. My daughter is ten and my son is thirteen.

Q. All right. Now I want to take you back to May of 2012. Where were you residing at that point in time?

A. I was here -- I was at [redacted] Shuler Street in West Columbia.

Q. All right. [redacted] Shuler Street in West Columbia. How close is that area of West Columbia, that neighborhood, to, say, The Riverwalk?

A. It's within walking distance. It used to take me maybe five minutes to walk to Riverwalk.

Q. Okay. And the Gervais Street bridge, for example?

A. Five, six minutes depending on, you know, if you could cross safely or not.

Q. Okay. And then that -- that main road after you cross from Columbia into West Columbia over the Gervais Street bridge, that main road, Meeting Street, are you familiar with that area?

A. Yes.

Q. Okay. And the residence that you used to reside at there at [redacted] Shuler Street, were you able to walk these areas on a regular basis?

A. Yes, ma'am, I did quite often.
Q. Now was there a bus stop in that area?
A. Yes, ma'am. It was actually at the corner of Shuler Street and -- I'm trying to think of the name of the other street. I'm sorry. It was actually like right beside the deaf and hearing impaired place and a consulting firm that was there. I can't think of the name of the street at the moment.
Q. All right. So I want to ask you a little bit more about that. When I say bus stop, I'm referring to a children's bus stop.
A. Yes.
Q. And did you have a child in elementary school at the time?
A. I did. Dominique.
Q. And how would you go about making arrangements to meet Dominique when he got off the school bus?
A. I would walk up to the -- to the stop sign and we would have to cross over in front of the consulting place and stand and wait for the bus.
Q. All right. And about what time of day would you normally go to that bus stop to meet your son, Dominique?
A. I was always there at 2:30.
Q. Now I want to take you back specifically to the date of May 9, 2012. Do you recall whether or not you had gone

to the bus stop that day?
A. Yes, ma'am.
Q. Had the bus yet arrived?
A. No, ma'am.
Q. Tell us what, if anything, you recall when you were at that bus stop waiting for your son's school bus.
A. My normal routine when I got there, I would stand on -- in front of the consulting firm on the sidewalk because they didn't like us in their -- in their actual parking lot, so I would just pace up and down the sidewalk waiting on the bus normally playing with my phone. Well, that day I was standing there and a van had pulled into the parking lot, a gray van had pulled into the parking lot, and backed up next to the grass close to where I was standing. The gentleman stepped out of the van, he -- I said "Hi", just being polite, and he said "Hi", and then he walked off.
Q. All right. And which direction did you see him going?
A. He was headed towards Meeting Street.
Q. All right. Towards Meeting Street. And, again, that's that main road after you cross over Gervais Street bridge?
A. Yes, but not going towards Columbia, it's coming back from Columbia.
Q. Right. Okay.
A. Yeah.

Q. And did the person -- let me ask you this. Did you see anyone else in the van?
A. No.
Q. Just this one person?
A. Yes, ma'am.
Q. And about how close or how far away would you say you were to this person?
A. Maybe ten to fifteen feet.
Q. All right. And at ten to fifteen feet, did you actually see the subject -- you were able to see him once he got out and began walking?
A. Yes, ma'am.
Q. So you were able to apprise things such as height and age range, things of that nature?
A. Yes, ma'am.
Q. What do you recall about his approximate height?
A. He was a little taller than I am, and I'm five-three so I estimated between five-five and five-six.
Q. And you said you were five-three?
A. Yes, ma'am.
Q. And this person who is ten to fifteen feet away, you estimated five-five to five-six?
A. Yes, ma'am.
Q. And what, if anything, did you note about the approximate age range of this individual?

A. Early to mid forties. Black male.
Q. Now had you ever seen that person before?
A. No, ma'am.
Q. Did he seem to have anything with him?
A. As he was -- as he had parked his van and he had shut the van off, I noticed him reach -- like go over the back -- or over seat into the back seat and it looked like he had grabbed a bag from the back seat before he exited the van.
Q. All right. So you saw him reach over and take what you called a bag from the back seat?
A. Yes.
Q. Do you know whether or not he had that bag with him when you saw him walking down toward Meeting Street?
A. He did.
Q. And how would you describe that bag?
A. When I first saw it, it looked empty. It was clear. He had like folded it in half.
Q. Okay. Were you able to tell what was in the bag?
A. It appeared to be nothing in the bag when I originally first saw it.
Q. Okay. But you saw a clear bag?
A. Yes.
Q. And could you tell what may have been underneath that bag?

A. No, ma'am.
Q. And how was he carrying that bag?
A. He had it kind of like in his hand, but like up against his body.
Q. Okay. I want to show you what is a map. First an aerial map. And just to clarify, this is State's Exhibit 11. Let me show you what is State's Exhibit 11. Are you familiar with the area shown in this map?
A. Yes, ma'am, because this is the gas station that I used to walk to here on the end and then the shoe repair place is here --
Q. All right. I'm gonna stop --
A. -- and this is the shopping center.
Q. I'm gonna stop you right there and ask you is that a fair and accurate representation of that area, your former neighbor, there in West Columbia?
A. Yes.
Q. Now before we go any further, I want to ask you -- you had described this person getting out with a bag which you -- which you say was folded?
A. Yes.
Q. In what way was it folded?
A. It was like folded. Like just in half.
Q. Okay. And you saw this person walking towards Meeting Street?

A. Uh-huh.
Q. What happened next?
A. I was playing with my phone, just pacing the sidewalk like I normally did while I waited on the bus, and within a few minutes of the -- the gentleman walking towards Meeting Street he come running back and it caught my attention just because it's odd to see someone running at that point especially, you know, dressed nicely. So it caught my attention and I looked to see what was going on and he had jumped in -- he jumped into his van, threw a bag into the passenger seat -- it looked like the same bag he had when he exited the van, threw it into the passenger seat and he sped off going towards Augusta Highway. Well, I looked to see what was he running from and there was another male coming up from Meeting Street and he had like paused and pointed a gun towards the van and shot out the back glass. That was my cue to move.
Q. Okay. So you actually witnessed the second individual shooting into that van --
A. Yes.
Q. -- as it left the scene?
A. Yes.
Q. Now had the school bus arrived at --
A. Not at that point.
Q. Not at that point. So you're still standing there

waiting on the school bus?
A. Yes.
Q. You had mentioned that this individual -- you said it was unusual to see him running because of how he was dressed. What do you recall about the way he was dressed?
A. He was dressed very professional. Kind of like you would see a distinguished man go to church. A suit. It was a lighter gray suit, a white button-up shirt. He wasn't wearing a tie, which, you know, a lot of guys don't do now, but he was dressed very professional. Dress shoes, suit, white button-up shirt.
Q. All right. And when you say he was running, where did you see him running to?
A. He was running from Meeting Street toward his van.
Q. All right. And was anyone else with him as he ran back towards the van?
A. I did not see anyone.
Q. And this other individual that you saw eventually fire at the van, what do you remember about his description?
A. I just -- I remember he was a heavyset male with black hair, but honestly my attention was more on the gun than anything else past that.
Q. Okay. And at that point in time were you a customer of K & M Jewelry?
A. No, ma'am.

Q. So you didn't have any personal acquaintanceship with the owner there, Frank Mancine?
A. No, ma'am.
Q. And what happened once you saw the individual get back into the van?
A. He had actually backed the van in so he was able to pull straight out. He was like able to pull straight out and like turn, and he turned like towards me, which would have been putting him towards Augusta Street, and he just -- he sped off through the stop sign and straight across.
Q. All right. And at this point in time were you able to see anything -- were you able to make out anything that was in his hands, in his arms or in that clear bag?
A. No, I was not.
Q. Okay. Now I'm gonna need you to help us a little bit with these directions --
A. Okay.
Q. -- that you told us about. Ms. Hubbard, can I ask you to step down.

(Whereupon, the witness steps down from the witness stand.)

BY MS. MAYES:
Q. And I'm gonna move over here so that the court reporter can see you as you speak.
A. Okay.

Q. If you cold move to the opposite side.
A. Okay.
Q. Okay. Now let me move this just a little bit closer so that every juror can see. What are we looking at here in terms of this main road?
A. This is Meeting Street.
Q. All right. So that's Meeting Street?
A. Uh-huh.
Q. And if you keep going this way, where would you eventually end up?
A. You actually end up at a red light and if you turn right you end up on Gervais Street. If you go straight across, you end up on 378 or Sunset Boulevard.
Q. Okay. So does this lead to the Gervais Street bridge?
A. It does.
Q. Now this area here, are you familiar with the shopping center here?
A. I am. I mean, I don't remember what all was in there. I just remember there was a nail salon, Subway. I remember seeing the jewelry store, but I had never actually been in the center itself.
Q. All right. That would be here at this shopping center?
A. Uh-huh. Subway was actually over here.
Q. Now the area that you told us about where you would

have been waiting for the school bus, where is it at on this map?

A. It's actually -- like if you -- this is Shuler Street and the consulting firm is here. This is the consulting firm and the parking lot and then this is the deaf and hearing impaired -- I think it was a school.

Q. Okay. So the approximate location here of where you saw that van parked would have been approximately where?

A. Here.

Q. All right. I'm gonna ask you to mark that here with this pushpin, if you can.

A. About here.

Q. All right. And so when you saw -- when you're first there watching the van and you see the individual leave to get out and go somewhere, which direction is he going?

A. When he was walking, he walked this way.

Q. Okay. You saw him walking this way?

A. Yes.

Q. And then when you saw him coming back, where was he coming back from?

A. He was coming back from this direction.

Q. From this direction?

A. Yes.

Q. All right. And then eventually you said you saw the van leave the scene. Was it leaving at a normal speed or

higher than normal speed?
A. No, he sped away.
Q. Okay. Which direction did you see him speeding away?
A. He came out of this exit here and went toward Augusta Street.
Q. Towards this direction?
A. Yes.
Q. And you said you saw a second individual come out and fire a shot at the van?
A. Yes, and he had -- when he -- when I saw him, he was probably approximately here.
Q. Okay. The second individual?
A. The second guy, yes.
Q. And he fires at the van as the van is where?
A. Goes through this intersection.
Q. All right. All right. And I've got one more for you. This is currently marked as State's Exhibit 10 for ID.
MR. MADSEN: No objection.
BY MS. MAYES:
Q. Could you take a look at that? Are you familiar with that location?
A. Yes, ma'am. That's the consulting firm.
Q. Is that a fair and accurate representation as it appeared?
A. Yes, ma'am.

MS MAYES: Your Honor, this will be State's Exhibit 10 for evidence.

THE COURT: Without objection.

(State's Exhibit Number 10, a blowup photograph, was admitted into evidence.)

BY MS. MAYES:

Q. All right. Now this is a close-up view. What we call a street view. And you mentioned that consulting firm. Where is that at, Ms. Hubbard?

A. That's this building right here.

Q. Okay. It's this brown building right here?

A. Yes.

Q. And the sidewalk where you were waiting for your son at the bus stop is where?

A. There.

Q. Right there. Okay. And where is the van parked?

A. When he -- when he pulls in, he pulls into this entrance here and he backs his van into the spot next to the grass, kind of in the L-shaped part of the grass there.

Q. All right. So it is backed in here?

A. Yes.

Q. So you're looking at the back of the van?

A. Yes.

Q. And could you mark here exactly where you recall that van being parked?

A. It was like right here.
Q. All right. Now could you see into the van?
A. The windows were a little tinted, but you could see, you know, clear enough. It wasn't really dark.
Q. Okay. And as you see in the van, did you ever see him smoking or anything like that?
A. I do not recall him smoking.
Q. Okay. And once you saw him get out and head toward the direction of Meeting Street, again, on this street view where would that be?
A. It would be that way.
Q. Okay. As you see him head towards that direction, did you ever see him smoking at that point?
A. No, I did not.
Q. And as you saw him returning, again, what direction is he returning from?
A. He was returning from that direction.
Q. Okay. And at that point was he walking or running?
A. He was running.
Q. Okay. Did you ever see him smoking at that point?
A. No.
Q. And did you ever see any other individual in that van or with this subject?
A. No.
Q. All right. You may return to your seat.

A. Okay.

(Whereupon, the witness returns to the witness stand.)

BY MS. MAYES:

Q. Now were you able to get a tag number on that van in the midst of that situation?

A. I honestly did not look.

Q. Okay. What were you more concerned with at that moment in time?

A. When he first pulled up, I wasn't actually concerned with it at all. Like I didn't -- I mean, I remember saying "Hi", just being friendly, nice, and went back to playing with my phone. But when he was running back, I got a little nervous and the only thing I was paying attention to was, you know, why was he running and then once I saw the gun, my -- my whole train of thought just went like out the window.

Q. All right. And you're referring to --

A. My only thing -- my only thing I was concerned with more was how fast was the bus gonna get there and was my son gonna be in any danger.

Q. And you're referring to the gun that the second individual had?

A. Yes. The second male, yes.

Q. Okay. Now once he -- once that second individual fired at the van, what happened, if anything? What, if

any, damage occurred to that van?
A. I remember as -- I remember hearing the gun go off and then the back window of the van shattered and the glass was in the street.
Q. And you say that was the back window?
A. Yes, the back glass of the van.
Q. And the glass was in the street?
A. Yes.
Q. Now this particular van, do you keep up with things like makes and models of vehicles, what's foreign, what's domestic, things of that nature?
A. I honestly do not. I can tell you the type of vehicle I drive, but past that I don't know cars.
Q. Okay. So other than describing it as a van, what can you tell us about the color or approximate color of that van?
A. It was a -- it was a light gray.
Q. So it was light gray and --
A. It -- I remember it had two doors; the driver's side door and a passenger side door.
Q. Okay. Two doors. One on the driver's side?
A. Uh-huh, yes.
Q. And then one on the passenger side?
A. Yes.
Q. Do you remember any other doors other than those two?

A. I honestly did not get a good look at the passenger side vehicle -- the passenger side of the vehicle. I just remember that it had, you know, the two doors.

Q. All right. So two doors; one on the driver's side and one on the passenger side. And did you get a good look at the driver's side?

A. Yeah, the driver's side had the driver's side door and then behind the driver's side door was like a -- just a glass window.

Q. Okay. So behind the driver's side door was a window. You remember a window, but no other doors?

A. I didn't see another door that I remember.

Q. Okay. You described the clothing. Do you remember anything about the colors or shades of the clothing that the individual was wearing?

A. He was wearing a darker gray suit kind of resembling, I guess, the one that your --

Q. Co-counsel is wearing?

A. -- co-counsel is wearing, yes.

Q. In terms of color, darker gray?

A. Yes, darker gray.

Q. And, again, were you able to make out anything that he was holding or the contents of anything that he was holding?

A. Honestly, no.

MS. MAYES: Nothing further.

THE COURT: Cross?

CROSS-EXAMINATION

BY MR. MADSEN:

Q. How are you doing, Ms. Hubbard?

A. Hi.

Q. Is this your second child?

A. I'm sorry?

Q. Your second child?

A. Third.

Q. Third. They seem to get tougher as time goes on.

A. Yes, they are. This one is a little tougher than the first two. It could be that I put ten years between those, but --

Q. Thank goodness for our second one, she wasn't the first, or --

A. Well, I --

Q. So you're waiting for your child to get off the bus?

A. Yes.

Q. I guess they went to elementary school?

A. He did, uh-huh.

Q. And -- I'm sorry.

A. No, you're good.

Q. You're kind of right around in this area?

A. I'm actually pacing back and forth.

Q. Right here?
A. Between, yes.
Q. And the van comes up and backs up right here?
A. Yes.
Q. And it had tinted windows?
A. Slightly tinted. Manufacturer tint.
Q. Not the factory?
A. I'm sorry?
Q. Not the factory?
A. No, just regular tint that they would put on the glass.
Q. And do you see the fellow get out of the driver's side?
A. Yes, he did.
Q. But before that he had gone and grabbed something out of the back?
A. He did. As -- as he parked and shut off his van, I watched him like reach behind himself. Like he went over his seat a little bit to grab something out of the back.
Q. And you -- and then you just basically stay on that sidewalk the entire time?
A. Yes, pretty much.
Q. So he ends up walking away from you?
A. Yes.
Q. But you see it's a clear bag, there's nothing in it?

A. Yes.
Q. And he doesn't have anything on his head, does he?
A. Not that remember.
Q. And so he goes walking up Shuler Street, I guess, towards Meeting Street?
A. Yes, sir.
Q. When you see the van there, do you notice any racks, any ladders, anything like that on top?
A. Honestly, there wasn't -- I did not witness anything on top of it.
Q. Okay. So there's -- it's just a --
A. Just a van.
Q. -- regular old van?
A. Just a regular van, uh-huh.
Q. And it's kind of a light -- lightish gray color, dirty white?
A. Well, it's darker than a white, but a lighter gray.
Q. And so you had told the solicitor you believed a little bit taller than you five-five, five-six?
A. Yes.
Q. Black male, early to mid forties?
A. Yes.
Q. And also said about 180 to 200 pounds?
A. Yes, roughly.
Q. And that's what you told law enforcement when they

came and talked with you?
A. Yes.
Q. And so once that fellow gets out and leaves, you're just kind of playing with your phone waiting on the bus to show up?
A. Yes, sir. My daily routine.
Q. At some point in time you say you see the fellow kind of running back, he hops back in the van and the van just immediately kind of -- I guess kind of peels off and does almost like a U-turn?
A. Yes.
Q. At what point then do you see the fellow with the gun?
A. I turn -- once he sped off, I turned to look to see what was -- like what he would have been running from and that's when I witnessed the other male standing -- coming up the street with the gun.
Q. So he's kind of turned and gone this way --
A. Going that way, yes, sir.
Q. -- and the fellow's coming up? Where's the fellow at on here at that point?
A. Once I turn around, he's roughly somewhere around here when he fires through the --
Q. Give me an idea. How far is that?
A. That would probably be thirty, thirty-five feet, somewhere.

Q. Okay. So right around in there?
A. Yes.
Q. Thirty to thirty-five feet?
A. Yes, sir.
Q. And you see him fire the gun?
A. Yes.
Q. It's upsetting when you see that?
A. Very.
Q. Kind of hard to focus on anything else when you see a fellow with a gun?
A. Yes. I don't like weapons, I don't like guns, and they're not allowed in my house.
Q. The van takes off, but you also see a blue Monte Carlo speed off and run through a light -- or run through a stop sign maybe?
A. Yeah, he had actually -- once -- once the -- the other gentleman had fired through the window, I moved down the sidewalk and within just a minute or so -- I mean, it couldn't have been more than a minute, a blue -- I noticed it was a blue car. I didn't know exactly what kind of car it was at that time, but the blue car come out like it was chasing the van, but he went a different way versus the same way that the van went.
Q. How so? The van goes down --
A. Because the van --

Q. -- Shuler Street?
A. Yeah, when the van came out, he went straight through the intersection. Well, the other car had -- see, he turned. He liked sped down the -- he turned.
Q. So did he turn right on Center Street --
A. He turned --
Q. -- or did he go past the street over?
A. Yeah, he went one street up and turned.
Q. Is that Augusta Street?
A. I honestly don't remember.
Q. Okay. But he ran that stop sign?
A. He did.
Q. And you told law enforcement about that?
A. Yes. The only thing I remember -- the only reason I knew it was a Monte Carlo was because there was another gentleman -- as the police car was coming up the street, he had waived him down, and I remember hearing him say that --
Q. Well, you can't testify as to what someone else said.
A. I'm sorry.
Q. Okay. Besides you, there were other individuals out there?
A. Yes.
Q. How many? Just one or two?
A. Honestly, I remember the guy that was coming up the street and I remember the guy that waved down the cop.

MR. MADSEN: That's all the questions I have at this time.

REDIRECT EXAMINATION

BY MS. MAYES:

Q. And just to clarify, Ms. Hubbard, you testified you -- you saw him reaching for a bag from inside the van?

A. While he was in the van, yes.

Q. All right. So you were able to see into the van?

A. Yes.

Q. Through the window?

A. Yes.

MS. MAYES: Nothing further.

MR. MADSEN: Nothing further.

THE COURT: You may come down. Thank you very much, ma'am. You're free to go without objection.

(Witness excused.)

MS. MAYES: May we approach, Your Honor?

THE COURT: Yes.

(Proceedings held at the bench; not reported.)

THE COURT: All right. Ladies and gentlemen of the jury, the attorneys advised me the next witness might be somewhat lengthy and it's just about time for our lunch break, so I think the most efficient use of our time would be to go ahead and take a lunch hour at this time and ask you to be back in the courtroom -- or in your jury room at,

let's say, a quarter till two, 1:45, okay? That will give you enough time. A little over an hour for lunch. Thank you very much. Please do not discuss the case among yourself when you return to the jury room or with anyone else over the lunch hour. Thank you. Have a pleasant lunch.

(Whereupon, the jury is dismissed for lunch at 12:35 PM.)

THE COURT: We'll stand at ease until 1:45.

(Whereupon, a luncheon recess was taken.)

(State's Exhibit Number 15 through 25 were marked for identification.)

BAILIFF: All rise. Court now's in session.

THE COURT: Thank you be seated.

(State's Exhibit Number 26 through 29 were marked for identification.)

THE COURT: Is the State ready to proceed?

MS. MAYES: Yes, sir, Your Honor. I just need to check the equipment. Okay. We're ready, Your Honor.

THE COURT: Is the defense ready to proceed?

MR. MADSEN: We are, Your Honor.

THE COURT: Bring the jury in, please.

(Whereupon, the jury returns to the courtroom at 1:52 PM.)

THE COURT: All right, ladies and gentlemen. We're

now ready to continue with the trial. Solicitor you may call your next witness.

MS. MAYES: The State calls James Sullivan.

JAMES SULLIVAN,

having been duly sworn, testified as follows:

THE CLERK: Once you're seated, state your full name; spelling your last, please.

THE WITNESS: James Sullivan, S-U-L-L-I-V-A-N.

DIRECT EXAMINATION

BY MS. MAYES:

Q. All right. And, Investigator Sullivan, tell us a little bit about yourself. Where are you currently employed?

A. I'm employed in the Eleventh Judicial Circuit as an investigator.

Q. All right. And prior to that, what employment did you have in law enforcement?

A. I started my law enforcement career in 1998 by entering the Marine Corps military police corps. In 2001, I attend its criminal investigations course. After that, I exited military law and began civilian law with the City of West Columbia in 2006 claim. In 2009, I became a crime scene investigator.

Q. And you mentioned that in 2009 you became a crime scene investigator. For what agency?

A. The City of West Columbia, ma'am.
Q. All right. And that's the West Columbia Police Department?
A. Yes, ma'am.
Q. All right. I need you to speak up a little bit or pull the microphone a little bit closer to you.
A. Okay.
Q. Now what is the meant by the term "CSI" in law enforcement?
A. Crime scene investigators are specially trained to go into buildings and investigate crimes and our job is to use forensic science or tools in order to get evidence that's not readily apparent; typically latent prints, DNA, but we're especially trained to collect those items.
Q. And how long were you working in the division of crime scene investigation for the West Columbia Police Department?
A. For West Columbia, three years, ma'am.
Q. Can you tell us whether or not you were working in that capacity in May of 2012?
A. Yes, ma'am.
Q. And how, if at all, did you become involved in the investigation of the armed robbery at the K & M Jewelry Store on May 9th of 2012?
A. When the call came out, I responded to 507 Meeting

Street as a result of the armed robbery and I arrived on-scene.

Q. All right. And when you say you arrived on the scene, what time of day is this?

A. It's roughly 2:30 in the afternoon, ma'am.

Q. And what was your responsibility as the crime scene investigator upon your initial response to the scene?

A. The first thing we need to do is document the scene and we do that by photographing it. And you want to get anything, you know, that's readily apparent that might be an item of evidence, so you want to document the scene as well as possible.

Q. And did you do so?

A. Yes, ma'am.

Q. And in addition to taking photographs of the scene, how do you go about actually processing a crime scene?

A. There's a number of different methods. The first thing is we want to collect the items of evidence that could be perishable or could be damaged and in this case there was a black fedora hat that I needed to pay particular attention to because it was outside and was being watched by a West Columbia officer, so I started there. The next thing to do is to go inside and walk through with the other investigators and look at whatever evidence -- items of evidence that need to be processed

given what happened inside. So in this case, I walked inside and viewed the surveillance video and it kind of narrowed the scope of what I needed to process and what tools I would use.

Q. All right. So you had an opportunity to review the video surveillance video for what date?

A. It was May the 9th, ma'am.

Q. For the robbery that had occurred on that date?

A. Yes, ma'am.

Q. Now you mentioned a hat. Tell us where the hat was located upon your arrival at the scene.

A. The jewelry store is located in a strip mall and the hat was several, you know, storefronts down laying on the ground. Captain Scott Morrison was guarding over the hat to make sure nobody disturbed it because any item of evidence we need to protect and make sure that nobody tampers with it.

Q. And how was it actually taken into evidence? Who was responsible for that?

A. That's the job of the crime scene investigator. In this case, I put on protective equipment, gloves, because you want to make sure you don't cross-contaminate an item, get your DNA on it. You also put it in a -- you properly package it in a paper bag because you want items like that to breathe. So in this case, I photographed the item, put

a placard next to it and photographed it, made sure I had my protective equipment on, and then placed the hat into the paper bag, filled out the paper bag, sealed it with evidence tape and my initials and the date, and that would show that it's sealed. I then put it into a locked vault in my vehicle, which I only have access to. That way I can continue processing and that item of evidence is safe and secured.

Q. And where did it go after you put it in a lockbox?

A. Later I logged it into the West Columbia evidence repository.

Q. And from there, from the West Columbia Police Department evidence room, where else was it taken?

A. Yes, ma'am. Later it was transported -- or logged in by myself and transported by myself to the State Law Enforcement Division for further processing and I dropped it off there.

Q. All right. And you say the State Law Enforcement Division. SLED?

A. Yes, ma'am.

Q. Can you tell us whether or not SLED has a crime lab?

A. They do.

Q. Can you tell us whether or not that crime lab is capable of conducting DNA analysis?

A. They are, ma'am.

Q. And is that type of crime lab work available within the West Columbia Police Department?
A. No, ma'am. That's -- that's something definitely outside the scope of what we do at our agency, which is why we go to SLED with their expertise and their training and technology to do those things.
Q. All right. I'm gonna ask you to take a look at an item. This is currently marked as State's Exhibit 9 for ID only at this time. I'm gonna show you this bag and ask you whether or not you recognize the bag and then the contents thereof?
A. Yes, ma'am. This is the evidence bag I filled out that day and you can still see my initials where I sealed the bag and put the evidence tape and this is where I tagged it when I later processed it in.
Q. All right. And does the bag have your initials on it?
A. Yes, ma'am, it does.

