

VOLUME I OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Newberry County

Donald B. Hocker, Circuit Court Judge

RECEIVED

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SC Court of Appeals

RESPONDENT

THE STATE,

V.

ANTHONY MAURICE WISE,

APPELLANT

APPELLATE CASE NO 2017-001263

RECORD ON APPEAL

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE'S EXHIBIT #58 (AUDIO OF STATEMENT)**

State of South Carolina)
) Court of General Sessions
 County of Newberry)
 2016-GS-36-706,708,709
 2017-GS-36-201

State of South Carolina)
) vs.) Transcript of Record
)
)
 Anthony Maurice Wise)
) Defendant)

May 15-18, 2017
 Newberry, South Carolina

B E F O R E:

Honorable Donald B. Hocker, Judge

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

Dale Scott, Deputy Solicitor
 Taylor Daniel, Assistant Solicitor
 Attorneys for the State

Charles Verner, Public Defender
 Attorney for the Defendant

Joy E. Holston
 Official Court Reporter

I N D E X O F W I T N E S S E S

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(DW) - Denotes Defense Witness
(SW) - Denotes State's Witness

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E X H I B I T SState's

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Court's

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1 THE COURT: Okay, ladies and gentlemen, thank you for
2 your patience, we had some matters that we needed to take
3 care of so that is why you were out more than just the ten
4 minutes that I told you about. The first case that is
5 being called for trial is the State of South Carolina
6 versus Anthony Maurice Wise. Mr. Wise, would you please
7 stand and face the panel for just a second, please. Thank
8 you very much. Ladies and gentlemen, Mr. Wise has been
9 indicted by the Newberry County Grand Jury with four
10 separate criminal offenses. Now, let me explain to you
11 and emphasize the fact that, the fact that Mr. Wise has
12 been indicted and charged with criminal offenses for this
13 matter is not proof of any kind, of any guilt on his part.
14 The indictments merely contain allegations with, that the
15 State of South Carolina has to prove beyond a reasonable
16 doubt. The indictments that I am holding in my hand are
17 merely the charging documents to get this case into court.
18 So, you cannot hold it against Mr. Wise the fact that he
19 has been indicted and charged with four criminal offenses.
20 But what I will need to do is publish these indictments to
21 you so you can have some, some understanding of what this
22 particular case is about. Of course, certainly a complete
23 explanation of these charges will be given to the trial
24 jury at some future point and time. The first indictment
25 is for assault and battery in the first degree. And it

1 alleges that Anthony Maurice Wise did on or about
2 September 21st, 2016 in Newberry County willfully and
3 unlawfully injured another person and the act occurred
4 during the commission of a robbery, burglary, kidnapping
5 or theft or did offer or attempt to injure another person
6 with the present ability to do so and the act occurred
7 during the commission of a robbery, burglary, kidnapping
8 or theft to wit: the alleged victim being a one, Benzena
9 Wicker in violation of the provisions of section 16-3-600
10 (c) (1), code of laws of South Carolina.

11 The second indictment is for armed robbery. It
12 alleges that Anthony Maurice A. Wise did on or about
13 September 21, 2016 in Newberry County willfully and
14 unlawfully while armed with a deadly weapon or while
15 alleging either by action or words that he was armed while
16 using a representation of a deadly weapon or any object
17 which a person present during the commission of the
18 robbery reasonably believed to be a deadly weapon,
19 feloniously did take from the person or present, a Benzena
20 Wicker by means of force or intimidation, goods or monies
21 described as follows: monies; financial transaction cards;
22 jewelry; television, televisions, more than one; and/or a
23 motor vehicle with intent to deprive the owner permanently
24 of such property in violation of section 16-11-330 (a),
25 code of laws for South Carolina.

1 Third indictment alleges as follows, that Anthony
2 Maurice Wise did on or about September 21, 2016 in
3 Newberry County willfully and unlawfully with criminal
4 intent did seize, confine, inveigle, decoy, kidnap, abduct
5 or carry away Benzena Wicker without the authority of law
6 in violation of section 16-3-910, code of laws for South
7 Carolina.

8 And the fourth indictment is for burglary first
9 degree and it alleges as follows, that Anthony Maurice A.
10 Wise did on or about September 21, 2016 in Newberry County
11 willfully and unlawfully enter a dwelling without consent
12 and with intent to commit a crime therein. Went in,
13 effected entry or while in immediate flight therefrom he
14 or another participant in the crime was armed with a
15 deadly weapon or explosive or caused physical injury to a
16 person who is not a participant in the crime or used or
17 threatened to use a dangerous instrument or entered
18 remaining thereon occurring in the nighttime, said
19 dwelling being known and/or occupied by Benzena Wicker in
20 violation of section 16-11-311, code of laws for South
21 Carolina.

22 Now, if you will remember when we went through the
23 initial qualifications I gave you an opportunity that if
24 you needed to speak with me privately, did not want to
25 respond to a question in front of everybody, but I give

1 you that opportunity to speak with me privately and so the
2 same rules apply. When we finish part of the process I
3 will give you that opportunity if needed to speak with me
4