MS. MAYES: I beg the Court's indulgence.

BY MS. MAYES:
Q. So you mentioned the process in which you actually sealed the item up?
A. Yes, ma'am.
Q. That day at the crime scene, once you put the hat into that bag, how did you make sure that no one else could tamper with it?

A. Yes, ma'am. In a crime scene or whenever we're processing evidence, we have a tamperproof tape that's very thin. So in this case, I'll unwrap the bag and you can see there's multiple layers of tape on the bag. And if you try, it rips very easily and so once I've folded it over, I put my initials that cover both the tape and the bag to show that it sealed by me and if somebody tries to open it you can readily see that it's been tampered with. The tape peels real easy.

Q. Investigator Sullivan, I want to ask you to take a look there at the contents of that bag and tell us whether or not you recognize what is in it.

A. Yes. Just give me a second. Can I get a couple more pairs of gloves? They keep breaking. Let's do it this way. Yes, I do.

Q. Okay. What is in the bag?

A. It's a black fedora hat.

Q. All right. And how do you recognize it?

A. It's the same one I picked up that day.

Q. All right. And packaged as you've testified to?

A. Yes.

MS. MAYES: Your Honor, at this time the State would offer the contents of Item 9 as evidence.

MR. MADSEN: We would object at this point in time on foundation and chain of custody.

THE COURT: Overruled. Go ahead.

(State's Exhibit Number 9, a fedora hat, was admitted into evidence.)

BY MS. MAYES:

Q. Investigator Sullivan, can you take that hat out and show us what we're looking at?

A. Yes, ma'am. Just give me a second here. This is a black in color fedora hat that I picked up next to -- or down -- several storefronts down from K & M Jewelry. The hat was laying, you know, down like such. I distinctly remember it. It was kind of obvious to see on the sidewalk.

Q. All right. Now that is evidence that you retrieved from the exterior of the storefront. What can you tell us about actually processing the scene inside K & M Jewelry Store?

A. Yes, ma'am. Once I was inside and photographing and documenting the scene to make sure nothing was disturbed, I viewed the video several times and tried to look and see what probably the Defendant -- or the suspect in this case could have touched. That lets me know what I needed to process. In this case, it was limited because he had used the bag -- or to put his hand on when he was on the counter. There were several times that he reached over and picked up items, but I felt that it was needed to go

ahead and try to dust that countertop where he was mostly operating with the possibility that he might have left a latent print. In hindsight and watching the videos later, there's no way he could have left a latent print, but in an abundance of caution I went ahead and dusted the counters in order to try and process it.

Q. All right. And just to expand on that a little bit further, you mentioned that based on your observations he was using a bag. What bag are you referring to and in what way was it being used?

A. Yes. In the video, he had a garment bag that you pick up from the laundry, so when he put it on the counter he would slide it and he was careful -- he appeared to be careful to keep his hands on that bag as not to leave any latent print impressions. It was pretty obvious to see that he didn't go anywhere without sliding that bag. So it kind of narrowed the scope down on what I could possibly dust and hopefully get some type of evidence off of.

Q. Now what exactly -- when you talk about a latent print, tell us what is a latent print. What are you referring to?

A. A latent print is something left by proteins from your hand, your fingers, when you touch something. Your fingertips, your palms, anything can leave a latent. Now there are different variables and times when you can leave

a better latent than some, but they're not readily apparent, which means you're gonna have to apply some kind of tool or some process in order to get them visible. In this case, I used black fingerprint powder because it's a glass surface, it's nonporous, and usually latents render pretty low on those.

Q. All right. And you mentioned that in retrospect having viewed the video that based upon your observations did you ever see him touch with the whole part of his hand?

A. No, ma'am, I did not.

Q. Or the whole part of a finger?

A. No, ma'am.

Q. Now I'm going to talk with you a little bit more about that regarding exactly where you got those prints from momentarily, but I want to move on and ask you whether or not ballistics were involved in this case at any point?

A. Yes, ma'am. The store owner had stated that he'd fired two rounds; one inside the building and one outside the building, and I took it upon myself naturally when any weapons are fired to determine where those rounds went and to account for them.

Q. Okay. And so you're referring now to the shots that were fired -- or the return shots that were fired by the store owner?

A. Yes, ma'am. The one out the door and the one on the

side of Shuler Street as the vehicle was fleeing.
Q. Okay. What type of weapon was Mr. Mancine using to fire those shots?
A. I believe it was a Glock nine millimeter. If you'll let me refer to my notes, ma'am, I can tell you the exact.
Q. Did you have the opportunity to review that weapon at the scene?
A. Yes, ma'am. I actually documented and collected that weapon and took it back into evidence. Yes, ma'am. It was black in color, a Glock Model 17, serial number MDM-192.
Q. Now where at the scene did you find evidence that shots had been fired?
A. Outside in the parking lot there was an indentation on the concrete where the round had impacted and I had determined that, the trajectory, where the store owner said he had shot from and looking out in the parking lot, and then I later found the impact on a differential on a vehicle, so I knew the round had stopped. And looking right next to that I found the mushroomed bullet, so I knew that that round was accounted for. The second one is I found a spent shell casing on Shuler Sheet on the side where the victim said he shot at the van that was fleeing. It was a nine millimeter cartridge. It was in the area where he said he shot the van, which would corroborate his testimony that he fired one time at the back of the van.

Q. Okay. And did you see -- or how, if at all, did you document any evidence concerning that second shot that had been fired at the van?

A. Yes, ma'am. In this case, I photographed this -- this spent shell that was on the concrete and also there was some glass -- his testimony or his statement was that he shot the back glass out and then there was glass in the intersection and I photographed that as well.

Q. All right. And you were able to photo document the shattered glass in the roadway?

A. Yes, ma'am. It was at Shuler and Center Street.

Q. Now earlier we heard from a witness, Jennifer Hubbard, who had been standing near a building known as the United Consulting building. Are you familiar with that area?

A. Yes, ma'am.

Q. And can you tell us whether or not you also attempted to search that area?

A. Yes, ma'am. During the course of the investigation, investigators naturally and other officers are talking to other people, so they would come to me and give me tidbits of information; hey, this person said this, this, this and that and I would naturally take that information and try to apply some kind of forensic tool to it. In this case, one of the witnesses was telling an investigator he was parked in this parking lot. I didn't know exactly where

he was in that parking lot, but I took it upon myself to go ahead and walk the parking lot and see if I can't get tire impressions, maybe he left something there, anything I could use. While walking that parking lot in the back side, the back corner, I found two freshly smoked Marlboro cigarettes, so I photo documented those and in an abundance of caution collected them.

Q. All right. And at that point in time, did you have any information that the suspect had been smoking or not smoking? Did you have any information regarding cigarettes being connected to this case at all?

A. No, ma'am, I did not, but, as I said, in an abundance of caution. And you can't go back and get something. You go ahead and collect it. It might not have any bearing in the case, but it was in the back side of that parking lot and I had no prior knowledge as to exactly where the Defendant's vehicle -- or the suspect's vehicle was parked.

Q. Okay. So at that point time when you collected the cigarettes, you didn't know where the suspect's vehicle had been parked?

A. No, ma'am. So I took it upon myself to walk the whole lot and see if there were any forensic items to be collected.

Q. And had you had an opportunity to actually talk with Jennifer Hubbard yourself or inquire further as to whether

this suspect had ever even been seen smoking that day?
A. Yes, ma'am. And she -- knowing now that the vehicle was parked nowhere near close to where I picked up those cigarettes, they had probably no bearing on the case, and that at no time did she see the Defendant -- the suspect in the case with a cigarette.
Q. Okay. So are there occasions when you collect evidence which ultimately may not be connected to the crime?
A. All the time.
Q. Now talking a little bit further about processing for prints, you mentioned the -- you mentioned inside the store. Where specifically inside the store did you process for prints?
A. Yes, ma'am. On the -- the back counter is a horseshoe as was described by the victim where most of the -- the Defendant was leaning over and where he was picking up things, that's where I narrowed my scope, where I dusted the most. That's where I thought that it would be the most fruitful. It turns out I was able to -- that's where I processed mostly.
Q. Okay. And that was the glass countertop?
A. Yes, ma'am.
Q. Did you attempt to obtain latent prints from any other location or any other item that was in that store?

A. I did collect a couple of items for later processing. The black boards that they used to display the jewelry.
Q. The trays?
A. Yes, ma'am. He had touched those several times during the video, but at the time I can't process that on the scene. The reason why is the texture of it wouldn't lend to latents, so I had to take it back to my lab for further processing. So I collected those, put those in a bag and took them later -- processed them later.
Q. And ultimately were you able to recover any latents from -- from the trays?
A. No, ma'am. They were fumed, dusted and no latents were developed and I returned them to the victim.
Q. All right. I'm gonna start by asking you to look through some of the photographs and ask you whether or not you recognize them. This is gonna be State's Exhibit 15 all the way through to State's Exhibit 25, so a set of ten photographs here.
A. Yes, ma'am, I recognize them.
Q. Okay. And then also I'm gonna show you what is State's Exhibit 10 and 11, currently in evidence. Can you tell us whether or not you're familiar with the areas depicted in both of these exhibits?
A. Yes, ma'am.
Q. All right. I'm gonna ask you at this time to step

down and show us a little bit more about that area.

(Whereupon, the witness steps down from the witness stand.)

BY MS. MAYES:

Q. And what I'll need you to do is switch places with me. We'll go ahead and put that one up, the aerial photograph. Now looking at this particular photograph with Meeting Street being the landmark here, tell us where the K & M Jewelry Store is located.

A. It's right here. So you have the Subway that takes up these first two to storefronts and K & M Jewelry is the next one.

Q. Okay. So K & M is depicted here by the red marking?

A. Yes, ma'am.

Q. Now show us where, Investigator Sullivan, it was that you recovered that hat, which is in evidence, State's Exhibit 9, from the storefront area.

A. It was right here.

Q. Okay. Now you're familiar with this entire area. You've had the opportunity to walk it?

A. Yes, ma'am.

Q. Did you also have the opportunity to ever work patrol with West Columbia Police Department?

A. Yes, ma'am.

Q. You're familiar with the area?

A. (Nods head.)
Q. If one leaves the K & M Jewelry Store here and goes in this direction, where is that taking you?
A. It's taking you to Shuler Street and it runs -- and that's Center Street. This would be Schuler.
Q. All right. So this would be Shuler Street up this way?
A. Yes, ma'am.
Q. Now are you familiar with a business known as United Consulting business?
A. Yes, ma'am. It was right here.
Q. That would be the brown building that we're looking at right here. And you mentioned earlier that you had an opportunity to process that scene as well?
A. Yes, ma'am.
Q. All right. And you mentioned that in processing that scene, prior to having knowledge of exactly all of the events of that day, you collected cigarettes?
A. Yes, ma'am.
Q. Can you show us approximately where it was that you collected the cigarettes?
A. Yes, ma'am. On the back side of this building there's a little storage unit.
Q. I'm gonna show you now State's Exhibit 10, where we're looking actually at the street view.

A. It would have actually been further over here.
Q. Okay.
A. I could put a pen in there if you want me to, but it was right over here and it was off to the corner. It looked like a smoking area, but I didn't see many cigarettes except for those two fresh ones.
Q. All right. And, again, now we're looking on State's Exhibit 10 and we're looking at the United Consulting building?
A. Yes, ma'am.
Q. And the area that you're referring to would be approximately how far away from the area where the witnesses indicated that the van would have been parked?
A. Probably about fifty or sixty feet. It was a good bit away. I mean, several car spaces.
Q. And can you tell us, based upon your knowledge and experience concerning this case, was this building in use?
A. No, ma'am, it was shut down.
Q. Okay. And what about any of the other areas around, any of the other buildings nearby?
A. There was a cobbler shop, City Electric was right here. I believe there were some other businesses in the area, but not many.
Q. Okay. And then looking here, again, that would be United Consulting. Where is it approximately that you

observed what you termed shattered glass in the roadway?
A. Yes, ma'am, it was right here in the center of Center Street and Shuler.
Q. All right. Now taking a look here, can you tell us whether there are residences and other businesses here in this surrounding area?
A. Yes, ma'am, there's a strip mall and there's a cobbler shop.
Q. What kind of business is the cobbler shop?
A. They fix shoes.
Q. Okay. And what about in this area here?
A. You have -- you have the old company we were talking about, the staffing company, and I do believe that there was at one point in time an insurance company that was in one of these old houses here.
Q. Okay. And you -- I believe there's also been testimony about a bus stop. Can you tell us whether it's usual or unusual to see people around that bus stop in the morning and evening -- or mornings and afternoons?
A. There's a whole bunch of residences back this way, of course, and all around Center Street and there's apartment complexes down Center Street, so this would -- while on morning patrol it's common to see kids being picked up all along Center Street and this was one of the normal stops.
Q. All right, sir. You may return.

(Whereupon, the witness returns to the witness stand.)
BY MS. MAYES:
Q. Now the collection of ten photos that I showed you, State's Exhibit 15 through State's Exhibit 25, can you tell us whether or not that's a fair and accurate representation of the interior of K & M Jewelry and the exterior leading all the way to that area around United Consulting business?
A. They are, ma'am.
Q. Okay.
MS. MAYES: Your Honor, at this time we would offer State's 15 through 25 as evidence.
THE COURT: Any objection?
MR. MADSEN: Let me take a look. I haven't seen all of them. No objection.
THE COURT: They're admitted.
(State's Exhibit Number 15 through 25, photographs, were admitted into evidence.)
BY MS. MAYES:
Q. All right. I'm gonna ask you to take a look at these as best you can given our lighting situation. I'm gonna start here with State's Exhibit 15.
A. Yes, ma'am. That's an establishing shot of the front K & M Jewelry, so it's directly facing onto the building.
Q. State's Exhibit 16, what are we looking at here?
A. That is coming through the front door, coming to the

right and looking to the left rear corner of the store. It's half of the horseshoe of the display. You can also see the rear door which leads into a bathroom and kind of like a little office area they have. It's only one office they have. So you have the bathroom and you have a little office.

Q. All right. And then you had a chance to view the videotapes --

A. Yes, ma'am.

Q. -- the video surveillance?

A. Yes, ma'am. The videotape was in the office area. They have a little tiny monitor, so I was viewing off of that because I needed to see that several times in order to narrow the scope of the investigation in order to figure out where to start processing.

Q. And you mentioned that you're viewing the video obviously after the robbery. What is significant, if at all, about this area here? If you can see where my pen is now pointing here, what, if anything, is significant about that particular counter case?

A. That's the counter case where the suspect reached over and got the jewelry. That's the one I also dusted.

Q. All right. And so these -- this area here he did not get into, but it was this area here to the right that the robber was able to take the items?

A. Yes, ma'am. He was only able to get into the one display case as I reviewed the video. He was only able to reach into one, so that's where I narrowed my scope.

Q. All right. Now I'm gonna show you State's Exhibit 18 and ask you what we are looking at here and why it has that marking with the letter "N"?

A. The letter "N" denotes a latent print that I was able to develop with the fingerprint dust. I always document where I've lifted something with a placard. Unfortunately, given the -- you know, trying to photograph a latent print on top of a glass case, it's not always gonna come out, so you put something there to help out. So that denotes one location where a latent print was lifted from that glass counter.

Q. All right. And who's the person who actually lifted that -- what you're referring to as a latent lift from that area?

A. That was myself.

Q. All right. Now that particular area where the latent print is located, can you tell us whether or not employees of K & M Jewelry have access to that area?

A. It's on the employee side. If you cut the counter in half, it would be the side that the employees would walk closer to.

Q. All right. And having been at the scene that day,

what, if any, employees were you familiar with at K & M Jewelry?

A. Frank Mancine and his mom, Kim.

Q. Okay. So it's a family-owned business. It's Frank and his mom who work in the store. Can you tell us whether or not based upon your knowledge and having been at the scene whether or not both of them have access to this area here behind the counter?

A. Yes, ma'am.

Q. All right. Now moving on to State's Exhibit 19, and it is marked in a similar manner with the letter "O", what are we looking at here?

A. That was the second latent print I pulled. It was near that counter.

Q. Now this is State's Exhibit 20, marked "L". What are we looking at?

A. Yes, ma'am. That is the display case, the black tray, that holds the jewelry. I photographed it in order to document its location after it was dropped or what happened to it after the Defendant -- or the suspect dropped it. I collected it, packaged it for further processing.

Q. All right.

A. It's a black tray.

Q. Okay. And you refer to it as a black tray. This is the tray that actually at some point had been handled by

the suspect or one of the employees as they're providing the items to go in the bag -- in the suspect's bag?

A. Yes, ma'am.

Q. Now you refer to this as a black tray and you had an opportunity to actually see it yourself, right?

A. Yes, ma'am.

Q. Now you mentioned also that you reviewed the video surveillance?

A. Yes, ma'am.

Q. In the video surveillance, what color does this appear to be in that video surveillance?

A. It kind of washes everything out. If it's black, it turns kind of gray because the amount of the intensity lighting that's in that store because you want the jewelry to shine, so most of the items that are black or dark in color kind of lighten up.

Q. All right. So on the video surveillance this appears gray instead of black?

A. Yes, ma'am.

Q. And, again, State's Exhibit 21 marked as "M"?

A. That was a tray that Mr. Mancine used to keep his calculator in and during the course of the incident it, too, fell to the floor and at that point I didn't know whether the Defendant -- or the suspect had touched it, so I went ahead and collected it and put it in the bag for

further processing.
Q. All right. And ultimately did you process this tray "M" and that other tray we just saw, tray "L"? Did you attempt to dust or process those for prints?
A. Yes, I processed both of them.
Q. Were any prints recovered from those items?
A. No, ma'am.
Q. Do you necessarily always recover prints?
A. No, sometimes you can try different tools. In this case, I put it in a fuming tank, which is the best process I know for that type of material, and then I dusted it afterwards and I couldn't get any latent prints to develop.
Q. Now this is marked "D" and there as a landmark is the gas station. Where is that gas station located?
A. It's right off of Meeting Street. It's a Li'l Cricket.
Q. All right. And so moving up the roadway here, does the road stay even or how would you describe that -- that roadway?
A. It's a hill. It's an incline. It's not extremely steep, but you can definitely tell.
Q. All right. So there's an incline up and then we see the marking "D". What does that signify?
A. That was the location I found the spent shell from Shuler Street where the victim said he shot at the vehicle.

So after walking I found and documented the shell and noted its location and collected it.

Q. Okay. And, again, we have a lighting issue here with our overhead, but in looking at the actual photograph, were you able to visualize that casing?

A. Not from here, ma'am. I'm sorry.

Q. State's Exhibit 22.

A. Yes, ma'am, I can see it now.

Q. By the marking "D"?

A. Yes, ma'am.

Q. All right. Next I'm going to show you what is State's Exhibit 23. This here is a business at 440 Center Street and mail items. What else are we looking at here and where is this location in connection with the crime scene?

A. That's the corner of Shuler and Center. That's that business that Ms. Hubbard said the vehicle was parked in. This is a down-the-building profile shot, establishing shot, because the cigarettes were later found at the far end of that building.

Q. All right. And when you say that building, you're referring to this building or this building here?

A. The building to the -- the main building, not the outbuilding.

Q. All right. And I'm gonna ask you to show us where

you're referring that you located the cigarette butts.
A. They were down here right next to this building.
Q. Okay. State's Exhibit 24, what are we looking at here?
A. We're moving in closer to where I found those cigarette butts. We have an establishing shot, we have a move-in-close shot, so you have a far, medium and a little bit close-up.
Q. All right. And then State's Exhibit 25. Again, here with a -- with a brown building here and at the lower end of the photograph the marking "H"?
A. That denotes where I picked up the -- or the location of the cigarette butts and where I picked them up in relation to the building.
Q. Now the area where -- let me go back to this photograph here, which is State's Exhibit 23. The area where Jennifer Hubbard has specified that a suspect was parked, is that even visible in this photograph?
A. No, ma'am.
Q. So that area is not even located in this photograph?
A. No, ma'am.
Q. All right. And then, finally, State's Exhibit 17. I believe some of our earlier photographs were very dark. Here we have State's Exhibit 17. What are we looking at?
A. That is the black fedora that I collected that you've

seen and that's the legs, I believe, of Captain Morrison.
Q. All right. Captain Morrison here and that's just prior to your collection of that item?
A. Yes, ma'am.
Q. Now you mentioned that you were able to obtain some latents from the countertop; is that correct?
A. Yes, ma'am.
Q. Not from those trays, but from the actual glass countertop?
A. Yes, ma'am.
Q. And I believe we saw two markings, an "N" and an "O"?
A. Yes, ma'am.
Q. What once you collect a latent, what do you do with it?
A. The latent, at the time the process was to show it to a fellow investigator who is trained with latent print examination. At the time it was Chuck Bramlet. He decided whether it was sufficient quality to be put into a system designed to input latent prints for comparison purposes. When he viewed the latents, he did not deem that they were sufficient quality, so I still keep them because they're comparison quality and maybe later if we get a possible suspect we can use those to compare.
Q. All right. So you collected them and how were they maintained as evidence? Do you see -- I'm gonna ask you to

pull out the actual cards and how you mark them and how you know which came from which counter.

A. Yes, ma'am. In the bag, once again, when they're collected, they're sealed, but each card -- on the back of each card you'll have the date, you'll have the type of events, the location. In this case, I just put 500 Meeting Street, a generic location, and then I write down, you know, fingerprint from the top of jewelry case. It's got my name, I write that, my badge number and then I do a rudimentary drawing where I lifted a print. And it's just to kind of refresh my memory later on.

Q. All right. And if we can see the back of that card so we can see exactly what you're talking about?

A. This.

Q. Okay. The other side.

A. And this was just the latent one.

MR. MADSEN: Those latents, I don't believe they're in evidence. I don't think they're appropriate to publish to the jury. I don't think I'm gonna have any objection to it, but --

THE COURT: You're not what?

MR. MADSEN: I don't think I'm gonna have any objection, but until they're placed into evidence I don't think it's appropriate to publish those to the jury.

THE COURT: All right.

MR. MADSEN: Like I said, I don't think I'm gonna have an objection to it, but --

THE COURT: Go ahead and offer them.

MS. MAYES: We offer them at this time, Your Honor. That is State's Exhibit 26 for evidence.

THE WITNESS: It came from this bag.

MR. MADSEN: No objection.

(State's Exhibit Number 26, latent lifts, were admitted into evidence.)

BY MS. MAYES:

Q. All right. So those are the two prints that you got or attempted to get from the glass countertop, correct?

A. Yes, ma'am.

Q. And you package them and take them back to the evidence room?

A. Yes, ma'am.

Q. Now you mentioned comparison analysis. Can you tell us whether or not when you have employees who also have access to that area whether or not it's sometimes necessary to fingerprint them to determine if they might have left the print?

A. Yes, ma'am. It's a process of getting what are called known standards so you can eliminate a print by rolling the employees and then taking it to a fingerprint examiner and having him do a comparison or her do a comparison.

Q. All right. And did you attempt to get any known prints from the employees for potential comparison to the prints you got off the countertop?
A. Yes, ma'am, I rolled the known standards for Mr. Mancine and Mrs. Mancine.
Q. All right. And can you tell us what these items are?
A. These are the known standards that I rolled on Mr. Frank Mancine and his mother.
Q. All right. And are you trained or have experience in taking fingerprints yourself?
A. Yes, ma'am.
Q. What you call rolling?
A. Yes, ma'am.
Q. Having them put their fingerprints in ink and then keeping a record of it?
A. Yes, ma'am. Lots of experience.
Q. All right. And you collected those yourself?
A. Yes, ma'am.

MS. MAYES: Your Honor, this would be State's Exhibit 28 and 27 as evidence, the rolled prints of Frank Mancine and Tokye Mancine.

MR. MADSEN: No objection.

THE COURT: Without objection.

(State's Exhibit Number 27 and 28, fingerprint standards, were admitted into evidence.)

BY MS. MAYES:

Q. Now can you tell us whether or not anyone at the Lexington County Sheriff's Department has any experience in fingerprint analysis?

A. Yes, Mr. Jim Hickman has over thirty years plus, I believe, of latent print analysis. Very well experienced.

Q. Can you tell us whether or not West Columbia Police Department sometimes utilizes outside agencies to assist in things such as latent print analysis?

A. A number of times the amount of technical expertise needed is -- you have to go to outside agencies all the time for help. Lexington County is one we lean on quite often.

Q. And can you tell us whether or not you submitted any items in this case directly to Mr. Hickman for assistance in latent print analysis?

A. Yes, ma'am. After rolling the prints for Mr. and Mrs. Mancine, I transported them to Mr. Hickman for comparison.

Q. Now you mentioned -- or let me show you first this, State's Exhibit 4. States's Exhibit 4, can you tell us whether or not you're familiar with what's depicted in that photograph?

A. Yes, ma'am, that's a still from the surveillance video from inside the store on May the 9th.

Q. All right. And you mentioned that you had been in the store or processed the evidence and you had an opportunity to review this individual. The hat in evidence is black?
A. Yes, ma'am.
Q. And the tray that you mentioned earlier and was photographed is black?
A. (Nods head.)
Q. What, if anything, can you tell us about the fact that we're -- when we're looking at it here the hat appears lighter and the tray also appears lighter?
A. That's the lights. The high intensity lights they have in the store make everything pop. It just washes everything out and the surveillance video as you can see there's a certain quality.
Q. Now based upon your participation with the investigation there at the crime scene, at that point in time on May 9, 2012, did you or anyone else assisting with this investigation have a suspect name?
A. No, ma'am.
Q. Did you have a vehicle tag number?
A. No, ma'am.
Q. Did you recover the weapon?
A. The weapon the Defendant used -- or the suspect used?
Q. Correct.
A. No, I did not.

Q. And did you recover any of the jewelry from this robbery?
A. No, ma'am, and it's not uncommon. Jewelry -- working a number of crime scenes, it wouldn't be uncommon for them to get rid of jewelry. It is hard to track. It's a commodity. There are so many places to get rid of it. It was a commodity that working a lot of crime scenes, you know, people with jewelry getting stole left and right, having their cars broken into, it's happening a lot.
Q. And specifically right there in West Columbia were there places to buy and trade gold?
A. There's even a drive-up place where you can drop it off at the window. I mean, everybody was buying gold at that time.
Q. A drive-thru gold buyer?
A. Yes, ma'am.
Q. And selling gold by mail was also a possibility?
A. It was very hard to track. There are a number of cases that were just frustrating because the gold is so easy to get rid of that you can have descriptions all day long, but they get rid of it so fast that you're never able to recover it.
Q. Are there pawn shops in West Columbia?
A. A number of them, yes.
Q. What about over the river in Columbia?

A. Yes, ma'am.
Q. Now were you still working at the West Columbia Police Department up through November 2012?
A. Yes, ma'am.
Q. Okay. Ultimately in this case, can you tell us whether or not that hat that you have that's in evidence, State's Exhibit 9, was submitted to the State Law Enforcement Division for a specific purpose?
A. Yes, ma'am. I took the hat out to SLED for DNA processing. I did so on the 29th of May, 2012.
Q. All right. And you left that at the State Law Enforcement Division for DNA processing?
A. Yes, ma'am.
Q. Ultimately was the West Columbia Police Department involved in the recovery of a vehicle in connection to this case?
A. Yes, ma'am, we were.
Q. And what was the location for that vehicle recovery?
A. Eagle One Towing.
Q. Okay.
A. I believe it was in Richland County's jurisdiction.
Q. And I'm gonna show you what is State's Exhibit 29 and ask you whether or not you've had an opportunity to review that photograph?
A. Yes, ma'am.

Q. Now regarding the actual vehicle that's recovered -- that was recovered in connection with this case, are you familiar with that?

A. Yes, ma'am. Chuck was my partner. We discussed it.

Q. Okay. Well, when you refer to Chuck, you're referring to Detective Bramlet?

A. Yes, ma'am.

Q. Was he involved in the recovery of that vehicle as well?

A. Yes, ma'am.

Q. Okay. And Detective Bramlet, has he recently passed away?

A. Yes, ma'am.

Q. Regarding that vehicle, what, if anything, is significant regarding the windows or window tinting?

A. If you look at the vehicle, it has a standard UV coat. A part of standard crime scene investigation is sometimes you have to collect a window that might not be completely busted out or you have to piece back together, so manufacturers now put a UV tint on any window. You can still see through it, it's still translucent, but it protects the interior from sun damage. It's on most vehicles.

Q. All right. And what, if anything, can you tell us is significant about the paint of that vehicle?

A. Well, there's two different paint jobs on the vehicle. There's a back hatch which is a different shade of color and a different type of paint than apparently the rest of the vehicle and you can almost tell it -- there are several spots on the vehicle where you see over-spray where it looks like it had been recently painted.

Q. Now did you have the opportunity to actually go inside K & M Jewelry for the purpose of taking measurements of the counter and the width and height of that counter?

A. Yes, ma'am, I have.

Q. Do you have with us a record of those measurements today?

A. Yes, ma'am, I do.

Q. That counter that we've seen in this case looking here at State's Exhibit 3, what is the actual width of that counter having measured it?

A. I measured the counter at twenty inches.

Q. Twenty inches. So that's less than two feet in width?

A. Yes, ma'am.

Q. And what about height?

A. I measured the counter height at thirty-eight inches.

Q. So two inches over three feet?

A. Yes, ma'am.

Q. What can you tell us about the lighting in that store having been in there to make observation?

A. It's very well-lit. There's halogen lights above. Plus there's that wide open window up front, so you have a lot of natural light. It's pretty bright.

MS. MAYES: I beg the Court's indulgence.

BY MS. MAYES:

Q. Investigator Sullivan, having reviewed the video surveillance of that robbery on May 9th, 2012, did you ever see an indication that the suspect left behind a full latent print?

A. No, ma'am, it -- no. After viewing with better monitors and such, there's no way he would have left a full latent print.

MS. MAYES: Nothing further.

THE COURT: Cross-examination?

CROSS-EXAMINATION

BY MR. MADSEN:

Q. So, Investigator Sullivan, you said you're employed with the Eleventh Judicial Circuit. You're actually employed with the solicitor's office now, correct?

A. Yes, sir.

Q. You work with Ms. Mayes and Mr. Bell?

A. Yes, sir, I do now.

Q. And the chief investigator, the person that was responsible for the investigation of the robbery, that would be Detective Wade?

A. Yes, he was responsible for gathering up all the different pieces of evidence.
Q. He's kind of the -- I don't know how West Columbia does it, but they kind of designate hey, this is -- you're the case officer, this is your case, you're in charge of all aspects of the case, correct?
A. That would be accurate.
Q. And that was him?
A. Yes, sir.
Q. And so when you get the call -- where are you at when you get the call?
A. At the time, I believe I was in the evidence room.
Q. And so how long does it take you to get out there?
A. Not long at all. In West Columbia you can be anywhere in two minutes. It's pretty quick to get anywhere. Our response time is very good.
Q. And so when you get out there, what other officers are out there?
A. Let me refer to my notes, please, sir.
Q. Sure.
A. When I arrived on-scene, Captain, of course, Scott Morrison was there, Investigator Bruce Wade was there, there was a Lieutenant Field and, of course, Sergeant Ronald Fair was there.
Q. Is that it?

A. I'm sure there were other officers there, but those were the ones I had made contact with primarily once I had arrived on the scene.

Q. And your job as a crime scene investigator, you're not necessarily there to interview fact witnesses or that, you're there to basically collect evidence, correct?

A. That would be accurate, yes, sir.

Q. And I think you had kind of said numerous times that you kind of -- as a crime scene investigator you kind of operate off this, say, abundance of caution type of standard?

A. Yes, sir. It's -- it's better to try to process some things, better to try to get evidence than not try at all because you only get one shot.

Q. And your collection of potential evidence can be things such as fingerprints?

A. Fingerprints, items with DNA. Any -- any physical item that you could possibly render some kind of identifying --

Q. Tire prints, footprints, physical evidence, DNA, things along those lines, correct?

A. Yes, sir.

Q. And some of those things you can kind of process yourself, other things you'll send to SLED, such as DNA, for processing because West Columbia didn't have or doesn't

have a DNA lab, correct?
A. That's correct, sir.
Q. And so out of an abundance of caution you end up, I guess, using black powder to dust the case?
A. At the time when I watched the video, I was hoping that he hadn't not touched it, so if there is even the smallest possibility that a partial latent or any kind of latent was left I had to try, so black power is the best method to pull a latent print off of glass, so that's the method I chose.
Q. So when we talk about black powder, I mean, it's literally -- you kind of put black powder on it and it adheres to oils that have been left behind on a finger and then you take -- and I know it's not scotch tape, but it's something similar to tape that you can kind of press down and actually pull that up, correct?
A. Yes, sir. It's -- it's a fairly straightforward process. It's volcanic-type ash and then you wand it over and it adheres to the proteins and such enough to identify the prints and then you can lift them with the tape.
Q. And then you can also use for smaller items a glue tank that kind of has some chemicals that adhere to those same type of prints?
A. Yes, sir, like I did with the display cases. I used a fume tank on those.

Q. And obviously when you're doing all this, you try to document everything through photographs and also a report or notes that you keep, correct?

A. Yes, sir.

Q. And the reason that you do that is as a crime scene investigator I would imagine that you were probably pretty busy?

A. Yes, sir.

Q. At that point in time, was it just you and Chuck Bramlet were crime scene investigators?

A. That's it.

Q. And so any time the crime scene's called out in West Columbia, it's you or he that are going to that scene?

A. Primarily Chuck, but I was there, too.

Q. And give us kind of an idea in a month's time how many times would y'all get called out or cases that you would get involved to process the scene?

A. Easily fifty to sixty a month, I mean, depending on -- if it's a vehicle break in, we could go -- we would process five or six of those a day. If it's a robbery or something like that, we might only get one or two a month, but we were hopping pretty good.

Q. And that's why it's important to take photographs, to take notes, to do reports so that you can remember later what you've done?

A. Yes, sir.
Q. And did you actually -- you generated a report on this case?
A. Yes, sir, I did.
Q. And could you take a look at that report and show me in that report where it indicates that you had used a jewelry tank on the jewelry trays?
A. That processing report's not here.
Q. You don't have that processing report?
A. No, it was not furnished to me.
Q. Did you do a processing report on that?
A. I did.
Q. Did you submit that to the solicitor's office?
A. No, it was turned over to the case investigator.
Q. So Detective Wade would have that report?
A. It was turned in, sir. I don't have it.
Q. Then it would be his responsibility to turn it over to the solicitor's office?
A. Yes, sir.
Q. And so besides black powder and glue tank there's also, I guess, gel lifts?
A. You can use gel lifts, sir, but it --
Q. It's a little more hi-tech, isn't it?
A. No, we have gel lifts. It's just in my experience with the type of material I was dealing with, a gel lift

wouldn't have -- the placard itself was kind of spongy so a gel lift wouldn't adhere to a latent as well. So by fuming it, it raises the latent and protects the latent and I can dust it and then pull it off with the tape.

Q. And I think from looking at the photographs it looks like it was -- or it had been raining recently that day, the ground was wet. It looks like the outside front of the -- the facade of the building was wet and then you find a couple of dry cigarette butts?

A. They looked fairly recent, sir. I mean, that's why they had to be collected quickly because there was inclement weather coming in and I wanted to preserve any evidence as quick as I could.

Q. And so that day you collect a hat, a couple of jewelry displays, a couple of cigarette butts, a gun, a gun magazine, some -- or a spent round and, I guess, a couple of shells?

A. Yes, sir.

Q. And you had talked about -- or the solicitor had asked you about taking -- rolling kind of some standard fingerprints --

A. Yes, sir.

Q. -- to match up against the prints that you had taken back on May 9th, correct?

A. Yes, sir.

Q. And so you're out there, you do that, you go ahead and have Kim Mancine and Frank Mancine, you rolled their prints right then?
A. No, sir, it was fairly recent that I rolled their prints.
Q. You waited until, I think, October 30th -- or, excuse me, March 30th of 2016 to do that?
A. Yes, sir, that sounds right.
Q. So about four years later?
A. Yes, sir, that's accurate.
Q. And part of your concern when you're out there as a CSI you were documenting everything on the scene, but at the same time I think you talked about you're trying to figure out what happened to those projectiles that came out of the gun?
A. Oh, yes, sir.
Q. Because when Mr. Mancine shoots, he's shooting towards a four-lane highway?
A. Yes, sir.
Q. And I think you said on the shot that's outside that it looked like it ricochets off the pavement and then there was a parking lot there and maybe -- was it a blue car?
A. Yes, sir, there was a blue vehicle. A Hyundai.
Q. And when you say the rear differential, you're talking about that like kind of little metal ball that went between

the tires; that you found evidence that it hit that --
A. Yes, sir.
Q. -- heading towards Meeting Street?
A. Yes, sir.
Q. And you had talked about or taken -- talked about the van. You didn't go out and process the van or do anything out there, did you?
A. No, sir, other than having a conversation with Chuck about it since I processed the original scene.
Q. So you've never seen the van in person?
A. No, sir.
Q. And you had kind of mentioned something about some stores or -- there's a way for investigators to check pawn tickets, correct?
A. I believe there is a system, yes, sir.
Q. There's like some kind of a system if I come in and I take a PlayStation to a pawn, investigators routinely get those kind of things because they can use that to say hey, we just had a car broken into and this or that stolen and Rob Madsen is showing up at the local pawn store and pawned one of those, that's usually something that investigators want to look into, correct?
A. Yes, sir, that's a possibility, but we find with gold it just wasn't -- it was gone too fast.
MR. MADSEN: That's all the questions I have.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MS. MAYES:

Q. And just to follow-up, Mr. Madsen was asking you about pawn shops keeping records. What about selling through third parties such as Craig's List?

A. That's the difficulty with working cases with gold. At the time you could mail it in, you could drop it off, you could -- there's so many ways to just get rid of this because everybody was buying it. I can't tell you the number of signs we had of "We Buy Gold" in West Columbia at that time period and worked a number of vehicle break-ins at the Riverwalk or house break-ins where gold was the primary object that was being stolen and it was just very difficult to track.

Q. And were paper trails required?

A. No, ma'am.

Q. So I could sell to you on the street without any paperwork?

A. Yes, ma'am.

Q. And Mr. Madsen was asking you about the -- rolling the prints of the Mancines within the last year.

A. Yes, ma'am.

Q. You had mentioned initially that Detective Bramlet -- you had mentioned that he first evaluated those prints?

A. That is correct. Chuck looked at them.
Q. Now based on Detective Bramlet's initial evaluation of the prints, at that time did you have a belief that they could even be matched at all?
A. No, ma'am. And, as a matter of fact, I believe I documented "for comparison only" on the -- on the evidence bag because they weren't the quality to put into the system. And that was our procedure. They went to Chuck, he made the call, and that's what happened. They were not sent to go to processing.
Q. And then following the passing of Detective Bramlet, did any other analyst get involved for consultation?
A. That would be Mr. Jim Hickman with the Lexington County Sheriff's Department.
Q. So it was after his involvement that the additional rolled prints of the Mancines were collected for comparison?
A. Yes, ma'am.
Q. And then Mr. Madsen was asking you about tire tracks. Did you find any evidence of sufficient tire track impressions at the scene?
A. No, there were no tire wear impressions at all.

MS. MAYES: Nothing further of Investigator Sullivan.

RECROSS EXAMINATION

BY MR. MADSEN:

Q. Investigator Sullivan, you would agree with me though if I break into a car and steal one necklace, that's a lot easier to get rid of than $25,000 or $29,000 worth of necklaces, correct?

A. I would agree with that, yes, sir.

MR. MADSEN: That's all the questions I have.

THE COURT: All right. You may step down. Thank you very much.

(Witness excused.)

MS. MAYES: The State calls Rhonda Fields.

RHONDA FIELDS,

having been duly sworn, testified as follows:

THE CLERK: Once you're seated, state your full name; spelling your last on the record, please.

THE WITNESS: Rhonda Fields.

MR. MADSEN: Judge, may we approach?

THE COURT: Yes, sir.

(Proceedings held at the bench; not reported.)

THE COURT: All right. Ladies and gentlemen, there's a matter of law I need to take up with the attorneys. Just -- the reason I have to excuse you from the courtroom just a minute is because they have to make an argument and it has to be on this record as to whether some evidence may or may not be admissible, so I have to hear it. So I'm gonna ask you to go to the jury room for just a few minutes.

Relax and I'll call you when we're ready. Thank you very much.

(Whereupon, the jury retires to the jury room at 2:59 PM.)

THE COURT: All right. What's the objection?

MR. MADSEN: Judge, I object. There was a CODIS hit on this. It's my understanding that the solicitor has indicated through this witness that that's kind of what they plan to get out. I've got a document to Investigator Wade signed by a Lieutenant David McClure. The solicitor has indicated that they are not going to refer to CODIS, but call it a database. Your Honor, my DNA is not in a database, yours or Solicitor Mayes, so I think referring to that is going to basically be a comment on the fact of saying his DNA has been placed in there and that he has a prior record and I don't think that is appropriate.

Additionally, I believe it's Ms. Field. She certainly doesn't look like a Lieutenant David McClure, which is what this document that I've been provided is.

THE COURT: Do you know who this witness is?

MR. MADSEN: She was on the witness list and I believe she's part of the chain of custody.

THE COURT: Okay.

MS. MAYES: DNA.

THE WITNESS: Lieutenant McClure is retired and so I

was testifying as to -- you know, as to the results.

THE COURT: What's the State's position?

MS. MAYES: Yes, sir, Your Honor. It is absolutely probative that we connect the dots between how a suspect whose identity is unknown fled the scene and then ultimately becomes the suspect because of the DNA match that SLED was able to do based on evidence recovered from the hat. Without that, then the jury has no idea how we even developed him as a suspect because that was the one and only key or tip in this case that led to his identity and then ultimately that's the reason they put his photo in the photo lineup and showed it to the victims.

MR. MADSEN: Judge, there's another problem. When you're dealing with CODIS DNA, there's no such chain of custody, there's no one there who collects that DNA.

THE COURT: Oh, I know that.

MR. MADSEN: There's all these kind of problems that deal with the evidentiary problem of basically trying to bootstrap it to say that it's his.

THE COURT: But you do have the DNA that matched the hit?

MS. MAYES: Yes, sir, Your Honor. We did a separate --

THE COURT: From the hat?

MS. MAYES: Correct, Your Honor. We did a separate

draw after he was developed as a suspect based on the notification.

THE COURT: The collection of DNA materials that form the database, I agree that it's taken from a thousand different places and it may not always be -- and I'm not certain of this fact, it may not always be indicative of a prior criminal record. It may be. It may be, but, as I said, I'm not certain of that, but that's the primary source of the DNA that's in the databank. But unless you can show me some case law that says they can't use it, I'm gonna allow it.

MR. MADSEN: Judge, I just believe it comes down to chain of custody. Additionally -- I mean, I'm sorry that Lieutenant McClure has retired, but just having someone else come in -- and maybe we should mark this and let Your Honor take a look at it.

THE COURT: Well, I don't know what the evidence that she plans to offer is. Just that document?

MR. MADSEN: I have no idea.

MS. MAYES: We're not offering the document. She is an employee of the DNA database unit. She --

THE COURT: Where's that?

MS. MAYES: That's at the State Law Enforcement Division.

THE COURT: Okay. She's a SLED employee?

MS. MAYES: Yes, sir, Your Honor. And she, like all of the SLED agents involved in this case, has access to the lab number and she can confirm that her unit, the DNA database unit, sent notification to the West Columbia Police Department that they had developed a suspect, being a James Patterson. He will not be referred to as an offender, a suspect based on -- a suspect identified as James Patterson based on the profile match from the DNA database and she's not gonna refer to it as CODIS.

THE COURT: Let me see what you've got.

MR. MADSEN: (Handing.) This is what was provided in discovery.

THE COURT: Uh-huh. Are you offering this document?

MS. MAYES: No, sir, Your Honor.

MR. MADSEN: Judge, with all due represent to Ms. Field, I don't think she even conducted that search.

THE COURT: I don't know.

MR. MADSEN: She just kind of plans on getting up there and, I guess, the State wants to offer her as to what someone else has done without having any personal knowledge on top of all the chain of custody and --

THE COURT: All right.

MS. MAYES: It was the action of SLED.

MR. MADSEN: -- which I would think would make it hearsay also.

THE COURT: Just calm down.

MR. MADSEN: Sorry.

THE COURT: Let's hear the testimony.

MS. MAYES: Yes, sir, Your Honor.

DIRECT EXAMINATION (In-camera)

BY MS. MAYES:

Q. Ms. Field, where are you employed?

A. The South Carolina Law Enforcement Division, commonly known as SLED.

Q. All right. And as a member of the State Law Enforcement Division, have you had the opportunity to look at information related to SLED Case Number L-1206246?

A. I have.

Q. Can you tell us whether or not the State Law Enforcement Division has access to a DNA database?

A. We do.

Q. Can you tell us whether or not the State Law Enforcement Division notified any member of law enforcement regarding a DNA match from Item 1.1, the evidence from the hat?

A. We did.

Q. All right. And who was that notification sent to?

A. Investigator Bruce Wade of the West Columbia Police Department.

Q. And what date was that notification sent?

A. October 31, 2012.

Q. And the notification concerned a DNA match to what person?

A. James Patterson.

MS. MAYES: Your Honor, that would be the extent of the testimony.

THE COURT: Who did the -- who did work that developed that notification? I'm asking the solicitor.

MS. MAYES: Your Honor, that would be -- there's a search -- there was a search involved in the database; is that correct?

THE WITNESS: There is.

MS. MAYES: Okay. So, Your Honor, the item -- the swabs from Item 1.1 were taken by a Betty Butler. She is potentially a witness.

THE COURT: All right. That's not the search I'm talking about. Who did the search of the database?

MS. MAYES: That would be David McClure, Your Honor.

THE COURT: He actually did the search?

MS. MAYES: He did it after Betty Butler -- I'm sorry, Maryann Boehm entered the DNA profile. I believe that is correct.

THE WITNESS: Right. A search was performed after Maryann would have entered the profile into the database.

THE COURT: Could this witness do the same thing?

THE WITNESS: Right. I'm familiar with the procedures. I don't have the documentation with me, but I believe I was involved in the review process because I worked in the DNA database unit at the time this letter was generated, so there were a couple of us assigned to the database and depending on who would have been on rotation for review I could have been involved in the review. But, again, I don't have that information on the stand with me.

THE COURT: Maybe you better get it.

THE WITNESS: Okay.

MS. MAYES: Yes, sir, Your Honor. We'll reserve this matter and this witness for another time.

THE COURT: I think that would be a good idea. Ma'am, you may come down.

(Witness excused.)

THE COURT: The solicitor will tell you what I think you need to do. Not me.

MR. MADSEN: Judge, also Investigator Sullivan had made mention of a report or some documentation that he said he did and turned over to Detective Wade. I've not been provided with that from discovery and I'm requesting a copy. The only thing that I got on the basis or from Investigator Sullivan, I think, was a -- basically a one-page sheet that talked -- I haven't been provided anything.

THE COURT: I heard him say that. I'm not sure exactly what it was.

MR. MADSEN: It was a --

THE COURT: I assume --

MR. MADSEN: When he did some testing on -- I guess a glue tank test on some evidence, but that has not been provided to me and I would request that, Your Honor.

THE COURT: All right.

MS. MAYES: Our understanding, Your Honor, is that --

THE COURT: Why don't we get Wade to find out or Sullivan.

MS. MAYES: I do know there has been a request and as far as we know that document has not been located.

THE COURT: Well, you can put Mr. Wade on the stand to confirm that.

MS. MAYES: Yes, sir, Your Honor. Our next witness will be Investigator Wade.

MR. MADSEN: Judge, could we take about a five-minute break?

THE COURT: Sure. Let's go ahead and take a short break while the jury is out and then we'll probably run until 5:00 or thereabouts.

(Recess taken.)

BAILIFF: Keep your seats. Court's now in session.

THE COURT: Is the State ready for the jury?

MS. MAYES: Yes, sir, Your Honor.

THE COURT: Is the defense ready for the jury?

MR. MADSEN: Yes, sir.

THE COURT: Bring the jury in.

(Whereupon, the jury returns to the courtroom at 3:23 PM.)

THE COURT: All right, Solicitor. Call your next witness.

MS. MAYES: The State calls Captain Bruce Wade.

BRUCE WADE,

having been duly sworn, testified as follows:

THE CLERK: Once you're seated, state your full name, spelling your last on the record, please.

THE WITNESS: My name is Bruce Wade, W-A-D-E.

DIRECT EXAMINATION

BY MS. MAYES:

Q. Good afternoon, Captain Wade. Where are you currently employed?

A. The West Columbia Police Department.

Q. All right. And how long have you been with the West Columbia Police Department?

A. Eleven years.

Q. All right. I just need you to pull the microphone down a little more toward you. And, altogether, how long have you been in the field or career of law enforcement?

A. Eighteen years.
Q. And can you tell us in general what your job responsibilities are at the West Columbia Police Department in relation to criminal investigations?
A. I review every report that's written and decide which one needs to be assigned for investigation and once -- if I feel the report fits the criteria to get assigned to an investigator, it gets assigned to an investigator, and from there the investigator will work that case and whenever they get that case to a point to get a warrant, they would bring their information to me and see if they've got enough to get a warrant, and once they get a warrant and arrest somebody I still have to go back over all the paperwork to try to make sure they didn't leave anything out.
Q. All right. Now how did you become involved in the investigation of the armed robbery at the K & M Jewelry Store on May 9th of 2012?
A. I heard the call come in over the radio of a robbery with shots fired and I responded to the scene and once I got to the scene, I was briefed by Officer Fair on what was going on and from there I took a statement from the store owner, Mr. Mancine.
Q. All right. So you were involved directly in speaking with Mr. Mancine there at the scene?
A. Yes, ma'am.

Q. Were you also present or at the scene when the black fedora hat was recovered from the sidewalk?
A. Yes, ma'am.
Q. And have you had the opportunity to recover and review video surveillance tapes in this case?
A. Yes, ma'am, I have.
Q. Now in addition to the video surveillance from the date of the robbery on May 9th, can you tell us whether or not you had opportunity to review the video surveillance from two days before on May 7, 2012?
A. Yes, ma'am, I did.
Q. Based upon your review of those videotapes, can you tell us whether or not that appears to be the same individual?
A. Yes, ma'am, it appeared to be the same person to me.
Q. Now following that robbery on May 9th, as of that date, did you have a suspect by name?
A. No, ma'am.
Q. Did you have a license plate number?
A. No, ma'am.
Q. Did you have any direct information from the scene on May 9th that led to a suspect?
A. No, ma'am.
Q. So once that hat was recovered, what is State's Exhibit 9, it was sent to the State Law Enforcement

Division for what purpose?
A. To -- for DNA.
Q. Okay. For DNA?
A. Yes.
Q. And DNA -- do y'all do DNA within your department there at West Columbia?
A. No, ma'am.
Q. So routinely you send that off and you send anything that might potentially contain DNA evidence off to what agency?
A. To SLED, State Law Enforcement.
Q. The State crime lab?
A. Yes, ma'am.
Q. And is DNA something -- is this the first case you have submitted evidence for DNA analysis or have you done that in other cases as well?
A. I've done it in other cases as well.
Q. When we're talking about DNA evidence, is that evidence -- will you get an answer back from the State Law Enforcement Division the same day or the next day?
A. No, it's normally a few months before you get anything back.
Q. A few months?
A. Yes.
Q. It's a prolonged analysis?

A. Yes.
Q. Ultimately, Detective Wade, can you tell us whether or not you did receive any type of notification from the SLED DNA database in this case?
A. I did.
Q. On what date did you receive notification from the State Law Enforcement Division?
A. I can tell you. Give me one second. November 12, 2012.
Q. November 12, 2012. So a little over six months?
A. Yes.
Q. And from that notification that you received from the State Law Enforcement Division, did you have a suspect once you received that notification?
A. I did.
Q. Who was your suspect at that point?
A. James Bubba Patterson.
Q. And once you received that notification and James Bubba Patterson became your suspect, what did you do next in terms of following up the investigation of that armed robbery at the K & M Jewelry Store?
A. Well, I got a lineup from SLED and I, as well, put his name in the database called SCIEx to see if there were any reports ran -- created on him and I did locate a report and I did show a lineup to Mr. Mancine.

MR. MADSEN: Objection. Hearsay, Your Honor.

THE COURT: Overruled.

BY MS. MAYES:

Q. So let me backtrack just a little bit. You said the first thing you did was you received a photo lineup from the State Law Enforcement Division?

A. Yes.

Q. Okay. Now when we talk about a photo lineup, and we've probably all heard that term before on TV, but a photo lineup is basically what?

A. Six photos of people with same -- similar characteristics.

Q. All right. Let me show you State's Exhibit 1 and you mentioned that you received that also from the State Law Enforcement Division. Why is it that you don't develop them yourself and you rely on a State agency such as SLED to develop the photo lineup?

A. Well, we don't have -- we don't have the capability of doing this in-house.

Q. All right. And can you tell us whether or not it's routine to rely on SLED for things such as photo lineups?

A. Yes.

Q. And how do you recognize this document in relation to the armed robbery investigation?

A. I didn't follow your question.

Q. Okay. Can you tell us whether or not this is the same lineup that was shown to Mr. Mancine?
A. Yes, it is.
Q. And you recognize it from your involvement in that event?
A. Yes, ma'am.
Q. You actually showed it to him yourself?
A. Yes, ma'am.

MS. MAYES: Your Honor, it at this time it would be State's Exhibit 1 as evidence.

MR. MADSEN: Your Honor, we would just renew our pre-trial objection.

THE COURT: All right. Overruled. Number 1's admitted.

(State's Exhibit Number 1, a photo lineup, was admitted into evidence.)

BY MS. MAYES:
Q. So looking here at the -- at the lineup, can you tell us whether or not all of the individuals in the lineup are of the same race?
A. Yes, they are.
Q. And the same gender?
A. Yes.
Q. And the same approximate age range?
A. Yes.

Q. And the same general facial features or shape of head?
A. Yes.
Q. And based upon this lineup, what, if any, instructions do you give to a witness such as Frank Mancine prior to him actually looking at the lineup to see whether or not he can recognize the person who robbed him?
A. My normal routine is when I go in to show a lineup, I tell the person I'm gonna show them a lineup, it's gonna be a photo of -- there's gonna be six photos, and the suspect may or may not be in this lineup. If you see the person who committed this crime against you, I'd like for you to select them in this lineup, and at that time particular time I would show them the lineup.
Q. All right. So your instruction, just to clarify, are they actually told that the person is in the lineup?
A. No. No.
Q. So the person may not be in the lineup at all?
A. Yes, I let them know the person may or may not be in the lineup.
Q. Are they under any kind of time restriction to give you an answer?
A. No.
Q. Any other type of pressure or coercion to give you an answer?
A. No, ma'am.

Q. And when you present this to an individual such as a witness, do they know anything about the people in the lineup?

A. No, ma'am.

Q. Do they know names?

A. No, ma'am.

Q. All right. And where did you go to show the lineup to Mr. Mancine?

A. To his business, K & M Jewelry.

Q. All right. And upon viewing the lineup, can you tell us whether or not Mr. Mancine was able to identify the person who robbed him?

A. Yes, he selected Photo Number 3.

Q. Right here, Photo Number 3?

A. Yes, ma'am.

Q. And, Detective Wade, who is shown in Photo Number 3?

A. James Bubba Patterson.

Q. The Defendant?

A. Yes, ma'am.

Q. Now see right here that the Number 3 is circled. Who did that?

A. Mr. Mancine.

Q. And see here that the photograph is circled. Who did that?

A. Mr. Mancine.

Q. All right. And see here that there are initials. Whose initials are those?
A. Mr. Mancine's.
Q. That's an F-M?
A. Yes, ma'am.
Q. And here it states, "This is the guy that robbed our store May 9, 2012". Whose signature is shown there?
A. Mr. Mancine's signature.
Q. And the date?
A. That's his handwriting as well.
Q. All right. And that date of 11-15-2012 is significant why?
A. That's the date I showed him the lineup.
Q. Can you tell us, Captain Wade, once you showed that photo lineup to Mr. Mancine how long did it take him to make a selection or to identify the person who had robbed him?
A. It was almost immediately. I know it was less than a minute.
Q. All right. And after having made that identification, what, if anything, did you do next in the case?
A. I also ran his name in the system called SCIEx, as I was saying earlier, to see if he had any reports written on him.
Q. All right. Now does that also recover vehicle reports

such as any type of traffic stops where a vehicle is impounded, things of that nature?

A. Yes, ma'am.

Q. Can you tell us whether or not you recovered or learned of any information regarding a vehicle for James Bubba Patterson, the same person who was shown in that photo lineup and the person that you received the DNA notification from SLED on?

A. I did.

Q. What did you learn about the vehicle?

MR. MADSEN: Judge, I'm gonna object to hearsay.

THE COURT: Rephrase your question.

MS. MAYES: Yes, sir, Your Honor.

BY MS. MAYES:

Q. Did you take any action to follow up on the information you learned about the vehicle?

A. Yes, I did.

Q. What action did you take?

A. I went to the tow yard to view the vehicle.

Q. All right. What's the name of that tow yard? And you can stop at any time to refer to your notes if you need to.

A. It's called Eagle One Towing.

Q. Eagle One Towing. And did you go there yourself?

A. Yes, ma'am, I did.

Q. Where is it located?

A. In the Irmo area.
Q. In Columbia?
A. Yes, ma'am.
Q. In Richland County?
A. Yes, ma'am.
Q. All right. So you learned that the vehicle had been at -- or was at Eagle One Towing and you went and observed it yourself?
A. I did.
Q. What, if anything, did you learn about how long it had been there?
MR. MADSEN: Judge, I would object to hearsay.
THE COURT: Overruled.
A. To my knowledge, that vehicle was towed on May the 24th, 2012.
Q. May the 24th, 2012. And when you went out there on the lot, was it -- was it still there or had it been claimed?
A. It was still there.
Q. Okay. Still there. And what was the date you went out there on the lot?
A. That would have been May the 15th, 2012.
Q. No, the date that you went on the lot to observe the vehicle?
A. Oh, I'm sorry. I'm sorry. I'm sorry. That is

actually November the 15th. I'm saying May, but November the 15th, 2012.

Q. All right. November 15, 2012. All right. Now you go out there to the lot and are the owners of that lot, Eagle One, generally cooperative with law enforcement?

A. Yes.

Q. Okay. So if a detective such as yourself shows up and wants to view a vehicle, do they allow you on the lot?

A. They do.

Q. And once you got on the lot, how did you document what you saw regarding the vehicle?

A. I took photos of the vehicle.

Q. I'm gonna show you some photographs and ask you whether or not you recognize them. One is already marked for identification.

(State's Exhibit Number 30 through 36 were marked for identification.)

BY MS. MAYES:

Q. All right. If you could look at those photographs.

A. Yes, those are the same photographs I took.

Q. All right. The photographs that you took out there at the Eagle One lot on November 15th?

A. Yes, ma'am.

Q. And also what is State's Exhibit 29 for ID, do you recognize that as well?

A. I do.
Q. All right. Was that also taken the same day on November 15, 2012?
A. Yes, ma'am.
MS. MAYES: Your Honor, at this time we would offer this set of photographs as exhibits for evidence.
MR. MADSEN: No objection, Your Honor.
(State's Exhibit Number 29 through 36, photographs, were admitted into evidence.)
BY MS. MAYES:
Q. Detective Wade, I want to start out by asking you, you get out there to the tow lot and you're looking at a vehicle, and what, if anything, is significant based upon those initial observations?
A. I noticed that the vehicle didn't appear to have the manufacturer's paint on it. It looked to be -- like it had been painted over and I also noticed that the rear door of the vehicle belonged to a Dodge Caravan when the vehicle was actually a Plymouth Voyager.
Q. I want to ask you a little bit more about that. Right here we're looking at a vehicle and this is on November 15, 2012. The vehicle's been out there since May 24th. What color is this vehicle?
A. It's white. Like a dirty white color.
Q. Okay. So it's like a dirty white and your testimony

is that did not appear to be the original color?
A. Yes, ma'am, it didn't appear to be the original color.
Q. All right. And then what are we looking at right here?
A. A Plymouth sign.
Q. All right. So that's the Plymouth insignia on this vehicle?
A. Yes, ma'am.
Q. And here, State's Exhibit 29, what would you call this area of the car here?
A. I would call it like a rear hatch.
Q. A rear hatch. Did you get up close to look at that rear hatch?
A. I did.
Q. And what, if anything, is significant about State's Exhibit 31?
A. That's a Dodge symbol on it.
Q. All right. So this is a Dodge?
A. Yes, ma'am.
Q. What area of the car are we looking at here?
A. That's the hatch. That's the rear part of the hatch.
Q. And State's Exhibit 30?
A. Yes, that's a Caravan, Dodge Caravan. That's the rear door also.
Q. This one may be slightly better, 34.

A. Yes.
Q. It says Caravan?
A. Yes, ma'am.
Q. Who makes the Caravan?
A. Dodge makes the Caravan.
Q. All right. So there's a Dodge Caravan and here, looking at 35, the vehicle's a Plymouth. Do you know the model of the Plymouth?
A. A Plymouth Voyager.
Q. Okay. So the vehicle's a Plymouth Voyager with a Dodge Caravan rear hatch. What, if anything, was significant about that to you?
A. Even though the vehicle appeared to be painted over, the rear door was a total different color white than the actual van itself. I can tell it wasn't on there when the vehicle was painted. Like it was something put on after -- afterwards.
Q. All right. And here is State's Exhibit 29. So looking at it with your naked eye there in person, did this paint color here appear to be the same type of paint that's used here on the body?
A. No, ma'am. The paint on the rear door was a lot whiter than the paint on the actual vehicle.
Q. And so based upon your investigative work and observations there, did it appear that that rear hatch had

been replaced?
A. Yes, ma'am.
Q. And did not come with the original Plymouth Voyager?
A. Yes, ma'am.
Q. Now based upon your investigative knowledge, how hard, if at all, is it for someone to replace a car part?
A. From my understanding, that door could be replaced with like two bolts.
Q. All right. Are there places here in the area of Columbia in which you can buy car parts such as that?
A. Yes, ma'am. Pull-A-Part.
Q. Pull-A-Part?
A. Yes, ma'am.
Q. Junkyards?
A. Yes, ma'am.
Q. Scrap yards?
A. Yes, ma'am.
Q. Things of that nature?
A. (Nods head.)
Q. When you made those observations, did you share that with anyone else within your department? Did you share that information?
A. Yes, ma'am, I'm sure I did. Captain Jones was actually with me when I actually went out to the tow yard and he's actually in the picture also.

Q. All right. What about Detective Chuck Bramlet?
A. I did.
Q. And, in addition, did you share it with any other law enforcement agencies?
A. I typed up a -- I typed up what is a West Columbia search warrant. It was not signed by a judge, but it was a search warrant and I gave it to Investigator Bramlet to take to Richland County to get a search warrant.
Q. All right. And so just to clarify, if you have to cross jurisdictions like that and go from Lexington County to Richland County, are you able to just go over to Richland County yourself and execute a search warrant?
A. No, ma'am. I have to get a Richland County deputy to actually get a search warrant in their jurisdiction.
Q. Okay. And you're a Lexington County officer?
A. Yes, ma'am.
Q. So you had to rely on a Richland County officer to get a search warrant for Eagle One, which is in Richland County?
A. Yes, ma'am.
Q. And ultimately are you provided information -- you drafted a search warrant that went to officers in Richland County?
A. Yes, ma'am.
Q. And can you tell us whether or not ultimately a search

warrant was executed on that vehicle at the Eagle One Towing lot?

A. It was.

MS. MAYES: I beg the Court's indulgence.

BY MS. MAYES:

Q. So, Captain Wade, combined with the information that you received from the State Law Enforcement Division, the positive identification of the photo lineup by Mr. Mancine and your observations regarding this vehicle and ultimately the search warrant executed on that vehicle, was an arrest made in this case?

A. Yes, ma'am, it was.

Q. And who was the person arrested?

A. James Bubba Patterson.

Q. And what was the date of his arrest?

A. On November the 16th, 2012.

Q. All right. So the day after you went out to Eagle One and observed the vehicle. And then also what was the date that the photo lineup was shown to Mr. Mancine?

A. On November the 15th, 2012.

Q. So after the photo lineup identification by Mr. Mancine?

A. Yes, ma'am.

Q. And what was the date of your notification letter from the State Law Enforcement Division DNA database?

A. I received that --

MR. MADSEN: Judge --

A. -- on November the 12th?

MR. MADSEN: Excuse me. I want to object.

BY MS. MAYES:

Q. So just to clarify, the arrest followed all of these events that you testified to?

A. Yes, ma'am.

MS. MAYES: Nothing further.

THE COURT: For the record, I'll overrule that objection.

CROSS-EXAMINATION

BY MR. MADSEN:

Q. So, Detective Wade, you're called out on the -- or on May 9th of 2012, correct --

A. Yes, ma'am -- yes, sir.

Q. -- on an armed robbery call?

A. Yes, sir.

Q. And you're the chief investigator on this case?

A. Yes, sir.

Q. So you're responsible for coordinating all of the investigators or anyone that -- anything that anyone is going to do, you're responsible for coordinating it and you're responsible for compiling all of the information?

A. Not necessarily. If you're trying -- if you're asking

me when I get on-scene do I tell each investigator what to do, no.

Q. But they all report back to you?

A. Not at that particular time. I wasn't a captain at that time. I was a regular investigator at that particular time.

Q. But you're still the chief investigator. I mean, it's your case, right?

A. Yes. Right.

Q. So eventually even though they might not tell you what they're doing or you might not tell them to what to do, eventually it comes back to you and you compile that together in what, I guess, y'all call a case file?

A. Correct.

Q. So in the end, everything on this case is your responsibility?

A. Pretty much.

Q. Well, you say pretty much. Who else's responsibility is it if it isn't the chief case investigator's?

A. Well, it's my responsibility if I get all the paperwork that I'm supposed to get. Almost every case we work everybody don't turn in everything they have because if a note's out there, people might write on a napkin, and I might not end up getting that.

Q. But your job is to track that down and try to get it,

isn't it?
A. Correct.
Q. And so when you get out there, what other officers are out there?
A. I recall Investigator Turner being there, Investigator -- well, Captain Morrison was there, Investigator Sullivan was there, Investigator Paige Moore was there and Investigator Scott Neal was there.
Q. Is that it?
A. And Captain Mark Jones was also there. Ronald Fair was there.
Q. How about Corporal Hook?
A. I'm not a hundred percent sure.
Q. How about PFC Todd?
A. He was there, yes.
Q. Officer Dees? Matt Dees. It's Matt, isn't it?
A. Yes, Dayes.
Q. Dayes. Sorry.
A. I'm not sure if he was there or not. I think he was on patrol maybe at that particular time.
Q. How about Investigator Bramlet?
A. I don't think he worked that day.
Q. So there's one, two, three, four, five, six, seven, eight, nine -- ten officers at least plus yourself?
A. That's possible.

Q. And y'all interview witnesses out there, correct?
A. At the police department I know witnesses were interviewed.
Q. And so the witnesses involved in this case, Frank Mancine's interviewed?
A. He's interviewed at his business.
Q. And you do that interview, correct?
A. Correct.
Q. And you interview him and, I guess, his attorney's with you?
A. Yes.
Q. And you record that interview?
A. That's correct.
Q. And when you interview him, he gives you a description, correct?
A. Correct.
Q. And he tells you five-seven, five-eight, a black male, 120 pounds, correct?
A. Yes, in his mid forties.
Q. And mid forties?
A. Yes.
Q. He doesn't mention anything about unusually large lips or anything like that?
A. No, sir.
Q. And do you interview anyone else either at the station

or out there on the scene that day?
A. No, sir.
Q. But you know that there's other people that are interviewed, correct?
A. Yes, correct.
Q. And I'm gonna butcher her first name, but I think she goes by Kim Mancine, Frank's mother?
A. Yes.
Q. She's interviewed by somebody?
A. I'm not a hundred percent sure. Not to sound bad by saying this, but I think there might have been a language barrier a little bit there, so I'm not sure if she was interviewed by someone or not.
Q. Well, that would be unusual to have someone who was kind of in there for no one in law enforcement to talk to her.
A. Give me a second.
Q. Sure.
A. I might can give you an exact answer to that. No, sir, I don't think she was interviewed.
Q. Well, at some point in time you show her a lineup also, don't you?
A. That's correct.
Q. Was there a language barrier when you showed her the lineup?

A. I wouldn't say she spoke perfect English, but I showed her a lineup.
Q. And she didn't pick anyone out of that lineup, did she?
A. No, she didn't.
Q. And my client was in that lineup, wasn't he?
A. He was.
Q. And then I believe there was a Tommy Warner and an Ashley Knight --
A. That's correct.
Q. -- that were in the store?
A. That's correct.
Q. Were they interviewed?
A. They were.
Q. And then I think that there was a Jennifer Hubbard who was interviewed?
A. Yes, she was.
Q. A Norman Bradwell?
A. He was.
Q. A Kenneth Branham?
A. I'm not sure about the Kenneth Branham. I'm not sure about the Kenneth Branham.
Q. Is that not someone that Corporal Hook would have interviewed?
A. Yes.

Q. So he was interviewed?
A. Yes.
Q. And you showed a photographic lineup to Frank Mancine and Kim Mancine?
A. That's correct.
Q. You didn't show a photographic lineup to anyone else, correct?
A. Correct.
Q. No one else in your department showed a photographic lineup to anyone else?
A. That's correct. But there was an attempt made to show a photo lineup to two other people and that was Mr. Warner and -- to Ashley Knight and Tommy Warner. When I made contact with them, they told me they had passed that point in their life and they didn't want anything else to do with it, so they didn't come in and see a photo lineup, but I did make an attempt.
Q. Can you show me in your notes where you've got that written down?
A. I can show you in my notes where I left him a number -- where I left him a call. No, sir, that's the wrong person. No, sir, I can't, but I did try to make contact with them.
Q. Okay. You tried to make contact with them, but you never did?

A. I made contact with them and he told me --
Q. Well, you can't talk about what he says.
A. Okay.
Q. Jennifer Hubbard wasn't shown a lineup?
A. No, she wasn't.
Q. Norman Bradwell wasn't shown a lineup?
A. No.
Q. Kenneth Branham wasn't shown a lineup?
A. No.
Q. Now you're taught when you went through the academy how to write a report, correct?
A. Correct.
Q. And you've been, I guess, a detective for eighteen years or --
A. No, I've been a detective for about ten years.
Q. For ten years. So you've kind of perfected that over time, correct?
A. Right.
Q. And you know that when you write reports you want them to be complete and thorough and accurate?
A. That's correct.
Q. Because you deal with a lot of cases working at West Columbia, don't you?
A. I do.
Q. It sounds like you're a pretty busy guy because you

review everything that comes in and make decisions and then have to re-review it afterwards.

A. I do now, but not at that particular time.

Q. But you still -- you carried a caseload back then, I guess?

A. Yes, I did.

Q. Would you characterize it as a heavy caseload?

A. I would say average for an investigator.

Q. You weren't begging for work though?

A. No, I wasn't.

Q. And the reason that you want to make sure that you have a complete and thorough and accurate report is for times when you're here four years later it helps your memory, doesn't it?

A. That's correct.

Q. And that's -- I guess that big file that you've got up there, I mean, that's your report and all the compilations of other things in there, correct?

A. Yes, sir.

Q. And Detective Sullivan -- or Investigator Sullivan, I guess, was your crime scene person back then?

A. He was.

Q. And so not only would he collect evidence, but he would also do reports and give those reports to you?

A. Yes, that's correct.

Q. Can you show me the report where he tested the jewelry -- oh, not cases, the jewelry displays for fingerprints?
A. Where it was fumed?
Q. Yes. Yes, where it was fumed.
A. I don't have a copy of that report, but I remember seeing it.
Q. You don't have a copy of that?
A. No, sir.
Q. Well, you're the ones who keeps the reports.
A. That's correct.
Q. And so if he gave that to you, that would be your in your file, wouldn't it?
A. That's correct, but I could also say there was nothing of evidentiary value to me to it. There was no fingerprints, nothing lifted from that, so I don't see where it would have been anything of real importance to it.
Q. So you just throw it away?
A. I didn't throw it away. We've switched systems in 2013, 2014, and it could have very well got lost in that process.
Q. Okay. So what else has gotten lost in that process in this case?
A. I'm not sure. I know we had several CAD reports lost. They don't have anything to do with this case, but we had several CAD reports and stuff lost back then.

Q. And so where K & M Jewelry was is a strip mall, correct?
A. That's correct.
Q. And K & M is about in the middle of that strip mall?
A. Correct.
Q. And each one of those businesses, I guess, have the windows kind of like K & M that are pretty big windows that open all the way across the front?
A. Correct.
Q. And Mr. Mancine says the fellow you see on the video, the guy coming out and running to the right -- and you can see that in the window, can't you?
A. Right.
Q. And so did you or any other officers interview any of those people in the other businesses down the right-hand side?
A. I didn't. I'm not sure if the other officers did they. If they did, they didn't tell me anything about it, but I know they spoke with several people in the area.
Q. Well, that would be normal that you would want to say -- or see if anyone in any of those other businesses saw anything, correct?
A. I agree, yeah. I'm not saying they didn't interview them. They could very well have interviewed them. I know -- in my law enforcement experience, there's many times you

might come across somebody at a robbery and you say "Hey, did you see anything?", and they say "No", and you move on to the next person and we don't write everything down. I'd be -- I'd be on the scene right now if I'm writing down every little thing.

Q. And you can see in the video the fellow has, I guess, kind of dry-cleaning --

A. Yes.

Q. -- in a dry-cleaning bag or those things that they put over top. Did you go to any of the local dry-cleaners?

A. I didn't, but I'm sure somebody did. It was said that somebody had went to a dry-cleaner and -- I remember somebody going to a dry-cleaners, but they said no, they hadn't seen the person in there. I'm not -- this is four years ago, but it seems like there was a dry-cleaner in that general area on the bottom end of Meeting Street and somebody dropped in there and asked.

Q. But that's why you document stuff, correct, because it is four years later?

A. That's right.

Q. And so do you have anything -- so someone goes to one dry-cleaner and they don't see anything and you just kind of stop with the one dry-cleaner?

A. Yes. There's dry-cleaners all over South Carolina.

Q. And when you talked to Mr. Mancine at your office, you

record that statement and there's someone else with him, correct?

A. That's at his business.

Q. At his business is where you interviewed him?

A. Yes, sir.

Q. And there's someone else there with him?

A. His attorney. His attorney is there.

Q. His attorney. And when you go back and show him that photographic lineup, who is with him -- or, excuse me, who is with you when you go there?

A. Captain Jones.

Q. So Captain Jones goes there with you?

A. Correct.

Q. And is that when you interview him or when you show him the photographic lineup?

A. When I show him the lineup.

Q. Now you said my client was arrested on November 16th of 2012; is that correct?

A. That's correct.

Q. And he's arrested out at his residence, correct?

A. I wasn't present for the arrest. I was at the police department when they brought him back to the police department. It's my understanding that was at his residence.

Q. And then I think -- is it [redacted] -- or, excuse me, [redacted]

Dakota Street in Columbia?

A. It's Dakota Street in Columbia.

Q. And did you find anything out at his residence?

A. I never went to his residence.

Q. You never went to his residence?

A. No, I didn't. I didn't make the arrest.

Q. So y'all don't search out there to see if you can find anything at his residence tying him to this crime?

A. I imagine six months after a robbery of a jewelry store the suspect would probably have sold the jewelry already.

Q. But you don't know that unless you take a look, do you?

A. That's correct.

Q. And wouldn't you want to do that out of an abundance of caution?

A. Not necessarily. I would imagine he had sold the jewelry. I didn't find any in his vehicle, so I imagine it wouldn't be any in his residence either.

Q. But you could have searched it if you wanted to?

A. Yes.

Q. But you decided not to?

A. Correct.

Q. And you had mentioned something about this -- let me see if I say it right -- SCIEx?

A. SCIEx.
Q. SCIEx?
A. Yes, sir.
Q. And you have some type of system where you can check pawn tickets or what people sell or pawn at certain stores, correct?
A. That's correct.
Q. And that's kind of a normal thing that you do as an investigator?
A. Correct.
Q. So you know that there's been a house burglary and an Xbox One and certain games have been stolen, you can kind of take a look at those tickets from stores and say, "Oh, hey, Rob Madsen just sold this, you know, the day afterward and these games match up or these systems match up, we might want to go talk with Rob Madsen"?
A. That's correct.
Q. Nothing in this case in relation to my client, correct?
A. I can find information like that with a serial number or with a suspect's name and at that particular time I didn't have a suspect's name and since -- you know, since Mr. Patterson has been arrested I ran his name, but nothing came back, so there's nothing of evidentiary value for me to print out for you.

Q. Can you show me that in your report?
A. If there's nothing in the system, I can't give you anything.
Q. Now when you showed Mr. Mancine and Mrs. Mancine this lineup, you're the case investigator so you know something about the case. You didn't think it would be smart to have an officer that was kind of -- doesn't know who's in the lineup to actually go out there and do what they call a blind lineup so that -- I'm not saying that you would intentionally do it, but so that you don't intentionally somehow, you know, tip them off as to who you think it is?
A. We've never done that. If it's your case, you can show the lineup. There's no policy, no law or anything saying that that's the way it needs to be done.
Q. So West Columbia doesn't have any policy on how you show lineups?
A. No, we train people -- we train investigators on how to show lineups and everybody shows lineups as I've described earlier.
Q. But you've heard of using a, quote unquote, blind -- uninvolved person to show lineups for just that reason, correct?
A. I heard that on The First 48.
Q. The First 48?
A. Yeah, but nothing ever locally. I have never heard of

any local law enforcement doing that.
Q. The First 48, I guess, is like a -- is it like a reality --
A. TV show.
Q. -- cop show?
A. Yes. Yeah.
Q. And you also heard instead of using that sixpack that it's better to use that --
A. I didn't hear it was better.
Q. -- a flip chart?
A. I've heard of people using it.
Q. And that's where you have a photo and then you flip it over and there's another photo and you do stuff like that?
A. Correct.
Q. But you decided to do it just this way?
A. Yes, that's what we do at West Columbia.
Q. Because y'all don't have policy, so you can do it however you think is appropriate?
A. No, we do it with a sixpack. That's the way we do it.
Q. And you generated a report on this case, correct?
A. I did.
Q. And as part of that report you even have little notes about certain things that you did on this case?
A. (Nods head.)
Q. And certain things that other people have done?

A. Yes, sir, I did.
Q. And in there I think you've got that on -- on May 29th that Investigator Sullivan collected DNA from the hat and took it to SLED?
A. On May 29th Investigator Sullivan collected a sample of DNA from a hat that was left on-scene and took it -- took it to SLED.
Q. So he is -- the evidence processor then took DNA out of the hat and then he ended up submitting that to SLED?
A. I'm not sure if he submitted the hat or the DNA or actually collected DNA swabs. I'm not a hundred percent sure.
Q. So why would you put that in your notes?
A. I assumed he -- I assumed that he collected the swabs out of it his self.
Q. But there's a reason that you put it in your report. You just don't want to assume he's gonna do this or that and write it down. You have to have some basis.
A. I'm not gonna say he didn't. As far as I know, he still could have.
Q. But that's something you just assumed?
A. Yes.
Q. And that wouldn't have been done at your direction?
A. No.
Q. When you showed Mr. Mancine that lineup, it took him

under a minute to pick someone out of that lineup, correct?
A. That's correct.
Q. Mrs. Mancine didn't pick anyone out?
A. That's correct.
Q. You didn't audiotape any statements from anyone else?
A. No, sir.
Q. Except for Mr. Mancine and his attorney?
A. That's correct.
Q. And I think the solicitor had asked you about the van and you're saying the van had been painted, but the door had been painted with a different color?
A. It looked to me like the van had been painted. It wasn't the manufacturer's paint. It looked like it might have been a cheap paint job, but the door appeared to be a door that was put on aftermarket that might have been the manufacturer's paint.
Q. And so you had said something about the door as far as you can go to like a junkyard or Pull-A-Part?
A. Yes.
Q. And did you go to junkyards or pull-a-parts in the area --
A. No.
Q. -- and say, "Hey, has James purchased the back part of a door or a window or anything like that?" Did you or any other officers from West Columbia do any of that?

A. I called Pull-A-Part and they told me they don't keep records on who they sell parts to. Like they don't keep a name, they just sell parts out.

Q. You just called one place?

A. Yes.

Q. Did you actually go out there or you just called them?

A. No, I called them.

MR. MADSEN: That's all the questions I have, Your Honor.

THE COURT: Redirect?

MS. MAYES: Yes, sir, Your Honor.

REDIRECT EXAMINATION

BY MS. MAYES:

Q. Now Mr. Madsen was asking you about Frank Mancine's mother. Mr. Mancine sitting here. His mother also works at the jewelry store?

A. That's correct.

Q. Okay. And is that the person that Mr. Madsen referred to as Kim or Tokye Mancine?

A. That's correct.

Q. And you've met her?

A. I have.

Q. Is English her first language?

A. I don't think it is.

Q. Is she Korean?

A. Yes.
Q. And you had the opportunity to view the video surveillance from both May 7th and the date of the robbery on May 9th, correct, Captain Wade?
A. I did, yes, ma'am.
Q. Having viewed video surveillance of both dates, what degree of involvement did Mrs. Mancine, Frank Mancine's mother, have with the suspect as opposed to Frank Mancine himself?
A. Looking at the video on the 7th, she didn't have any contact with him on the 7th, it was just Mr. Mancine, and on the 9th Mr. Mancine had a lot more contact with him than Mrs. Mancine.
Q. All right. And Mr. Madsen was asking you about potentially showing the lineup to any other individuals. I believe the testimony was that there were two customers in the store, a boyfriend and a girlfriend?
A. Correct.
Q. And at the point that a suspect was actually developed, at the point that James Patterson's photo was actually put in that photo lineup to start showing to potential witnesses, that was what date, Captain Wade?
A. When the lineup was created, that would have been November 15, 2012.
Q. All right. So six months after the date of the

robbery?
A. That's correct.
Q. And can you tell us at that point in time was Mr. Warner necessarily interested and continuing to participate in this investigation?
A. No, he wasn't.
Q. Is that common or uncommon for crime victims?
A. That's common.
Q. And Mr. Madsen was asking you about the potential recovery of the gold. Again, by the time Mr. Patterson was developed as a suspect in November of 2012, is there any profit, Captain Wade, to be made for holding onto gold?
A. No, ma'am.
Q. Profit is made how?
A. Selling.
Q. Now other than the two latent lifts that were collected by Investigator Sullivan from that glass countertop, other than those two latent lifts that were collected and put into evidence, were any other fingerprints or latent prints recovered from that scene?
A. No, ma'am.
Q. Mr. Madsen was asking you about your interview with Frank Mancine at some point that day when he gave you a suspect description. Were you the first officer that would have been spoken with Mr. Mancine or would an officer have

spoken with him previously?
A. An officer would have spoken to him previously.
Q. Okay. And, for example, a responding officer at the scene, the person who puts out a BOLO, who is that officer?
A. Normally it's the first person on the scene. The first officer to arrive.
Q. And Mr. Madsen was asking you about the use of the photo lineup with the six individuals. I think the term he used was "sixpack", but the use of those type of photo lineups, can you tell us, Captain Wade, whether or not those type of lineups are commonly used by other law enforcement agencies in addition to West Columbia Police Department?
A. Yes, that's correct.
Q. Including the State Law Enforcement Division?
A. Yes, ma'am.
Q. In fact, who generated the lineup for you in this investigation?
A. The State Law Enforcement Division.
Q. SLED?
A. Yes, ma'am.

MS. MAYES: Nothing further.

MR. MADSEN: Nothing further.

THE COURT: All right. You may come down. Thank you very much.

(Witness excused.)

MS. MAYES: The State calls Lieutenant Cain Mayrant. Cain Mayrant.

CAIN MAYRANT,

having been duly sworn, testified as follows:

THE CLERK: Have a seat, sir. Once you're seated, state your full name; spelling your last, please.

THE WITNESS: Cain Mayrant, M-A-Y-R-A-N-T.

DIRECT EXAMINATION

BY MS. MAYES:

Q. All right. And, Captain Mayrant, where are you employed and in what capacity?

A. I'm at the Lexington County Sheriff's Department as the booking manager.

Q. All right. And when you say as booking manager, if a person is arrested for an offense, where are they brought in Lexington County if they're arrested and they need to be booked?

A. They will come to the booking desk.

Q. Okay. And once they come to the booking desk, can you tell us whether or not you obtain certain personal information from the person?

A. Yes, we will get their name, their date of birth, their height, weight.

Q. All right. And I'm gonna ask you whether or not you

were working as the booking officer for the arrest of James Patterson?
A. I was.
Q. Specifically James Bubba Patterson?
A. Yes.
Q. What was the date of his arrest?
A. The date of his arrest was November 16, 2012.
Q. All right. And you mentioned that you asked questions concerning date of birth. Did you ask his date of birth?
A. Yes.
Q. And then did you also inquire as to his height and weight?
A. Yes.
Q. And where do you get the information from that goes on this booking report?
A. You get that from the inmate.
Q. It comes from the inmate. So you asked him and he gives you an answer?
A. That's correct.
Q. What did he state to you regarding his height?
A. That he was five feet five inches tall.
Q. Five feet five inches tall?
A. That's correct.
Q. What information did he give you regarding his weight?
A. He stated his weight was 140.

Q. 140?
A. 140 pounds.
Q. And what information did you obtain concerning his date of birth?
A. The date of birth he gave was [redacted], 1962.
Q. 1962. All right. And the date of that booking is November 16th of 2012?
A. Yes.
MS. MAYES: I beg the Court's indulgence.
BY MS. MAYES:
Q. On that date of his booking, he was forty-nine years of age, correct?
A. That's correct.
MS. MAYES: Nothing further.
THE COURT: Cross-examination?

CROSS-EXAMINATION

BY MR. MADSEN:
Q. You have his age down as fifty-three on this booking sheet, correct?
A. No, the age that shows on the booking sheet usually is the age that he actually was when he was processed in.
Q. Which is?
MS. MAYES: May we approach?
(Proceedings held at the bench; not reported.)
BY MR. MADSEN:

Q. And you've got a copy of his booking sheet?
A. Yes, I do.
Q. Does he appear to have unusually large lips?
MS. MAYES: Objection. Calls for speculation.
THE COURT: Overruled.
BY MR. MADSEN:
Q. Nothing stands out about them, do they?
A. No, not about his lips.
MR. MADSEN: That's all the questions I have.
THE COURT: Anything further?

REDIRECT EXAMINATION

BY MS. MAYES:
Q. Just to clarify, you're looking at a photograph, correct?
A. That's correct.
Q. As opposed to looking at a person live in front of you?
A. That's correct.
MS. MAYES: Nothing further.
THE COURT: Is that it?
MR. MADSEN: Yes, sir.
THE COURT: All right. You may come down. Can the witness being excused?
MR. MADSEN: Yes, sir.
MS. MAYES: Yes, sir, Your Honor.

THE COURT: You're free to go, sir.

THE WITNESS: Thank you, sir.

(Witness excused.)

MR. BELL: The State would call Brendon Pennington to the stand. Your Honor, we need to take up a matter of law.

THE COURT: You just called a witness. Just have a seat, sir. Approach the bench.

(Proceedings held at the bench; not reported.)

THE COURT: Call your next witness.

MR. BELL: The State would call Brendon Pennington to the stand.

BRENDON PENNINGTON,

having been duly sworn, testified as follows:

THE CLERK: Have a seat, sir. Once you're seated, state your full name; spelling your last on the record, please.

THE WITNESS: Brendon Pennington, P-E-N-N-I-N-G-T-O-N.

DIRECT EXAMINATION

BY MR. BELL:

Q. Brendon, who are you employed by?

A. Richland County Sheriff's Department.

Q. And how long have you been with them?

A. Nine years.

Q. And in what capacity?

A. Deputy sheriff.

Q. And in May of 2012, were you still employed by the sheriff's department there?
A. Yes, I was.
Q. In what capacity back then?
A. Patrol.
Q. Do you recall on May 24, 2012, being on foot patrol?
A. Yes.
Q. And during that foot patrol, do you remember coming into contact with an older model van?
A. Yes.
Q. Now when you saw that van, did you have an opportunity to see the driver of the vehicle?
A. I did.
Q. And ultimately did you run the tag of that vehicle?
A. I did.
Q. And do you recall what the tag was?
A. [redacted] as in papa, [redacted]
Q. And do you remember the basic details of what that vehicle looked like?
A. Yes, it was a white in color van.
Q. Do you recall make and model?
A. Yes, it was a Plymouth Voyager.
Q. Do you recall the year of that model?
A. A '95. 1995.
Q. When you ran the tag of that vehicle, did you become

aware of what the VIN number attached to that tag would be?
A. Yes, I did.
Q. And do you recall what that VIN number would be?
A. I do.
Q. Would you please read that VIN number into the record?
A. Yes, the VIN was 2P, as in Papa, 4G, as in golf, H, as in Hotel, 2533SR296268.
Q. When you ran the tag, did it tell you who it was registered to?
A. Yes, it did.
Q. And what was the name of that individual?
A. James Bubba Patterson.
Q. Were you able to see a picture of that individual?
A. I was.
Q. And do you believe it was the same person that you had seen driving that vehicle?
A. Yes.
Q. Are you sure?
A. Yes.
Q. Was a home address in the system attached to that tag and individual?
A. Yes.
Q. And what was that home address?
A. [redacted] Dakota Street, Columbia, South Carolina.
Q. On May 24th of 2012, who was driving that white van

you came in contact with?

A. James Patterson.

MR. BELL: No further questions.

THE COURT: Cross-examination?

CROSS-EXAMINATION

BY MR. MADSEN:

Q. So you're out on foot patrol and you see a van?

A. Yes.

Q. And the van doesn't end up driving off?

A. It did drive off.

Q. Someone got out of the van?

A. Originally?

Q. Yes.

A. Yes.

Q. A Kenneth Bates?

A. Yes.

Q. You ended up arresting him?

A. Yes.

Q. For, I guess, grand larceny?

A. He had warrants.

Q. He had warrants, so you arrested him. So when you're on foot patrol, do you carry a computer with you?

A. No.

Q. So you see the van, you walk to the van. How do you -- you can't run the license plate while you're walking to

the van.
A. Yes, the van drove off at a high rate of speed. We located it later.
Q. And Kenneth Bates got out of the van?
A. Yes.
Q. And I think you said there was a black-skinned male in the van, correct?
A. There was, I believe, two people in the van; a younger male and another driver.
Q. And I guess that's a copy of your report, correct?
A. Yes.
Q. Can you show me in the report where you ID'd my client as the driver of that van? Where does it say that in that report?
A. Yes. R-O, which is myself, responding officer, looked up the registered owner of the vehicle who was identified by myself.
Q. Can you show me that on there? I can't see.
A. (Indicating.)
Q. And so are you saying that you see the van and then you go back and do that later?
A. No. Do you want me go over the whole incident?
Q. No, sir.
A. Okay.
Q. I just want you to answer the question.

A. After I was done with Bates, another deputy had already found the van and I responded to that scene.
Q. And so is that when you run who the registered owner is?
A. Yes, I ran his tag at that time.
Q. So you didn't run it when you initially got out there?
A. No.
Q. Or when you initially got behind the van?
A. Yeah, I was on foot.
Q. And the van had ladders on top?
A. Yes.

MR. MADSEN: No more questions.

REDIRECT EXAMINATION

BY MR. BELL:

Q. Brendon, whether you did it immediately or an hour later, did you ultimately ID the driver of that vehicle?
A. Yes.
Q. And who was that?
A. James Patterson.

MR. BELL: No further questions, Your Honor.

THE COURT: All right, sir. You may come down. Thank you very much. May this witness be excused?

MR. MADSEN: Yes, Your Honor.

THE COURT: All right. Without objection.

(Witness excused.)

THE COURT: Next witness.

MS. MAYES: The State calls Nancy Shingles.

NANCY SHINGLES,

having been duly sworn, testified as follows:

THE CLERK: Have a seat right up there, ma'am. Once you're seated, state your full name; spelling your last, please.

THE WITNESS: Okay. Nancy Shingles, S-H-I-N-G-L-E-S.

DIRECT EXAMINATION

BY MS. MAYES:

Q. All right. And, Ms. Shingles, I want to ask you a little bit about where you work and whether or not documents are maintained as part of your business?

A. I work at Eagle One Tow and Transport and we do keep documents, but they're all in QuickBooks.

Q. Okay. And you say you work at Eagle One. What type of business is that?

A. Towing and transport.

Q. Okay. And it's located where?

A. 10019 Broad River Road.

Q. All right. And at Eagle One Towing, if law enforcement stops a vehicle and the vehicle's impounded and it ends up on your lot, what's the next step?

A. We put -- input all the information in QuickBooks and the people usually notify us and, of course, we notify --

if it's a rental company, we notify them. The only time that we can't release a car is when the police department tells us not to.

Q. All right. Tell us a little bit about your lot where vehicles that are towed or impounded are maintained. Is it secure?

A. Yes, ma'am.

Q. Is it fenced?

A. Yes, ma'am.

Q. Other than the employees and the people who actually own a vehicle back there, does anyone else have the ability to just enter at will?

A. No.

Q. Now I want to you ask specifically about this document, whether or not you recognize it?

A. Yes, ma'am.

Q. And what type of document is that?

A. It's the invoice that we enter in QuickBooks.

Q. All right. And can you tell us whether or not you maintain those type of invoices for every vehicle that's impounded and kept there at your lot?

A. Yes, ma'am.

Q. And that includes vehicles that are impounded by law enforcement?

A. Yes, ma'am.

Q. Can you tell us whether or not these records are maintained in the ordinary course of your business and you have access to them as a result?

A. Yes, ma'am.

MS. MAYES: Your Honor, at this time we would offer this document pursuant to the business records exception. It's not been marked at this time.

MR. MADSEN: No objection.

THE COURT: Without objection.

(State's Exhibit Number 37, an invoice, was marked and admitted into evidence.)

BY MS. MAYES:

Q. All right. This is now State's Exhibit 37. I'm gonna have you take a look at that.

A. Okay.

Q. All right. I want to take you to this date, May 24, 2012. Do you have any information as to whether or not a vehicle was towed on that date that was a Plymouth Voyager?

A. Yes, ma'am.

Q. All right. And on that particular date where the Plymouth Voyager is towed, do you have a record of the VIN number or any other type of identifying information?

A. We have the tag number and it looks like the last six of the VIN number.

Q. Okay. Let's go with that tag number and the last six

of the VIN.

A. The tag number [redacted]. The last six of the VIN is 296268.

Q. 296 --

A. 268.

Q. -- 268. That's the last six digits. All right. As to this particular document -- this particular vehicle, Ms. Shingles, can you tell us whether or not it remained on that lot from the date it was impounded on 5-24-2012 until ultimately law enforcement showed up to execute a search warrant in November of 2012?

A. I'm not sure about the search warrant.

Q. Okay. Well, let me ask you this. Do you have -- does that record reflect how long that vehicle stayed on your lot?

A. No, ma'am.

Q. All right. Let me ask you this way. Did anybody ever come claim that vehicle?

A. No, ma'am.

Q. All right. And when a vehicle stays on your lot and it hasn't been claimed, what does Eagle One do with it?

A. We have to put it in the paper, we have to go to magistrate court and then we have to go to the DMV to get a title.

Q. Okay. Because it's considered what?

A. Abandoned.
Q. It's considered abandoned property?
A. Yes.
Q. And it's still on your lot and you've got to do something with it?
A. Yes, ma'am.
Q. Ultimately did that happened in this case?
A. Yes, ma'am.
Q. Was it sold?
A. Yes, ma'am.
Q. And it was sold by Eagle One yourself?
A. Yes, ma'am.
Q. What date was it sold?
A. You know what, the date's not on here.
Q. What date did you receive --
A. Oh, 5-10-2013. I'm sorry.
Q. Okay. Once again, 5 --
A. 5-10-2013.
Q. All right. So between the dates that it was towed on May 24, 2012, and the date that it was sold on May 10, 2013, where was that vehicle?
A. On Eagle One property.

MS. MAYES: Nothing further.

CROSS-EXAMINATION

BY MR. MADSEN:

Q. You don't physically remember the vehicle or taking a look at it the entire time, correct?
A. Yes, sir.
Q. You do remember seeing the vehicle?
A. No, I do not.
Q. You're just basically going off that paper?
A. Yes, sir.

MR. MADSEN: That's all the questions I have.

THE COURT: Anything further?

MS. MAYES: Nothing further, Your Honor.

THE COURT: You may come down, ma'am. You're free to go. Thank you very much.

(Witness excused.)

THE COURT: Next witness.

MS. MAYES: The State calls Anthony Kennedy.

ANTHONY KENNEDY,

having been duly sworn, testified as follows:

THE CLERK: Once you're seated, state your full name; spelling your last name, please.

THE WITNESS: Anthony Stefan Kennedy, K-E-N-N-E-D-Y.

DIRECT EXAMINATION

BY MS. MAYES:

Q. Good afternoon, Mr. Kennedy. Can you tell us where you currently reside?
A. It's [redacted] Burning Tree Drive.

Q. All right. And what county is that?
A. Richland County.
Q. Now, Mr. Kennedy, I want to ask you a little bit about yourself. What kind of car do you currently drive?
A. I've got a 2000 Chevy Silverado.
Q. All right. Prior to the Chevy that you own now, what other vehicles have you owned?
A. Well, quite a few.
Q. Okay. Can you tell us whether or not you've ever owned a Plymouth Voyager?
A. Yes.
Q. And how did you own a Plymouth Voyager?
A. I got it from my mother before she passed in 2008.
Q. All right. So you got that Plymouth Voyager around 2008; is that correct?
A. Right.
Q. And when you had the Plymouth Voyager, was the title in your name once you got it from your mom?
A. Not at that time. I had to do some work to it and then I put it on the road and put it in my name, yes.
Q. Okay. So ultimately it did end up in your name and registered at the South Carolina Department of Motor Vehicles with a title in your name?
A. Yes.
Q. And when you owned that Plymouth Voyager, can you tell

us ultimately what happened to it?
A. Well, I sold it at --maybe around 2010.
Q. Okay. So in 2010 you sold it. And did you personally know much about the person you sold it to?
A. No.
Q. Okay. But you did sell that vehicle in 2010?
A. Right.
Q. Now when you owned the Plymouth Voyager that you got from your mom in 2008 -- and just to clarify, what was your mother's name?
A. Sadie L. Kennedy.
Q. All right. So your mother was Sadie Kennedy and then you got the title in your name, Anthony Stefan Kennedy?
A. Right.
Q. Do you remember the name of the person that you sold it to?
A. No.
Q. Okay. So you didn't know that person well enough to even know his name, but you did sell it to someone around 2010?
A. Yes.
Q. And, Mr. Kennedy, the Plymouth Voyager that you owned, what color was it?
A. Gray.

Q. It was gray when you owned it. Was it gray when you sold it?

A. No -- I mean, yes. Sorry.

Q. Okay. Just to clarify, so it was gray when you got it from your mom?

A. Yes.

Q. And when you sold it in 2010, what color was it?

A. Gray.

Q. And the Plymouth Voyager, can you tell us whether or not it had all of its parts when you sold it? And by that I mean was it a Plymouth Voyager front, back, side, everything?

A. Yes.

Q. Did you ever put any Dodge Caravan parts on that vehicle?

A. No.

Q. When you sold it in 2010, did it have any Dodge Caravan parts on it?

A. No.

Q. And the rear hatch specifically, was it a Dodge Caravan rear hatch when you sold it in 2010?

A. No.

Q. It would have been a Plymouth?

A. Yes.

MS. MAYES: I beg the Court's indulgence. Nothing

further of Mr. Kennedy.

THE COURT: Cross-examination?

CROSS-EXAMINATION

BY MR. MADSEN:

Q. How are you doing, Mr. Kennedy?

A. Okay.

Q. So if I understand you correctly, you got that van from your mother in, what, about 2009?

A. 2008.

Q. And she got it from your sister, I believe?

A. Right.

Q. Did your sister buy it new or do you know?

A. Well, when she got it, it was fairly new.

Q. Fairly new. But she didn't buy it like new off the lot?

A. I don't recall.

Q. And you had to do some work on the van, didn't you, before you could get it on the road?

A. Well, it was sitting in her back yard and I just pulled it over to my house so I could get it -- get it going, yes.

Q. You had to put an engine in it, didn't you?

A. Right.

Q. Do you know what kind of engine you put in it?

A. No, not right offhand. A 3.0, something like that.

Q. Did you get the engine from like a salvage yard?
A. Right.
Q. And so you don't know whether that was a Dodge engine or a Plymouth engine or what type of engine it was, you just knew it kind of fit the motor mounts and --
A. Yeah, I just -- you know, like I said, it just mount up. That's all I know. If it mount up and it runs, then you drive it. That's it.
Q. And that van had seen a lot of driving, hadn't it?
A. I'm sure it had.
Q. And you do that pretty regularly, get cars and kind of fix them up and then turn around and sell them?
A. Yes, sir.
Q. It's not unusual for people to do if they're mechanically inclined like you, correct?
A. Right.
Q. And you ended up selling your van to my client, I guess, in 2010 around about?
A. Yes.
Q. Do you recall how much you sold it to him for?
A. I might have got whatever I put into it. Probable about $500, I believe.
Q. So not necessarily the Cadillac of vans?
A. No.
Q. I mean, it needed some work?

A. Right.
Q. Some rust problems?
A. I don't -- maybe. Maybe it was.
Q. Some dent problems?
A. (Nods head.)
Q. And that's the kind of stuff that you would do if you got a car that needed some of that stuff, you would fix it up and then turn it around and sell it for a profit or at least what you had in it? That's kind of a hobby or kind of a semi business for you?
A. Well, it's just actually something to make some extra money.
Q. When you sold it, did it have racks on top?
A. There was a rack on top, I think.
Q. Like a work truck?
A. Yes.
Q. Was there -- besides the driver and the passenger seat, were there seats behind?
A. At that time it was, yes.

MR. MADSEN: That's all the questions I have.

MS. MAYES: Nothing further. We ask that the witness be released.

THE COURT: All right. You can come down. Thank you very much. You're free to go.

(Witness excused.)

MS. MAYES: May we approach?

(Proceedings held at the bench; not reported.)

THE COURT: All right. Ladies and gentlemen of the jury, once again, counsel and I were trying to work on our schedule. Counsel tells me the next witness may be somewhat lengthy and it's 4:45. I don't know. If I let you out now, can you beat the traffic? I don't know. I probably can't because I've got to get on I-20, but let's take our evening break at this time. I'll ask you to be back in the jury room tomorrow morning at 9:30 at which time we'll continue with the trial. Please do not discuss this case among yourselves when you return to the jury room and with anyone else over the evening hours. Please do not do any research about the case. Just get a good night's -- have a good meal and have a good night's sleep and be bright, fresh and ready to go in the morning. Thank you very much. 9:30.

(Whereupon, the jury was excused for the evening at 4:45 PM.)

THE COURT: We'll stand at ease until 9:30.

MS. MAYES: Thank you, Your Honor.

MR. MADSEN: Thank you, Your Honor.

MR. BELL: Thank you, Judge.

(Whereupon, the proceedings were concluded for April 12, 2016, at 4:46 PM.)

(The following proceedings were held on April 13, 2016, beginning at 9:30 AM.)

BAILIFF: All rise. The Honorable Judge G. Thomas Cooper presiding.

THE COURT: All right. Is the State ready to proceed?

MS. MAYES: Yes, sir, Your Honor.

THE COURT: Defense ready to proceed?

MR. MADSEN: Yes, Your Honor. I believe that they're going to call Captain Odom, so obviously I'm going to renew my objection in reference to the search based on the search warrant. Additionally, when he testified he testified that Bramlet kind of did everything and he just kind of stood there, so I think that there's going to be some significant foundation problems if he didn't take the photographs, didn't see him take the photographs and just kind of stood while another officer basically conducted the search.

THE COURT: Photographs of -- I don't recall.

MR. MADSEN: Inside the van.

THE COURT: In the van. Okay. We haven't seen those yet, have we?

MR. MADSEN: I have seen the inside -- the photographs, but --

THE COURT: The Court hasn't seen them.

MR. MADSEN: No, you have not. And those were taken by Bramlet, not Odom, I believe, and obviously as Your

Honor --

THE COURT: How would you suggest that we get Mr. Bramlet up here?

MR. MADSEN: Well, you can't get Mr. Bramlet up here unfortunately.

THE COURT: Right.

MR. MADSEN: But I mean -- and that's an unfortunate circumstance, but that doesn't change, you know, the foundational requirements of the rules of evidence.

MS. MAYES: Well, the testimony from Captain Odom will be that he observed the van, that he is familiar with the appearance of the inside of the van, and that the photos are a fair and accurate representation of the inside of the van, and that's the only requirement under the rules; whether or not he can establish that the photos do represent a fair and accurate image of what he observed that day.

MR. MADSEN: Well, I think he's required to recall what's in there, not just "Hey, I'm sure that these are what's in the van". If he doesn't have an independent recollection --

MS. MAYES: Well, that foundation will be laid.

THE COURT: Okay. Are you ready for the jury?

MR. MADSEN: Yes, sir.

THE COURT: Is the State ready for the jury?

MS. MAYES: Yes, sir.

THE COURT: All right. Bring the jury, please.

(State's Exhibit Number 38 through 48 were marked for identification.)

THE COURT: Good morning, ladies and gentlemen. We're now ready to continue with the trial.

Solicitor, call your next witness.

MR. BELL: Thank you, Your Honor. At this time the State would call Clarissa Mack DuBard to the stand.

CLARISSA DuBARD,

having been duly sworn, testified as follows:

THE CLERK: Have an a seat right up there, ma'am. Once you're seated, state your full name; spelling your last on the record, please.

THE WITNESS: Clarissa DuBard, D-U-B-A-R-D.

DIRECT EXAMINATION

BY MR. BELL:

Q. Good morning, Clarissa.

A. Good morning.

Q. Clarissa, who do you work for?

A. South Carolina Department of Mother Vehicles.

Q. How long have you been with the DMV?

A. Thirteen years.

Q. What kind of work do you do for them?

A. Custodial records of all titles that come into the

Department.
Q. When you say custodial records, can you tell us a little bit about what that entails?
A. Anything dealing with title histories, the plates on the vehicle, any transactions done between vehicles, we hold the records.
Q. And do you recall being asked to do a title history in relation to the case that you're here for today?
A. Yes.
Q. And what is a title history?
A. The title history is the first owner in South Carolina who has the vehicle and it follows the chain of the sales or if just one owner of the vehicle.
Q. And were you able to successfully locate a title history when we asked you to run one?
A. Yes.
Q. And is that sort of history something that you're responsible for maintaining?
A. Yes.
Q. And is that a document that you keep in the ordinary course of your business?
A. Yes.
Q. Now, Clarissa, do you recall the tag or VIN number that was provided to you to run the title history?
A. Yes.

Q. And what was that?
A. The VIN Number is 2P, as in Paul, 4G, as in girl, H, Henry, 2533, S, as in Sam, R, as in red, 296268.
Q. Now when you ran that title history, did that VIN number reflect on the title history?
A. Yes.
Q. And did you bring a copy of that title history with you here today?
A. Yes, I did.
Q. May I please see it?
A. Yes.
Q. Thank you.
A. Thank you.
Q. I'm showing you what is marked for ID as State's 38. Do you recognize that document?
A. Yes.
Q. And what is that?
A. That's the title history.
Q. And title history for what vehicle?
A. A '95 Plymouth Voyager.
Q. And is the VIN number reflected on that title history the same as the one you just read on the record?
A. That's correct.
Q. And did you pull that title history yourself?
A. Yes.

MR. BELL: Your Honor, at this time the State would move State's 38 into evidence.

MR. MADSEN: No objection.

THE COURT: Without objection State's 38 in evidence.

(State's Exhibit Number 38, a title history, was admitted in to evidence.)

BY MR. BELL:

Q. Clarissa, I'm handing you what's marked as State's 38. Could you tell us how a title history is organized?

A. The title history will consist of the most current owner of the vehicle all the way back to the first owner.

Q. And with this particular title history, would you please refer to the original owner and state who that is?

A. The original owner was Sadie Kennedy.

Q. And do you know what date she came into possession of ownership of that vehicle?

A. We have a generic date for her for 1900, meaning before we got a new system. It was prior to 2002.

Q. Is there any doubt that she was the original owner?

A. She is the original owner, yes.

Q. And her name was Sadie Kennedy?

A. Sadie Kennedy, uh-huh.

Q. Did anybody else own that vehicle after Sadie Kennedy?

A. Yes, the next owner was Anthony Kennedy.

Q. And in what year did he take possession of that

vehicle?
A. Anthony Kennedy took possession -- the purchase date was 8-1-2008.
Q. August 1, 2008?
A. That's correct.
Q. Excuse me for the elementary handwriting. And after Mr. Kennedy owned the vehicle, did anybody else take possession of it?
A. Yes. The next owner is James Bubba Patterson.
Q. And when did he come in possession of it?
A. The purchase date was December 6, 2010.
Q. And, once again, that date?
A. December 6, 2010.
Q. Did he ever sell the vehicle?
A. Yes. Well, the vehicle was picked up or sold to an Eagle One Towing on 12-3-2012.
Q. 12-3-2012?
A. That's correct.
Q. Between James Bubba Patterson and Eagle One, did anybody else possess that vehicle --
A. No, sir.
Q. -- according to the title history?
A. No, sir.
Q. And one more time, when did Eagle One?
A. December 3, 2012.

Q. Now referring back to the entry on James Bubba Patterson, does that entry list a registered address?
A. Yes.
Q. What address is that?
A. [redacted] Dakota Street, Columbia, South Carolina, 29203.
Q. Did James Bubba Patterson come back into ownership of that vehicle after the tow company, Eagle One, took possession of it?
A. No, sir.
Q. And the year, make and model of the vehicle that title history reflects?
A. The year is a 1995, the make is Plymouth, and the model is Voyager.

MR. BELL: Please answer any questions the defense may have for you.

CROSS-EXAMINATION

BY MR. MADSEN:

Q. Ms. Bubard?
A. DuBard.
Q. DuBard?
A. Yes.
Q. Ms. DuBard, now when you say possessed, that's ownership of the vehicle. That doesn't mean that someone else couldn't be driving it in the interim?
A. That's correct.

Q. And then if we look on State's 38, there is a purchase date which is 12-6-2010?
A. That's correct.
Q. And that's when James purchased the vehicle?
A. Right.
Q. And then there's an issue date which is 12-20-2011?
A. Right.
Q. Is that the issuance of a license plate?
A. That's the date that he went to the DMV to obtain a title and I have that paperwork also.
Q. Okay. So that's about -- or there's a year gap between when he gets it and when he gets it titled?
A. Right.
Q. And some people do that because the car is not really ready for the road or they need to fix it up or something along those lines?
A. Right.
Q. Because there's no reason to get -- to do all that until you can actually physically get it on the road?
A. Correct.
Q. And there was an address on there for Mr. Patterson, correct?
A. Yes.
Q. And if law enforcement wanted to get access to where Mr. Patterson lived, they could access those records?

A. That's correct.

MR. MADSEN: That's all the questions I have.

THE COURT: Anything further?

MR. BELL: Nothing further, Your Honor.

THE COURT: You may come down. You're free to go. Thank you very much.

THE WITNESS: Thank you.

(Witness excused.)

THE COURT: Next witness.

MR. BELL: Thank you, Your Honor. At this time the State would call Captain Joseph Odom to the stand.

JOSEPH ODOM,

having been duly sworn, testified as follows:

THE CLERK: Once you're seated, state your full name, spelling your last, please.

THE WITNESS: Joseph Odom, O-D-O-M.

DIRECT EXAMINATION

BY MR. BELL:

Q. Captain, who do you work for?

A. Richland County Sheriff's Department in Richland County.

Q. How long have you been there?

A. This year will be twenty-four years.

Q. Is it fair to say in 2012 you were still there?

A. Yes, sir.

Q. In what capacity?
A. I was a lieutenant over in the Broad River area, which they call Region 4. The county is broke down into regions and that is Region 4, which is Broad River, which is right up against Lexington County.
Q. And in 2012, did you have reason to become involved in a case involving James Bubba Patterson?
A. Yes, I did.
Q. And were you asked to assist in that case?
A. Yes, I was.
Q. And in what way did you assist?
A. I received a phone call originally from West Columbia. I'm not sure exactly who it was. I believe it was Investigator Wade, but I couldn't be for certain, and they were gonna send a gentleman over from forensics to go look at a vehicle and they had brought a search warrant with them, which the judge would not entertain a warrant from another county, so I assisted them in obtaining a Richland County search warrant.
Q. And did you ultimately obtain a search warrant for that vehicle?
A. Yes, I did.
Q. And did you participate in the execution of that search warrant?
A. Yes, I did.

Q. Do you recall where that search warrant took place?
A. It took place at Eagle One Towing, which is off of Broad River Road.
Q. And that's in what county?
A. That's in Richland.
Q. And upon arrival, did Eagle One allow you onto their property?
A. Yes, they did and took us to the back containment lot.
Q. And were you able to identify the vehicle you were looking for?
A. Yes, we did.
Q. How did you confirm that was the vehicle you were looking for with your search warrant?
A. Well, we had a general description of the vehicle and, of course, I always -- when I'm involved in something like that, I copy down the VIN number and we have a mobile data terminal in our vehicles and I run it through DMV that way just to quickly confirm through the files that that was, indeed, the vehicle.
Q. And do you recall the VIN number for the vehicle?
A. I can look at it. I don't recall it.
Q. Do you have a copy of your report with you, Captain?
A. I do.
Q. Would you refer to your report?
A. Bear with me just a second. Yes, sir, I have it in

front of me.
Q. Would you please read that VIN?
A. It's 2 Papa 4 Golf Hotel 2533 S, as in Sierra, Romeo, 296268.
Q. And the same VIN number, was that present on the vehicle that you were executing the search warrant on?
A. Yes, it was.
MR. BELL: I beg the Court's indulgence.
BY MR. BELL:
Q. Captain, I'm handing you a series of photographs, 39 through 48. Would you, please, look through these photographs and once you've had a chance to look at all of them, let me know, please. Have you had a chance to look at those pictures, Captain?
A. Yes, sir.
Q. What do those appear to be pictures from?
A. The van in question that we had the search warrant for that was at Eagle One Towing.
Q. And were you present when those pictures were being taken?
A. Yes, I was.
Q. And does the contents of those pictures fairly and accurately represent the way they looked on the day those pictures were taken?
A. Yes, they do.

MR. MADSEN: Judge, I would renew my in limine motions not only to the hearsay, but also the foundation.

THE COURT: All right. Overruled. You may proceed.

MR. BELL: Thank you, Your Honor. Your Honor, at this time the State would seek to move State's 39 through 48 into evidence.

THE COURT: Over defense's objection they're admitted.

(State's Exhibit Number 39 through 48, photographs, were admitted into evidence.)

MR. BELL: Permission to publish, Your Honor?

THE COURT: You may proceed.

BY MR. BELL:

Q. Captain, I'm showing you what's marked as State's 41. It's difficult to see, but this area that I'm circling, what is that?

A. That should be the vehicle identification number. It's obscured from here, but I think there's -- it appears to be seventeen digits there.

Q. Did you have a chance to review this picture a moment ago?

A. Yes, I did.

Q. And is the VIN number reflected here the same you read into the record?

A. Yes.

Q. And where is this decal located on the vehicle?

A. That particular one should be on -- on the door frame on the -- I believe it's on the driver's side. Some are on the driver's, some are on the passenger's side, but I believe that was on the driver's side.

Q. Is there anywhere else a VIN number is typically located on a vehicle?

A. They're usually on the driver's side on the dash right up against the windshield and subsequently on the firewall of a vehicle and on the frame. You'll have to get under the vehicle on that.

Q. And did y'all match the VIN number labeled on the door with any of the other VIN number labeled on the vehicle?

A. As well as I remember, I run the VIN number from the windshield and it matched up with the VIN number from the decal on the door frame.

Q. Now when you first made your way to that vehicle and started taking a look at it, did anything stand out to you immediately about it?

A. Originally when we got there, there was already discussion that the hatch on the vehicle had been changed out and it didn't match the actual vehicle, and when I got on-scene it was obvious that, you know, the vehicle was a Plymouth Voyager, but the hatch on the back of the vehicle was of a -- the same Chrysler product, but it was a Caravan, I believe.

Q. I'm showing you State's 45. What is that a picture of?
A. That's a picture of the van in question, which is a Plymouth.
Q. Did you have a chance to see this picture a moment ago as well?
A. Yes, I did.
Q. And it's hard to see here, but what am I circling?
A. I think that's the emblem for the type of vehicle it is.
Q. I'm handing you State's 45. Would you take a closer look at the portion I indicated and tell us what that says?
A. It says Plymouth.
Q. And you testified a moment ago that the rear hatch did not appear to match that of a Plymouth?
A. No, it was a similar make and model, but it was just from a different product, which was a Caravan.
Q. This is State's 46. What are we looking at here?
A. We're looking at the rear hatch of the vehicle.
Q. Are you able to read that tag number?
A. Not from -- not from here, no.
Q. State's 46, Captain. Would you, please, read that tag number?
A. The tag number is [redacted].
Q. And are you aware of who that tag was registered to?

A. It was registered to James Bubba Patterson.
Q. I'm showing you now what is marked or entered as State's 31. What are we looking at?
A. You're looking at the rear tail hatch of the vehicle. I believe it was on the bottom left side and it says Dodge.
Q. Is that where you're indicating?
A. Yes, sir.
Q. And that close-up, referring back to Court's 46, where on that hatch was that located?
A. It should be on the bottom left on the driver's side.
Q. Indicating here?
A. Yes, sir.
Q. State's 34, what are we looking at?
A. You're looking at the model name, which it says Caravan, which is located on the passenger, right side of the vehicle.
Q. Referring back to 46, are you saying that that was on this portion?
A. Correct.
Q. And, once again, why does that stand out to you in reviewing this?
A. Well, it's a different make and model. They're similar vehicles, it's just it didn't come original with the vehicle and it appears to have been switched out at some point.

Q. I'm handing you Court's 42. Is there anything that stands out to you about that picture?
A. Just, you know, you can tell a little different colors. They're both kind of white, but just -- just a color change. The colors were -- were a little bit different.
Q. And when you say different, what parts of the vehicle are you talking about?
A. On that rear hatch.
Q. And the hatch is a different color white from what part of the vehicle?
A. From -- from the regular body of the vehicle.
Q. What does that indicate to you?
A. That it had been changed out.
Q. What had been changed out?
A. The hatch. The rear hatch had been changed out from the original vehicle.
Q. We won't be able to see it well here, but in Court's 42 what part of the vehicle are you referencing has a coloration difference?
A. That rear quarter panel. Right there, yes, sir.
Q. And this part is different from this part?
A. Yes, sir.
Q. Did the vehicle have a rack on top of it?
A. It did.

Q. Referring back to 42, is that rack pictured here?
A. Yes, it is.
Q. Is anything affixed to it?
A. A ladder. An extension ladder.
Q. After reviewing the exterior of the vehicle, did y'all enter the vehicle itself?
A. Yes, we did.
Q. And I'm handing you State's 47. Was there anything that stood out to you when you opened the vehicle?
A. Well, when we opened up the vehicle, it had a lot of debris and stuff and there were --
Q. Is there anything related to the frame of the vehicle that stood out to you?
A. Yeah, it -- it appeared that in the doorjambs of the vehicle, which is the frame where the door goes in, it appeared to have been a different color at one point, like a grayish white. It was just different and it looked like the vehicle had been painted over white.
Q. Referring to 47, could you, please, indicate what area you're talking about?
A. We're looking at the passenger side of the vehicle with the door open and if you look at the doorjamb as you're looking at the seat, right in there, that's what's called the doorjamb, which is, you know, the rocker panel and all, and it was a different color there.

Q. Was there any -- if you look at State's Number 47 here, when you look closely at it are you able to see any marks that would indicate painting?
A. Yes, you can just -- the outside of the vehicle is white and the doorjamb is of kind of a different color.
Q. Did you continue to search through the vehicle after seeing that?
A. Yes, we did.
Q. State's 43. Can you tell us if any of the items in that picture stood out to you?
A. Well, that -- that's a five gallon bucket.
Q. Is there anything in the bottom picture -- the bottom of the picture?
A. I can't see it from here, but I've looked at the picture. It should be --
Q. I'll hand it to you, Captain. State's 43. Is there anything else in the picture that stands out?
A. Yes, you can see a paintbrush at the bottom and there's paint splatter all through the area right there.
Q. Referring again to 43, the paintbrush that you just indicated, is that what you're referring to?
A. Correct.
Q. Were there any other indicators in your review of this vehicle that made you believe it was tied to the incident that the search warrant was connected to?

A. Yes. Previously we had -- I had --
Q. I'm gonna stop you there.
A. Okay.
Q. If you would review State's 48, 39 and 40.
A. Okay.
Q. Did you see those pictures earlier when I handed them to you?
A. Yes, I did.
Q. And do you recall seeing those pictures or seeing what those pictures reflect on the day that search warrant was executed?
A. Yes, sir.
Q. What do those pictures reflect?
A. They reflect some type of abrasion in the interior of the vehicle on the headliner.
Q. Referring to State's 40, could you generally indicate the area you're talking about even though it's hard to see here?
A. If you open up the hatch and you look straight up into the interior of the roof, it's kind of on the -- kind of as the interior kind of rolls over to the side of the vehicle there was an abrasion found, like a puncture mark, where something had struck it.
Q. Referring to State's 48, is that what you were indicating?

A. Yes, sir.
Q. And, once again, where on the vehicle is this located?
A. It's on the rear of the vehicle, actually in the body of the vehicle on the headliner, and as you open up the hatch -- you know, you have your hatch and then you have the opening of the vehicle and it's kind of up on the interior on the headliner.
Q. Referring to 46, if you're looking at the vehicle from that angle, please indicate roughly where that mark would have been.
A. It would have been -- if you open up the hatch on the roof line of the vehicle, it would have been on the right -- from what I remember on the right side.
Q. Are you indicating this area?
A. Correct.
Q. And that mark was on the exterior or the interior of the vehicle?
A. It was on the interior of the vehicle.
Q. And, once again, Captain, how long have you been in law enforcement?
A. Twenty-four years this year.
Q. And are you trained in firearms?
A. Yes, I am.
Q. Do you shoot a variety of firearms?
A. Yes, I do.

Q. Are you required to continually qualify with firearms?
A. Yes, I am. Twice a year.
Q. Have you responded to various scenes for incidents over the years involving gunshots?
A. Yes, I have.
Q. Have you seen during your experience as a law enforcement officer gunshot impacts?
A. Yes, I have.
Q. And based on that experience, when you were on the scene --

MR. MADSEN: Judge, I think we've got a matter of law.

THE COURT: Approach the bench.

(Proceedings held at the bench; not reported.)

MR. BELL: Your Honor, we'll move on from that line of questioning.

BY MR. BELL:

Q. Captain, are you aware of what date the vehicle that we were just looking at was impounded with Eagle One Towing?
A. Yes, it was on the 24th of May.
Q. And that would have been of what year?
A. 2012.

MR. BELL: Your Honor, permission to publish State's 31, 47 and 48 to the foreperson?

THE COURT: Go ahead. They are in evidence, aren't

they?

MR. BELL: Yes, Your Honor.

BY MR. BELL:

Q. Captain, after viewing everything related to the van that day, did you believe the color of the vehicle had been manipulated?

A. Yes, I did.

Q. And who did that vehicle belong to?

A. James Bubba Patterson.

MR. BELL: Please answer any questions Mr. Madsen may have for you.

THE COURT: Hold up just a minute. Let's let the jury finish reviewing the evidence.

MR. MADSEN: Sure.

THE COURT: All right, Mr. Madsen.

CROSS-EXAMINATION

BY MR. MADSEN:

Q. So, Captain Odom, the solicitor had asked you to refer to your report. You never took any notes on this case, did you?

A. Never, just hand-notes that were disregarded.

Q. What do you mean disregarded? You threw them away?

A. No, just -- this case is old and to be honest with you I can't find them.

Q. And you never did any type of report?

A. No, it was --
Q. And you got involved because there wasn't -- you're head of patrol out there, Broad River Road Region 4?
A. Correct.
Q. You're a captain now. How many officers are under you?
A. At the present time, we're a little short, but twenty-five, twenty-six.
Q. And when we talk about patrol, we're kind of talking about road deputies that drive around in cars?
A. Correct.
Q. So you've got a pretty busy job?
A. I do.
Q. And you couldn't get an investigator that day so you went out there?
A. Correct.
Q. And that's not your normal thing to do?
A. No, it's not.
Q. And it appears that the -- the van that we're talking about is a work van?
A. Correct.
Q. Ladders on top?
A. Correct.
Q. A lot of junk on the inside?
A. Correct.

Q. It certainly doesn't look like it's been cleaned?
A. No.
Q. You were saying a lot of "we". Chuck Bramlet was out there with you, correct?
A. Yes. Yes, he was, and he pretty much did everything.
Q. He did everything. He took all those photos?
A. He did.
Q. Do you actually recall all of these pictures?
A. I'll be honest with you, I don't -- I can't say I recall all of them. I remember I was there. I remember he took photos. I do remember certain aspects of everything, yes, sir.
Q. You remember certain aspects, but what's in these State's exhibits you can't sit there and testify that you remember seeing those particular things photographed or actually seeing those particular things in the van?
A. Yes, I do remember them. Yes.
Q. You remember every single one of them?
A. I'm not gonna sit here and tell you I remember every single one, but the majority I do.
Q. Well, which ones don't you remember?
A. As -- I don't remember every single photograph in there. As far as the indentation, I do remember that part because we discussed it. The paint, I do remember that part.

Q. And in the search of the van -- well, let me ask you this. As patrol, do y'all work a lot of breaking into motor vehicles?
A. Yes, we do.
Q. Broken glass into cars?
A. Correct.
Q. It's a bugger to get that stuff out, isn't it?
A. It does tend to stay in there.
Q. It could be years that you find broken glass?
A. Yes, sir.
Q. Did y'all find any broken glass in the van?
A. As well as I remember, no.
Q. How about a -- and I always get this wrong. When you shoot a -- is it a projectile or a bullet or -- the end that comes out of a shell, that's a projectile?
A. That's the projectile, which comes out of the shell casing.
Q. We don't find any kind of a projectile inside that van?
A. No, we do not. Well, to my knowledge, no.
Q. And it hadn't been cleaned up. I mean, we know the inside of the van -- it's dirty?
A. Yes, it is.
Q. I mean, it's used as a work van it looks like?
A. It appeared to be painter's van, yes, sir.

Q. And when we say a painter's van, you found paint and brushes in the van and I think -- didn't the ladders have paint on them maybe?
A. Correct.
Q. And when you paint a car, you generally don't paint with a paint brush, do you? You're gonna use a sprayer.
A. Yes, but some people do.
Q. And if law enforcement wanted to go around, they could check different paint and body shops and see who's had paint -- or who's had cars painted recently. They can issue subpoenas for that and go do an investigation?
A. Yes.
Q. So do you -- you don't retrieve any items from the car yourself, do you?
A. Myself, no.
Q. And if Investigator Bramlet wanted to get a search warrant for a location in Columbia, you would have been willing to assist him with that?
A. Of course, I would have.
Q. But that request was never made to you? No one ever requested any help with any other search warrants in Richland County on this case?
A. No. No, sir.
Q. And you had talked about -- there's a -- a rip on 48, correct?

A. Correct.
Q. And I guess there's kind of a tear and then there's a tear above it where it looks like the material is kind of coming down, I guess, out of the headliner or --
A. Yes, that.
Q. And this is an older van?
A. It is.
Q. Older work van?
A. Correct.
Q. Stuff goes in and out the back?
A. Correct.
Q. And if there's a -- well, on a van like this, glass can be replaced in an automobile, correct?
A. Correct.
Q. There's a bunch of different places that come around and do that?
A. Yes.
Q. That's kind of big business, isn't it?
A. It is.

MR. MADSEN: That's all the questions I have.

THE COURT: Any redirect?

MR. BELL: Thank you, Your Honor.

REDIRECT EXAMINATION

BY MR. BELL:

Q. Captain, to clarify, the report being referred to when

you look down at your notes, what were you referring to?
A. A report that was generated by us. Deputy Pennington had come across this vehicle on the 24th.
Q. Do you have a copy of the search warrant that you assisted in the execution of?
A. Yes.
Q. Does that search warrant have the VIN number and tag number listed in it?
A. Yes, it does.
Q. And did you fill out what's called a return?
A. I did.
Q. And what is a return? What is the purpose of that?
A. A return is where you -- you know, you have ten days to take the search warrant back to the magistrate where it gets filed at their office and, you know, anything -- any evidence that is taken from the scene is inscribed on the search warrant and then you have ten days to get it back to the magistrate.
Q. And did you fill out a return and file it back with the magistrate from this particular search warrant?
A. Yes, I did.
Q. And as part of that return, did you notate the tag number of the vehicle that you located?
A. Yes.
Q. Would you refer to your return and tell us what tag

number you wrote down?
A. It was a 1995 Plymouth Voyager, South Carolina tag [redacted].
Q. And do you ever have to depend on returns to look back and remind yourself what happened at a search warrant?
A. Yes, it's regularly what happens.
Q. What is one of the functions of gathering photographic evidence of a scene?
A. Well, like -- like they've always said, a picture is worth a thousand words. You can look at it later. It's not from memory. If you take a picture, you can look at it later.
Q. And were photos taken during this search warrant execution?
A. Yes, there was.
Q. And were you present when all those photos were taken?
A. Yes, I stood by while Investigator Bramlet processed everything.
Q. And did you assist -- did you or did you not assist with both the search of the exterior and interior of that vehicle?
A. Correct.
Q. And whether or not you remember each and every picture, were you there for those pictures being taken?
A. I was.

Q. And they reflect what you would have seen that day?
A. Yes.
Q. We covered it a little bit, but why is Detective Bramlet not with us?
A. I was not aware. I really didn't know Detective Bramlet, but I was told that he had passed away this summer.
Q. You testified that the van appeared to be a work van or a painter's van. Do you believe that someone that owns that kind of van would have knowledge of painting different items?
A. I can only assume. It had a ladder on it. It looked like somebody that does residential and commercial painting just from outwards look. It had the extension ladders, it had paint in it and splatter -- paint splatter everywhere, so, yes.
Q. How many different automotive paint shops are in Richland County?
A. I really couldn't tell you. There's a lot. There's a lot on Broad River in general.
Q. Is having a vehicle painted something that takes a long period of time?
A. I mean, it would vary on body work and -- I'm not a painter myself, but you can paint a vehicle in about a day.

Q. And we talked about the glass being replaced in the hatch. Are you aware of how long it might take to replace an entire hatch?

A. I mean, taking a couple of bolts off, if you have the product there you can put it right back on if it fits.

Q. Does that take a lot of expertise?

A. I mean, you'd have to have some knowledge, but I don't -- I don't think it would require expertise taking something off and putting something back on.

MR. BELL: No further questions, Your Honor.

MR. MADSEN: No further questions.

THE COURT: All right. You may come down.

THE WITNESS: Thank you, Your Honor.

THE COURT: May this witness be excused?

MS. MAYES: No objection from the State, Your Honor.

MR. MADSEN: No objection.

THE COURT: Without objection.

(Witness excused.)

THE COURT: Next witness.

MR. BELL: Your Honor, at this time the State would call Detective Paige McCraw to the stand.

PAIGE McCRAW,

having been duly sworn, testified as follows:

THE CLERK: Have a seat. Once you're seated, state

your full name; spelling your last on the record.

THE WITNESS: Paige McCraw, M-C-C-R-A-W.

DIRECT EXAMINATION

BY MR. BELL:

Q. Detective, who are you employed by?

A. The City of West Columbia Police Department.

Q. How long have you been there?

A. I've been there eleven years.

Q. Tell us a little bit about your history with West Columbia.

A. I've been at West Columbia eleven years, one year on the road. Of course, prior road with Chapin. I was Chapin's first female police officer and K-9 and then I went to Richland County for a brief extent and then to West Columbia eleven years; one year on the road, nine years as a detective, and just recently went to crime scene and evidence.

Q. When you say evidence, what sort of capacity do you have with evidence at West Columbia?

A. We have an evidence custodian, which she logs in and takes in property that officers log in or things like that, and as far as mine, as far as going to the crime scene and collection of evidence, and then I do my reports and then drop that evidence into -- drop that evidence into evidence.

Q. And what is the purpose of that evidence system you have?
A. Chain of custody and to make sure it's under custody and control.
Q. How many people handle or manipulate evidence that's seized at West Columbia?
A. Just Miss Jan and myself.
Q. And when you log in evidence in West Columbia, do you keep any sort of record of that?
A. Yes, sir, we -- we log it in and we have a computer and it keeps a tracking number on the evidence itself and as far as the officer or whoever logs it in or goes to put it in the report they give a brief description and that description comes out with a tag number and then it's placed onto the evidence and then the -- once the evidence is logged in, then she will file that evidence into a box.
Q. You mentioned a tracking number. What is the purpose of a tracking number?
A. Well, a tracking number is identified by the item itself and then if we need to find that case number or that -- and that tracking item, it tells us exactly what that item is.
Q. And do any two items have the same tracking number in your system?
A. No, sir.

Q. Now did you generate a report in preparation for court related to the chain of custody for items in this case?
A. Yes, sir, I did for anything that I handled.
Q. And is that a document that you would keep in the ordinary course of business there in the evidence room?
A. Yes, sir.
Q. And did you bring a copy of that with you today?
A. Yes, sir, I did.
Q. If I could ask you to look for Tracking Number 10617, are you able to locate that?
A. Yes, sir.
Q. And what is that identified as?
A. It's a buccal DNA swab of the right cheek of James Patterson.
Q. And how did the West Columbia evidence room come into possession of that?
A. On December 14, 2015, I came to a court hearing and took a swab of Mr. Patterson.
Q. How many swabs did you take?
A. I took two. It's normal to take two buccal swabs of the left cheek and the right cheek.
Q. Did both swabs go with the same tracking number we just mentioned?
A. No, sir. The left cheek would be -- its tracking number is 10618.

Q. And that is identified as what in your report?
A. Buccal DNA swab Number 1 of the left cheek of James Patterson.
Q. Did you transport those two items together?
A. Yes, sir, I did.
Q. And how do you package those kinds of items?
A. Well, each swab is differently packaged into a small box and I label it with the date and time and we seal those and those are placed into a bag that I seal and initial and then I did my report and took it to SLED.
Q. What is the purpose of sealing those packages?
A. Tamperproof. That no one has, you know, tampered with it or messed with it.
Q. And you mentioned you took it to SLED. After collecting it on December 14th of 2015, when did you take to SLED?
A. I took it that same day, sir.
Q. Between the time that you collected it and took it to SLED and delivered it, did anybody else manipulate it or have custody of it?
A. No, sir, it was in my possession.
Q. Did you have sole care, custody and control of those two items?
A. I did, yes, sir.
Q. I'd like you now to look at your report and see if you

can locate Tracking Number 3362.

A. Yes, sir.

MR. BELL: I beg the Court's indulgence.

(State's Exhibit Number 49 and 50 were marked for identification.)

BY MR. BELL:

Q. Before we move on, Detective, if you would hold this down, not hold it up at this time. I'm handing you what's marked as State's 50. What is that item?

A. They're the DNA buccal swabs that I took of the left and right cheeks.

Q. And how do you know that?

A. Because that's what my tags say and my name's on it.

Q. And are the tracking numbers that you mentioned earlier located there?

A. Yes, sir, they are.

Q. And, once again, what are those tracking numbers?

A. 10617 and 10618.

Q. And did you put a signature or any other identifier on there?

A. On the tag itself?

Q. Correct.

A. It has the case number and also as when I logged it in it has my name.

Q. Once again, referring to Tracking Number 3362, what is

that identified as in your report?
A. I don't have that on mine, but it's a DNA swab according to the notes on it.
Q. When you say you don't have that in yours, what do you mean?
MR. MADSEN: Judge, can we approach?
(Proceedings held at the bench; not reported.)
THE COURT: All right. Ladies and gentlemen of the jury, I need to take up a matter of law with these attorneys and I need to do it on the record, so just take a short break. Don't discuss the case among yourselves while you're in the jury room. Just have some more of that coffee.
(Whereupon, the jury retires to the jury room at 10:32 AM.)
THE COURT: Mr. Bell, what's this all about?
MR. BELL: Thank you, Your Honor. Item marked 3362 are the DNA swabs that were taken from the hat that was recovered from the crime scene. Detective McCraw herself wasn't working in evidence at the time; however, the two individuals listed on the chain of custody sheet, which were Detective Wade and, I guess, now it would be Investigator Otterbacher, they are both still employed by the West Columbia Police Department, she does know who those individuals are and she can identify them and what

they did with the evidence as a chain of custody custodian.

THE COURT: Tell me -- tell me what happened.

MR. BELL: Your Honor, on --

THE COURT: What did Wade do?

MR. BELL: On 9-20-2013, he did the initial check-in of the swabs into the West Columbia evidence, Your Honor, and --

THE COURT: This is the hat?

MR. BELL: These are the swabs from the hat, Your Honor. The DNA swabs.

THE COURT: Who did them?

MR. BELL: The swabs were actually taken by Betty Butler and then ultimately Investigator Sullivan brought them back from SLED. Betty Butler will be testifying here in a little bit. We're using Detective McCraw simply to establish the movement of the items at this point.

THE COURT: So Betty Butler swabbed the hat?

MR. BELL: With SLED. Yes, Your Honor.

THE COURT: She was with SLED?

MR. BELL: Correct, Your Honor.

THE COURT: She took the hat out there and she swabbed it?

MR. BELL: Yes, Your Honor.

THE COURT: And then what?

MR. BELL: After they were swabbed by SLED,

Investigator Sullivan picked them back up from SLED and redelivered them to the evidence room at West Columbia where they've been stored since.

THE COURT: Somebody analyzed them at SLED?

MR. BELL: Yes, Your Honor, before being picked up.

THE COURT: And matched them up?

MR. BELL: Yes, Judge.

THE COURT: So what are you seeking to do now?

MR. BELL: Your Honor, we're simply just laying the chain of custody for West Columbia's manipulation of the item. We're not attempting to enter them at this point, just ID them and establish that part of the chain.

THE COURT: All right. You're not offering the swabs?

MR. BELL: Not at this point in time, Your Honor, no, sir.

THE COURT: All right, Mr. Madsen. What's --

MR. MADSEN: Trying to testify as to what someone else has done with fungible items just based off of some notes, those are some big assumptions that are made if this witness doesn't have any personal knowledge. And apparently it's a couple of people.

THE COURT: She knows what's on the box, whatever container they come in. She can read the names, can't she? Can't she testify that they were in evidence?

MR. MADSEN: Judge, it would be our position that that

would be testimonial and under Crawford versus Washington, then we have the right to cross-examine those individuals so that that ought to come out from them on the stand, especially when you're dealing with something like swabs, that there's nothing innately special or unique about them.

MR. BELL: May I respond, Your Honor?

THE COURT: Sure.

MR. BELL: Your Honor, based on State versus Brockmeyer, at 406 South Carolina 324, it's a 2013 Supreme Court case, the Supreme Court did hold in that case that a log establishing a chain of custody for items recovered by investigators and law enforcement is not testimonial in nature and thus a custodian's testimony about that chain of custody of items does not implicate a defendant's right of confrontation under Crawford.

MR. MADSEN: Judge, I'll point out that Brockmeyer was a case I tried with Mr. Maudlin. I believe that that was a T-shirt and a gun. Additionally, as the opinion points out, we were kind of late to the game to bring up the Crawford versus Washington as far as some evidence and so I think that that -- the fact that that was a T-shirt and a gun makes some difference.

MR. BELL: In response to that, Your Honor, I'd cite State versus Sweet at 374 South Carolina 1. It's a 2007 Supreme Court of South Carolina case. Your Honor, that

case cites that so long as each link in the chain of custody is identified, we don't have to have each person come testify so long as we have someone who has knowledge.

THE COURT: I'm familiar with that.

MR. BELL: Yes, Your Honor.

THE COURT: All right. The objection's overruled. I'll allow it. We'll take a ten minutes recess. Anything further?

MR. BELL: Excuse me, Your Honor?

THE COURT: Do you want to take five minutes?

MR. BELL: Yes.

(Recess taken.)

BAILIFF: All rise. Court's now in session.

THE COURT: Be seated. Thank you. Is the State ready?

MR. BELL: We are.

THE COURT: Is the Defendant?

MR. MADSEN: We are, Judge. I will tell you I spoke with Mr. Bell. They've got some -- they switched over to a new system and so while they're doing tag numbers, what I've received it doesn't tell me what they are. So I've asked Mr. Bell and he doesn't have an objection, when they're going over the tag numbers I'm gonna be up there because I think it will help me to get oriented as to what they're talking about and probably would alleviate me

having to jump up and down.

THE COURT: That's fine.

MR. MADSEN: I just wanted to let the Court know.

THE COURT: No problem. Bring the jury in, please.

(Whereupon, the jury enters the courtroom at 10:49 AM.)

THE COURT: All right, Solicitor. You may proceed.

MR. BELL: Thank you, Your Honor.

BY MR. BELL:

Q. Detective, we were referring to Item 3362. This is marked as State's 49 for ID. If you would hold it down at this point in time, what is that item I've just handed you?

A. It was DNA swabs taken from the hat recovered from the crime scene.

Q. And is there a unique tag number or tracking number on that?

A. Yes, sir, it's 3362.

Q. And did you handle that evidence at any point?

A. I did when I pulled it for this case.

Q. Okay. And does your chain of custody that you brought with you to court reflect who handled it prior to that?

A. It shows our evidence technician, Jan Otterbacher, and then -- are you talking about when Investigator Wade initially checked it in?

Q. That's correct. What date was it initially checked into your system?
A. I might have an older -- when our system changed. I might have the older one.
Q. If you would refer to --
A. I'm showing that it was checked in on 9-20 of 2013.
Q. Okay. And before your system switched over, do you have an older report?
A. I do, and that's why it doesn't show quite everything on mine.
Q. Did you bring your older version of the report with you?
A. I don't have it up here with me.
Q. Okay. Did you bring a copy with you?
A. It's a cross the hall.

MR. BELL: I beg the Court's indulgence.

THE COURT: Explain to the jury what we're talking about the system changed.

BY MR. BELL:

Q. Detective, what kind of system do you utilize to track evidence?
A. We use a computer system and we had an old metal system with a scan and check and it would assign tag numbers and then our whole system transferred to Tyler Technologies in which we could do our report writing plus

enter the property and then we could tag and log in our evidence and it would print a tag out for us. So when that system was transferred to the new system, it just didn't -- some of the items just didn't show, but it still kept the same tag number.

Q. I'm handing you a document that you provided to us. What is that document that I just handed you?

A. Yes, sir, it's the tracking for the log system for the items.

Q. And does that show when that swab, Item 3362, was initially put into the West Columbia evidence?

A. Date of recovery is 2-5-2013.

Q. And what occurs after that?

A. In from drop box -- let's see. On the item in from drop box?

Q. That particular item.

A. Okay. Investigator Sullivan signed it in on February 7, 2013, and it gives a time.

Q. Now referring back to the report from your new system, is the same tracking number present on the chain of custody for the new system?

A. Yes, the same tracking number.

Q. And what is the next date that Item 3362 was manipulated by anybody at West Columbia?

A. On mine it's showing 12-16 of 2015.

Q. And who manipulated it at that time?
A. It's showing evidence technician Jan Otterbacher -- she was just changing the location as far as putting all of the items of evidence together with the same case, the same -- same items together in one box.
Q. Did the tracking number ever change even though the location of that item changed?
A. No, sir, it does not. It stays the same.
Q. And who is Otterbacher?
A. She's just an evidence custodian and she just checks in and logs in the items into the computer.
Q. Now we've covered each part bit by bit. Can you tie it all together for us? How did that item initially come to West Columbia based on your review of the chain of custody records?
A. Once it's recovered -- the items of evidence is recovered at the scene, it's brought back.
Q. Who recovered it at the scene?
A. Investigator Sullivan.
Q. And on what date was that?
A. I don't have that report in front of me, but that was in 2012.
Q. The item that you read into the record a few moments ago, what date was attached to Investigator Sullivan when he logged it in that day?

A. February 7, 2013.
Q. And the date of recovery was what date?
A. It was February 5, 2013, two days before.
Q. And are you aware of where that item was coming from?
A. It was recovered from the hat from the crime scene.
Q. After that date who did it go to?
A. That hat goes to SLED.
Q. Did it ultimately come back?
A. Yes.
Q. When?
A. It was received by Investigator Sullivan on February 7, 2013.
Q. And then after that, what date was it touched?
A. I'm showing --
Q. Do you have an entry from Detective Wade from September of --
A. Right.
Q. Read that date, please.
A. 9-20 of 2013.
Q. And who manipulated it then?
A. It's showing Investigator Wade.
Q. Is that the same tag number?
A. Yes, 3362.
Q. And what is the reason for the access to that evidence?

A. That was the initial check-in.
Q. Following that, was it ever touched again?
A. No. For --
Q. After Detective Wade's entry, is there another entry?
A. No.
Q. Please look at the new report that you generated. Detective, are you able to tell us when the hat in evidence was recovered from the scene?
A. When the hat went into evidence?
Q. That's correct.
A. It first went in February 5, 2013.
Q. When the hat was initially recovered from the scene itself, what date was that?
A. That was gonna be May of 2012.
Q. Do you know the actual date?
A. I don't. I don't have that report in front of me.
Q. Are you able to look at your log? Can you refer to Item Number 1427? What does the document I'm handing you appear to be from?
A. The evidence tracking log.
Q. And what is Item 1427 identified as?
A. It's identified as a black in color hat.
Q. And what is the date of collection?
A. 5-9-2012.

MR. BELL: No further questions, Your Honor.

CROSS-EXAMINATION

BY MR. MADSEN:

Q. So let me switch out here. So the swabs from the hat are -- was that the 3362? Was that their tracking number? Do I have that right?

A. That's correct, 3362.

Q. And y'all received those the first time on 2-5-13?

A. Yes, 2-5 of 2013.

Q. So if you had them before that date, they would be on there?

A. Correct, but someone else took the swabs.

Q. Right. You didn't do it?

A. No, sir.

Q. Someone else took those swabs?

A. Correct.

Q. Now you've been in CSI for not very long, correct?

A. A little less than a year, but I've been in investigations for ten years.

Q. Right. And, in fact, you were out on the scene on May 9th, weren't you?

A. Yes, sir.

Q. And you interviewed witnesses?

A. Yes, sir.

Q. And you, in fact, interviewed Jennifer Hubbard, didn't you?

A. I believe so, yes, sir.
Q. You took an oral statement from her?
A. Talked to her on-scene, yes, sir.
Q. Then you took a written statement from her?
A. Yes, sir.
Q. Then you followed up with another written statement?
A. I don't recall. I haven't reviewed that, but that's possible.
Q. And so generally you would get a description of someone when you're looking for a perpetrator, correct? That would be kind of normal course of business?
A. Ask her what her events were.
Q. And what does she see -- and then once you got done, who was case agent?
A. Investigator Wade.
Q. So would you just keep your report and not give it to him or would you submit anything that you had received on to the chief investigating officer? In other words, did you give all of your stuff to Detective Wade?
A. He should have all my stuff, yes, sir.
Q. And did you request or make Investigator Wade know that -- about a blue Monte Carlo?
A. Like I said, I don't recall that in 2012.
Q. Do you want to take a look at it?
A. Sure. That would be nice.

Q. You took notes, correct?
A. I do. Yes, sir.
Q. Do you not have those with you?
A. No, sir.
Q. Hold on. I think I've got them. Do those appear to be notes that you had taken?
A. Yes.
Q. And you put your name up in, I guess, the corner of it?
A. I do. I put my name on all of these.
Q. And there's -- how many pages of notes did you take?
A. There's six pages here.
Q. And then you took some written statements from Jennifer Hubbard?
A. Yes, sir.
Q. And you would have turned all of that in to Detective Wade?
A. If you have it, I've turned it in.
Q. Okay. And so you don't recover anything out on the scene that day, correct?
A. Not to my knowledge. I was just an investigator on that scene that day.
Q. And based on your conversation with Jennifer Hubbard, did you request that she be shown a photo lineup?
A. That I don't know.

Q. Do you want to take a look?
A. I sure would. I'd like to know what I wrote. Where would that be at?
Q. (Indicating.)
A. Okay. And what's your question?
Q. Would you have requested that she be shown a photographic lineup or whether or not she could ID the individual she saw get out of the van?
A. That would just be Investigator Wade's decision back then who he wanted to show the lineup to --
Q. Sure, but --
A. -- but I can only let him know what she says and if she did say she could pick him out, then I would let him know that, of course.
Q. And she said that, didn't she?
A. In my notes I say that she believed that she could pick him out.
Q. But you're not responsible for following up with that, that would be Detective Wade?
A. That's correct. That's his case.
Q. And then as far as any kind of suspect vehicles or that, you would let them know hey, we might need to look for this or that because I've gathered this information?
A. Well, when you're on the scene, you've got several different things coming out and you're trying to gather

facts from, you know, what you've got five people saying and what -- what you can depend on.

Q. Sure. But that's why you kind of have that one person that's kind of that repository for everything to put it all together, correct?

A. Correct.

Q. And then y'all switched over computer systems you had talked about, that was for everything that y'all did?

A. In 2014, yes, sir.

Q. And there's been some growing pains with that?

A. Much.

MR. MADSEN: That's all the questions I have.

THE COURT: Redirect?

MR. BELL: Thank you, Your Honor.

REDIRECT EXAMINATION

BY MR. BELL:

Q. The blue Monte Carlo mentioned by Mr. Madsen, did you do any investigation into that Monte Carlo?

A. I don't know without reviewing my notes. Not that I recall.

Q. Do you recall whether or not anybody indicated the suspect got into the blue Monte Carlo?

A. Not that I recall.

Q. Do you recall what vehicle the suspect was indicated as having been seen getting in?

A. Yes.
Q. What kind of vehicle?
A. A white van.
Q. Ultimately --
A. That's what was followed up on.
Q. Ultimately do you believe that the Monte Carlo was involved with the incident?
A. Not at all.

MR. BELL: No further questions, Your Honor.

THE COURT: All right. You may come down. Thank you very much.

(Witness excused.)

THE COURT: Next witness. Call your next witness.

MS. MAYES: The State calls Jennifer Aycock.

JENNIFER AYCOCK,

having been duly sworn, testified as follows:

THE CLERK: Once you're seated, state your full name; spelling your last on the record, please.

THE WITNESS: Jennifer Aycock, A-Y-C-O-C-K.

DIRECT EXAMINATION

BY MR. BELL:
Q. Jennifer, who do you work for?
A. I work for the South Carolina Law Enforcement Division, also known as SLED.
Q. How long have you been with SLED?

A. Almost two years now.
Q. And what kind of work do you do for them?
A. I'm a forensic technician in the evidence control department.
Q. Can you break that down for us? What does that mean?
A. Basically we log in, package and transfer evidence for forensic analysis.
Q. And during that process of handling evidence, do you maintain any sort of logs that you can see who handles it when?
A. Our computer system actually keeps our chain of custody for us.
Q. And what is the purpose of that system?
A. So you can see how that evidence has traveled through. You can see -- every case is assigned a unique lab number, every item in that case is assigned a unique item number, and we track every item within that case and how it travels through the lab.
Q. And can evidence ever be transferred or touched without a log being entered into that system?
A. No, it cannot. Evidence is stored in a secure room. There's only four technicians that have the ability to go into that room. An analyst just can't say hey, I need to get evidence for this particular case and walk in there and get it. They actually have to send a request and a

forensic technician will then pull that evidence for them and transfer it to them.

Q. You said there were four technicians total; is that right?

A. Correct.

Q. Is that including yourself?

A. Correct.

Q. Who are the other three?

A. Doris Yarborough, Amy Stephens and Jackie Davis currently that is.

Q. Now in preparation for court today, did you generate a chain of custody as it relates to this case?

A. I printed off the verified chain of custody that was sent to everybody from Sharon.

Q. And is that document something you keep in the ordinary course of your business?

A. Yes, it is.

Q. I'm handing you what is marked as State's 9.

A. Do you have the original box that it came in?

Q. Do you see any markings --

MR. BELL: For clarity's sake, Your Honor, we'll mark this.

(State's Exhibit Number 51 was marked for identification.)

BY MR. BELL:

Q. I'm handing you State's 51. Are there any markings on that box that tell you that that's been handled by SLED?
A. Yes. Like I told you earlier how we assign each thing a unique lab number, as you notice there is a bar code label here. When we log in a case, each item number, first of all, gets a unique lab number and each item within the case gets an item number. So this is showing me that this is L12-06246, Item Number 1.
Q. And the lab number reflected on that box, is it also reflected on that chain of custody log that you mentioned earlier?
A. Yes, sir, it is.
Q. And what does that tell you?
A. It's just stating the same thing. It's gonna have everything. It's gonna have that particular case, who brought in the case and the items that are contained within the case.
Q. And what was the item number, again, assigned to --
A. This particular box was Item Number 1.
Q. Referring to State's 9, for the contents of that box, do you see a lab number located anywhere on there?
A. Yes, I do. As you can see, it has the initials and then it has our lab number, the L12-06246.
Q. And referring to Item 1, when was that box received by SLED?

A. May I look at my chain of custody?
Q. Please.
A. According to my chain of custody, it was submitted 5-29 of 2012.
Q. And are you aware of who it was submitted by?
A. James Sullivan of the West Columbia Police Department.
Q. And after being submitted by James Sullivan, where did it go at SLED?
A. The forensic technician that logged it in is Doris Yarborough.

MR. MADSEN: I'm going to renew my objection to foundation under Crawford versus Washington.

THE COURT: All right. Overruled.

BY MR. BELL:
Q. And what did Ms. Yarborough do with it?
A. She placed it in our secure evidence room into evidence processing intake shelf 25.
Q. And after it was put in the intake shelf, was it touched again?
A. Yes, it was. A request must have been sent. Amy Stephens pulled that evidence and transferred it to Betty Butler on June 15, 2012.
Q. And Betty Butler is not a name we heard earlier. Who is Betty Butler?
A. She's a forensic technician within the evidence

processing.
Q. And after Ms. Butler had it, was it ultimately returned back to anybody?
A. It was returned back to the evidence control to Nikki Perry Hughes who then placed it on a return shelf to go back to the agency.
Q. I'm handing you what's marked as State's 49. Do you know if that item was ever handled by SLED?
A. Yes, I do. Once again, it has that unique barcode listed here with the unique lab number and the unique item number.
Q. And, once again, what is the lab number present on that item?
A. L12-06246, and this was Container B.
Q. And what is the first entry date of Item 1.1 on your log?
A. May I refer to my notes, please?
Q. Please.
A. 1.1, the first entry date is gonna be June 19, 2012, and it was done by forensic technician Betty Butler.
Q. And what movement did that item have after that date?
A. Betty Butler brought it to Nikki Perry Hughes on 6-25, 2012, and then it was placed onto a DNA intake shelf in a secure evidence room.
Q. And ultimately where did it end up?

A. Another forensic technician that was employed there had taken it off the intake shelf and transferred it -- and that was Patricia Crooks -- transferred it to Maryann Boehm with the DNA department.

Q. I'm handing you one more item. Can you tell us if this item was manipulated by SLED?

A. Yes, it was. Once again, that unique lab number with the barcode is present. That unique item number is also present.

Q. And what is the item number associated with that?

A. It's gonna be Item Number 5 and, again, for L12-06246.

Q. And is that reflected on your report?

A. Yes, it is.

Q. And what was the initial submission date of that item?

A. It was submitted 12-14-2015 to myself and it was received from Paige McCraw with the West Columbia Police Department.

Q. And after that point what movement did that item have?

A. I placed it onto a DNA intake shelf, 86, on that same day. Jackie M. Davis, who's also forensic technician in our department, retrieved it from that DNA intake shelf and transferred it to Maryann Boehm with the DNA department.

Q. Now these items with these lab numbers that you just reviewed for us, for instance, State's 50, what kind of bag is that contained in?

A. Well, everything that we handle in evidence control that's brought to us is sealed, so it was already in a -- excuse me -- it was already in a sealed bag from West Columbia Police Department. We place it in a heat-sealed pouch. It is then heat-sealed across the top. The submitting officer actually initials and dates that seal. He also signs it and dates it as well.

Q. And should that bag ever be torn open during the transfer process, would that be notated anywhere?

A. Yes. If there was anything that was wrong with the bag, a narrative would be made about it.

Q. Do you see any notes that would reflect that that package was unsealed prior to getting to the analyst?

A. No, sir, I did not see any notes.

Q. And does that apply to all of the items that you just testified about?

A. Correct.

MR. BELL: Please answer any questions the defense may have.

THE WITNESS: Yes, sir.

CROSS-EXAMINATION

BY MR. MADSEN:

Q. Good morning. How are you?

A. I'm doing well, sir. Thank you.

Q. Has SLED ever fired anyone for not doing their job?

A. I'm sure that they have. You'd have to refer to Human Resources.
Q. You basically are just reading from a piece of paper, but you're assuming that everyone has done their job exactly correct?
A. I am reading from the chain of custody, which is a business record that states the movement of the evidence, yes, sir.
Q. But you're assuming that everyone did what it says on it?
A. I'm just reading the chain of custody.
Q. And you've got that chain of custody. Did you receive some, I guess, DNA swabs from Investigator Sullivan of West Columbia?
A. Did I personally receive any?
Q. Well, on the chain of custody did SLED?
A. Can I look through this real quick, please, sir?
Q. Sure. Please, please, please.
A. I see where swabs were submitted, yes, sir.
Q. Who submitted those?
A. James Sullivan with the West Columbia Police Department.
Q. Can I see that? What number are you referring to?
A. Item Number 1.
Q. I'm talking about hat swabs.

A. Those are gonna be Item Number --
Q. Is that 1.1?
A. 1.1 is a swab that was taken from the hat and that was produced by Betty Butler, forensic technician within the evidence processing.
Q. That wasn't produced by Investigator Sullivan?
A. No, sir. He brought in the evidence and they collected the swabs. Evidence processing actually collected the swabs from that hat.
Q. Do you have anything else in your chain of custody that indicated any other hat swabs were given to SLED? Can you take a look and see?
A. No, sir, I don't see anything.
Q. And the reason that we keep the chain of custody is because if there's errors in that, then our confidence in the evidence just plummets, doesn't it?
A. It's to keep a valid record of how that evidence moves. It's a tracking system.
Q. And SLED can't control what's happened to the evidence before they get it?
A. No, sir, we can only testify to how it's moved throughout our lab.

MR. MADSEN: That's all the questions I have.

THE COURT: Anything further?

MR. BELL: No, Your Honor.

THE COURT: You may come down. Thank you very much. May this witness be excused?

MR. MADSEN: Yes, sir.

THE COURT: Without objection.

(Witness excused.)

THE COURT: Next witness.

MS. MAYES: The State calls James Hickman.

JAMES L. HICKMAN,

having been duly sworn, testified as follows:

CLERK: Once you're seated, state your full name; spelling your last.

THE WITNESS: It's James L. Hickman, H-I-C-K-M-A-N.

DIRECT EXAMINATION

BY MS. MAYES:

Q. All right. And can you tell us a little bit about yourself? Where are you currently employed?

A. With Lexington County Sheriff's Department.

Q. How long have you been in law enforcement, Officer Hickman?

A. About forty-three years.

Q. And specifically are you now affiliated in anything concerning CSI or latent print analysis?

A. Yes, ma'am.

Q. How long have you studied fingerprint analysis?

A. I've -- all through my law enforcement career for

probably about thirty, forty years that's been part of my job. The last part, since 2012, it's been a full-time -- not a full-time job, but I've done it a hundred percent now.

Q. All right. And what is your current position at the Lexington County Sheriff's Department?

A. It's latent print examiner and AFIS operator.

Q. All right. And when you talk about latent print analysis, have you been qualified previously as an expert in the field of fingerprint analysis?

A. Yes, ma'am.

Q. And is it possible for you to estimate how much training you have received or given to other officers in the field of fingerprint analysis?

A. Yes, ma'am. I received my basic law enforcement at South Carolina Criminal Justice Academy. I also have a bachelor's -- excuse me, not a bachelor's degree, an associate's degree in police administration. Both the classes concerned fingerprint analysis in them. I've also completed a fingerprint recognition course from Midlands Tech, a basic latent print comparison course, forty hours' worth, from the South Carolina Criminal Justice Academy, an advanced latent print comparison class, forty hours, from the South Carolina Criminal Justice Academy and the advanced administration of latent prints, which is a

hundred and twenty hours, at the FBI at Quantico, Virginia, and I've also completed a home study course of criminal investigation through the Institute of Applied Science in Chicago, Illinois. I also teach all of the employees that come through the sheriff's department a basic latent print class so they can lift latent prints. I also have taught the same course and more with the Citizens Academy that comes through the Lexington County Sheriff's Department and I have just -- I also teach the employees of the CSI unit a latent print comparison class.

Q. All right. Now you mentioned the training that you received at the FBI in Virginia. Can you tell us whether or not you've been previously certified by the State Law Enforcement Division as an operator of what's known as the AFIS system?

A. Yes, ma'am, I have.

Q. And does -- the AFIS system, is that a database that keeps fingerprints?

A. Yes, ma'am.

Q. And does that require knowledge as to comparison analysis as well?

A. Yes, ma'am.

Q. Now moving on to where you are currently, can you tell us whether or not you are still conducting comparison analysis within the Lexington County Sheriff's Department

as well as assisting other agencies in comparison analysis of latent prints?

A. Yes, ma'am, that -- that's one of my jobs. It's whenever a latent print comes into the sheriff's department it's sent to me and I analyze it and determine if it's any good. If it's good and if there's a rolled print sent with it, I'll compare the two to determine if there's a match or not a match and I can also enter into the AFIS system to see if there's a match comes out of it. I also do all of the other departments in the county whenever they submit their latent prints. I do the same for those.

Q. Have you testified as an expert witness in the field of fingerprint analysis?

A. Yes, ma'am.

Q. Have you been previously qualified as an expert in the courts of South Carolina in the field of fingerprint analysis?

A. Yes, ma'am.

MS. MAYES: Your Honor, at this time the State would offer Jim Hickman as an expert in the field of fingerprint analysis.

THE COURT: Any voir dire or objection?

MR. MADSEN: Judge, it's a close one, but I stipulate to his qualifications.

THE COURT: All right. You may proceed.

BY MS. MAYES:

Q. Now, Mr. Hickman, I want to start by asking you whether or not you had the opportunity to review some latent lifts that were submitted by the West Columbia Police Department in connection with an armed robbery at the K & M jewelry store?

A. Yes, ma'am.

Q. I want to pass up these two items and if you'll give me a moment there is another item for you to review as well.

All right. I've shown you State's Exhibit 26, which is a bag, and within the bag are two items. I'm gonna ask you whether or not you recognize the items in that bag?

A. Yes, ma'am, I do.

Q. All right. What are those items? What would you describe them as?

A. Two latent prints on a lift card.

Q. All right. Now they were inside of a bag and can you tell us what is noted on the outside of that bag in terms of who collected those latent lifts?

A. It says recovered by J. Sullivan, I believe, is the name.

Q. All right. So recovered by Investigator Sullivan. And what was the location where they were recovered?

A. K & M.

Q. All right. K & M. And is there a date?
A. I don't see a date on the bag, it may be under the tape, but there is a date on each one of the cards --
Q. All right.
A. -- which is 5-09-12.
Q. All right. So May 9, 2012, from K & M?
A. Yes, ma'am.
Q. Now these two latent lifts, if you could just briefly tell us how one goes about -- or you mentioned that you train officers in this as well. How does one go about collecting a latent lift from a surface? For example, if I reach down and touch this surface just like this and then remove my hand away, how would you come along and check that surface to see what I've left behind?
A. They would take some type of powder, most likely a black powder, it's real fine, like soot, or maybe a face powder, but black in color, and a brush and brush and apply the powder over the area where the suspected latent print is at. And then it develops, in other words, it starts up where you can see it, and once it gets developed where you see it and you're satisfied that that's as much as you can do, you take a tape. In this instance, they used tape. You can take a tape that's specially designed for this process. It's sort of like scotch tape and packing tape, but a whole lot better. You lay it down over the

impression, it lifts up, the powder adheres to the tape itself and then the tape is applied to what we call a backer card or a lift card and then the information's put on the back of the card as to who lifted it, what time and date it was, the address, et cetera.

Q. All right.

MS. MAYES: I beg the Court's indulgence.

BY MS. MAYES:

Q. And this item is currently in evidence, so I'm gonna ask you now let's start with Card Number 1. Let's start with Latent Print Number 1. Does it say on that latent print -- or the attempted latent print, does it say where within K & M Jewelry Store that attempt for a lift was made?

A. It says print lifted from top of counter.

Q. Okay. So top of counter. And once you got that lift from Investigator Sullivan, were you able to make a determination as to who that print belonged to?

A. No, ma'am.

Q. Why or why not?

A. The print itself was not of a good quality for me to do an examination on. It just wasn't any good.

Q. All right. And let me have you expound on that a little bit more. When a print has insufficient quality, what does that mean?

A. That means when we identify a print or try to identify one, there's -- I have to look at it and we go through different levels of examination. Like level one, I just look at the ridge flow to see if I can see any ridge flow going through the print and then the next step would be go and see if I can find some individual characteristics of that particular latent print like ridge endings, bifurcations, islands, things like this, and then if I can see a sufficient number of those that I'm satisfied with, then I can go on to the next step. This particular one here, I couldn't get past the first step. There just wasn't enough quality. The print itself, I couldn't find enough information in it for me to make any headway with it, so as far as I was concerned it was no good.

Q. All right. And I mentioned before about touching objects, but if I reach down and pick up this pen, do I necessarily leave a full print behind?

A. No, ma'am, you do not.

Q. All right. Now moving on from that print -- and just to clarify, that print that you've termed insufficient quality, would you be able to ever match that to anyone based on the quality of that print?

A. No, ma'am.

Q. Okay. So moving on now to the second one, what we're gonna call Latent Print Number 2, does it indicate where

that print was lifted from?
A. It says lifted from top of jewelry case.
Q. All right. So lifted from the top of the jewelry case. Now let's start with that one. Was that one suitable to match to someone?
A. Yes, ma'am, it was.
Q. All right. And, first of all, were you able to attempt to compare it to known prints of the Defendant in this case, James Patterson?
A. Yes, ma'am, I was.
Q. Was it his print?
A. No, ma'am.
Q. So once you've determined that it's not his print, what, if any, methods are sometimes used for comparison analysis to see if it may belong to someone else?
A. Sometimes the case officer or someone within the police department gets what we call elimination prints from the victim or witnesses or whoever and they send them to me.
Q. All right. And in this particular case being a jewelry store, can you tell us whether or not prints were submitted from employees in that jewelry store?
A. Yes, ma'am, they were.
Q. All right. And I guess those are what we call inked prints or rolled prints that were submitted to you?

A. Yes, ma'am.
Q. And they were submitted by whom?
A. They were submitted by the solicitor's office.
Q. Okay. Well, do you know the officer?
A. No, ma'am, I don't. They were brought to me and I took them, then I returned them to Investigator McCraw.
Q. Okay.
A. As far as the name, I can't read it.
Q. Okay. All right. Well, these items are in evidence, and having been inked or rolled by another officer and brought to you, can you tell us whose prints you analyzed in addition to the suspect or to the Defendant in this case, James Patterson?
A. This is a rolled set from Tokye Mansion.
Q. Okay. Tokye Mancine?
A. Mancine, and Frank Peter Mancine.
Q. Okay. So Tokye Mancine and Frank Mancine. And, again, can you tell us whether or not it's usual or unusual to get employee prints in a situation like this where they may have also had access to the jewelry counter?
A. No, ma'am, it not unusual.
Q. All right. Were you able to make an identification of that print, of Latent Lift Number 2, once you looked at those known prints from Frank Mancine and Tokye Mancine?
A. Yes, ma'am, I was.

Q. Okay. Whose print did you determine this to be?
A. The print lift designated Number 2 was the right ring finger of Tokye Mancine.
Q. The right ring finger of Tokye Mancine --
A. Yes, ma'am.
Q. -- the employee of K & M Jewelry. Now I'm going to ask to you take a look at this item.

MR. MADSEN: No objection, Your Honor, if they want to introduce it.

BY MS. MAYES:
Q. Do you sometimes prepare fingerprint charts to show your latent print analysis procedure?
A. Yes, ma'am.
Q. Do you recognize this item?
A. Yes, ma'am.
Q. Who prepared this item?
A. I did.
Q. All right. Is that a fair and accurate representation of the original fingerprint chart you did in this case to compare the latent print to the known inked print of Tokye Mancine?
A. Yes, ma'am.

MS. MAYES: Your Honor, at this time the State would offer as an exhibit State's Exhibit 52.

THE COURT: Without objection.

(State's Exhibit Number 52, fingerprint blowup diagram, was marked and admitted into evidence.)

BY MS. MAYES:

Q. And, Officer Hickman, if I could have you step down and briefly describe for us what we're looking at here.

(Whereupon, the witness steps down from the witness stand.)

A. You'll see on --

Q. Let's switch places. And if you could keep your voice up so that the court reporter can catch your testimony.

A. Yes, ma'am. On the chart itself, you'll see two different photographs or two different images. On this side, which is my right side, it says "latent print". This is the latent print shown on Item Number 2. On the left side, or my left side, you'll see one marked "inked". This is the inked or the rolled print that I took off of the rolled set of elimination prints from Tokye Mancine.

Q. All right.

A. To do my identification on it, what I do is a side by side. In other words, I look at the known print. This is the known print, I knew where this one came from, and this is the unknown. I look at it and, like I said earlier, step one is I look and see if the print even looks like what it should, the latent print. You can see -- on this one you can see the ridge detail goes around in a circle.

It looks sort of like a target, just like a target. If you look at the latent print, you will see the same image. It looks like a target. The ridges go around and the target's there. Once I determine that, then that's pretty much step one. I go to step two and find a detail, a characteristic. In this particular one, you'll see Number 1 marked here. This is a bifurcation. This is a forking. This ridge comes up and forks and goes into two. Then I'll come over to the latent print and I'll find a similar place. It is a ridge coming up and a forking. This is Number 1. Now I go down and if I just follow that same ridge down, you'll see another forking. It's open downward though. It's here. You come back over here, follow the ridge down and you'll see another fork in here. Then we go around, we'll go one, two, three ridges over and go down. One, two, three and down, you'll see a ridge ending here in the same location. What I'm doing is I'm picking points out and they are in the same location on here on the known as they are on the latent. I go around, that's three, and from the Number 3 I go one, two and up just slightly is a bifurcation. Again, here, one, two and up is another bifurcation. So, so far we've got four different characteristics that are in the same location and orientated the same. From Number 4 we go over one ridge and there is another bifurcation, which is opening

downward. The same thing here. Over one there's a ridge that's is open downward. That's another bifurcation. Now to go six, we can come follow the same one down and come over one, two, one, two, and we'll find another bifurcation, which opens back to the left. Now from Number 6 you've got to follow it all the way back up to the top and then go over one, two to find a bifurcation. All the way around and go one, two and there's -- excuse me, one, two is right here, a bifurcation which opens downward. And then for Point Number 8 we'll follow that same ridge back around and we'll find a ridge ending. That's eight different characteristics that are the same on both the known print and the latent print. These characteristics are the same and they are in the same position and the orientation is the same. So with this in mind, that's when I make my decision that these two are the same.

Q. Okay. Thank you. You may return.

(Whereupon, the witness returns to the witness stand.)

BY MS. MAYES:

Q. And just to clarify, are fingerprints unique to each individual?

A. Yes, ma'am, they are.

Q. And based upon your training and experience and that comparison analysis, can you tell us to a reasonable degree

of scientific certainty that that latent lift belonged to Tokye Mancine?

A. Yes, ma'am, I can.

MS. MAYES: Nothing further.

CROSS-EXAMINATION

BY MR. MADSEN:

Q. How you doing, Jim?

A. Just fine.

Q. So not only do you do fingerprints, but in the past you've done crime scene -- all types of crime scene, right?

A. Yes, sir.

Q. And there can be different collections of evidence, not only fingerprints, but physical evidence, DNA, things along those natures, correct?

A. Yes, sir.

Q. And a lot of what you do as a CSI is going to be evidence or things that aren't visible to the naked eye. In other words, if I touch here, you're not gonna be able to generally see my fingerprint, correct?

A. In fingerprints, yes, sir, correct.

Q. DNA can usually be that same way?

A. Yes, sir.

Q. And so, I guess, you also teach CSI people how to pull fingerprints or how to collect evidence?

A. How to collect fingerprints.

Q. Just collect fingerprints?
A. Yes, sir.
Q. But you have been someone who's collected other type of evidence, DNA, tire prints, things along those lines, shoe prints?
A. Yes, sir, I have.
Q. That's been in your -- in forty odd years that's been a large portion also?
A. Yes, sir.
Q. You just kind of specialize in fingerprints now?
A. Yes, sir.
Q. And generally when you're trying to collect evidence, you want to try to get everything that you can out of an abundance of caution?
A. Yes, sir.
Q. And if it's not submitted to you, there's no way you can match anything if you don't receive evidence?
A. No, sir.
Q. And I think you had said that there was one from Ms. Mancine that was from a jewelry case, the one that you matched?
A. Yes, sir. Lift Number 2 it says it's from the top of the jewelry case.
Q. And logic dictates if that's pulled from a case they've got to be within arm's reach?

A. I can't say that because I don't know what kind of jewelry case it is. I can only assume that it was a jewelry store and it was a display case and --

Q. Yes, it was a jewelry case, it was a display -- I mean, generally unless the hand's detached, you've got to be within arm's reach, right?

A. Yes, sir.

MR. MADSEN: That's all the questions I have.

THE COURT: Anything further?

MS. MAYES: Nothing further from this witness, Your Honor.

THE COURT: All right. You may come down. Thank you very much. May this witness be excused?

MS. MAYES: Yes, sir, Your Honor.

MR. MADSEN: Yes, Your Honor.

(Witness excused.)

MS. MAYES: The State calls Betty Butler.

BETTY WALKER BUTLER,

having been duly sworn, testified as follows:

THE CLERK: Once you're seated, state your full name; spelling the last on the record, please.

THE WITNESS: Betty Walker Butter, B-U-T-L-E-R.

DIRECT EXAMINATION

BY MS. MAYES:

Q. All right. And good morning, Ms. Butler.

A. Good morning.
Q. Can you tell us a little bit about yourself? Where are you employed?
A. I'm employed with the South Carolina Law Enforcement Division, also known as SLED.
Q. All right. And how long have you been an agent with the State Law Enforcement Division?
A. I was a forensic technician for over twenty years.
Q. All right. And with twenty years' experience at the State Law Enforcement Division, tell us a little bit about what a forensic technician does and how that leads to what's known as evidence processing.
A. As a forensic technician in evidence processing department, we look for -- do a presumptive test for blood, semen, we look for sometimes body fluids, skin cells, hair or anything that could be of value to a particular case.
Q. All right. What is your training and background and experience that led into you becoming a forensic technician at the State Law Enforcement Division?
A. I was trained by two forensic technicians and a DNA analyst that is qualified as a court expert. I was trained on hundreds of items before I was able to go online. We take a competency test and then after that every year you have to take a proficiency test to make sure you still know what you're doing.

Q. Have you testified previously in the field of evidence processing in this state?
A. Yes, I have.
Q. Is it possible for you to estimate how many such times you have previously testified concerning your role in evidence processing?
A. Over sixty-five times.
Q. Have you previously testified as an expert in that field?
A. Yes, I have.

MS. MAYES: Your Honor, at this time the State offers Betty Butler as an expert in the field of evidence processing.

THE COURT: Any voir dire or objection?

MR. MADSEN: No, Your Honor.

THE COURT: You may proceed.

BY MS. MAYES:
Q. Ms. Butler, I'm gonna show you an item. It is in a bag that is labeled State's 9. It is in evidence. Okay. And I'm gonna start with the outside of that bag and I'm gonna ask you looking at the outside of that bag are you able to identify whether or not you had any role in processing that item of evidence?
A. Yes, I have.
Q. And what is that item of evidence?

A. A black hat.
Q. All right. A black hat. Now do you recognize your initials on the outside of that bag?
A. Yes. Every item that we process we have to put the item number, which is Item 1, my initials, B-W-B. We have the lab number, which is L12-06246, and we have the date that we process it, which is June 19th of 2012.
Q. All right. So June 19th, 2012, is when you actually processed that. Now for what purpose was that black hat submitted to the State Law Enforcement Division?
A. It was request for ownership. See who actually put the hat on, wore the hat.
Q. All right. And how do you go about trying to make that determination at the crime lab?
A. When we receive a particular item request for ownership, what we want to do is we examine it, we look at it. We examine it first. We want to go on the inside because that's where -- that's where you normally wear the hat and that's normally where your sweat and your skin cells collect. We normally -- the band of the hat is normally what comes down over your -- over your forehead and that's where you get more sweat and skin cells and that's why we did the band of the hat for ownership.
Q. All right. So what is your role in trying to collect evidence that ultimately will go to the DNA lab for further

testing?
A. My role in this particular case was to collect for ownership, which is for blood, sweat or skin cells. What we do is we use a clean -- we use gloves and we have -- everything is gloves. We use a lab coat, we use a clean paper, then we have to scrape the inside of the band to collect. It's like scraping the band. You can collect all of the sweat and skin cells that collected on the band of the hat.
Q. All right. And what type of tool or instrument do you use to collect skin cells and DNA from within that hat?
A. We use a scalpel to actually -- and a swab that we scrape and we swab this. I clean-swab it. That means we use -- and we have to dry the swab after we collect everything that we scrape out and swab out of it. We have to -- we use that one swab. We put it on a way so it can dry. It has to dry completely and then you put an item number. Everything has a unique item number, which is Item 1.1. The swab came from the parent item, which is Item 1.
Q. All right. I'm gonna show you another item now and ask you whether you recognize it and, if so, how?
A. Yes, I do. It's SLED Lab Number L12-06246. It has my initials, it has the date June 19, 2012, across the seal, it has my name and it has also the date here and it also

has the gold coin envelope from the swab that I collected and also has my initials and the date that I sealed it on the envelope.

Q. All right. And, again, what is that date?

A. The date is June 19, 2012.

Q. Okay. So the swabs that you mentioned, can you tell us whether or not they are located within the golden envelope?

A. I can't tell you. It feels like they're in there, but I put them in there when I transfer them to the analyst, so the analyst would be able -- I'd have to look in and see if it's the same swab that I put in there.

Q. All right. And so just to clarify, once you take that swab from inside the hat, you then do what in order to get it to the DNA analyst?

A. Once I collect the swab, I have to dry it out. I put an item number on it, which is Item 1.1 -- SLED Item 1.1. I put it into this gold coin envelope, seal it. I put my initials and the date. I have to put it into a heat-sealed pouch. I also put my initials and the date that I seal it so it will be secured to move it within the lab.

Q. All right. And so just to clarify, once you take that sample, that swab, and you put it into the envelope and you seal it up in the heat-sealed pouch, does anyone else tamper with it prior to it arriving to the DNA analyst?

A. If someone did, the seal would be broken and the DNA analyst would know.
Q. Okay. So -- and the purpose of the heat-sealed pouch is what?
A. To protect the swab as it moves throughout the laboratory until it gets where it's supposed to, to the DNA analyst.
Q. All right. So you take the swab on June 19, 2012, you seal it up and it went ultimately to who for analysis?
A. Maryann Boehm, the DNA analyst, for analysis.
MS. MAYES: I beg the Court's indulgence.
BY MS. MAYES:
Q. And does that conclude your involvement in the case, collecting those samples on June 19, 2012?
A. That's correct.
Q. And the last time you saw those swabs, can you tell us whether or not they were -- they were sealed in that heat-sealed pouch?
A. Yes, they were sealed in this heat-sealed pouch. It's still sealed upon the top because the DNA analyst cuts it along the side with her initials, so I know this was secured with my initials and the date because it's still sealed.
MS. MAYES: Your Honor, I believe the only additional thing we would do at this time is mark this item for ID and

this is the item noted by Betty Butler to be swabs taken from the hat. This would be 53 for identification.

(State's Exhibit Number 53 was marked for identification.)

BY MS. MAYES:

Q. And the hat itself, once you had collected those swabs, which are -- which you have identified, once you had collected those swabs, did you do anything further with the hat?

A. Once I've collected the swabs, I have to put the item number on the hat, which is Item Number 1.0. I also put my initials on the hat with the lab number also written inside the hat. I put it -- I leave it into the white paper that we collect the sample on, close it up, put it back into the bag, seal it back into the box and then send it back to evidence control.

Q. Okay. And then ultimately is the hat itself free to go back to the agency, such as West Columbia Police Department?

A. Yes, it is.

Q. Okay. Because you've completed the testing once you take those swabs?

A. That's correct.

MS. MAYES: Thank you. Nothing further.

THE COURT: Cross-examination?

CROSS-EXAMINATION

BY MR. MADSEN:

Q. Ms. Butler, how are you doing?

A. I'm doing well.

Q. You don't remember doing the swabs on that hat, do you?

A. Yes, I do.

Q. You actually physically remember doing it?

A. Yes, I do.

Q. Okay. And when you do something with DNA, there's protocols that you have to follow to the letter, correct?

A. Yes, it is.

Q. Because if you don't or something happens, you can taint those results?

A. Yes, that's correct.

Q. A little mistake can throw stuff off, can't it?

A. Yes, it can.

Q. And the only place that you swab on the hat is around the brim?

A. That's correct. The band of the hat, yes.

Q. And the hat is the same as when you got it and you did the testing?

A. Except for the -- my item number, my initials and the lab number.

Q. And that shows that you've done it?

A. Yes.
Q. And then -- but you don't do anything on any other portion of the hat, correct?
A. No.
Q. Just the inside?
A. Just -- just the band because that's where your evidence would be because of the way you put the hat on.
Q. And that's what we -- I guess we call that touch DNA?
A. You can call it touch or it was for ownership, who wore the hat, who put the hat on his or her head.
Q. Sure. And then you generate a report or what you do is reviewed by a Stephanie Stanley?
A. Yes, it does.
Q. And was a report generated based on what you've done?
A. Yes, it does.
Q. Do you have a copy of your report?
A. Yes, I do.
Q. And your report was generated, I guess, April 2013?
A. It was -- this report was generated by Stephanie Stanley April 29, 2013.
Q. Okay. April 29th. I'm sorry. Okay. Of 2013. And you've got to do that before the DNA scientist does their stuff?
A. No, through --
Q. You don't have to take the swabs first?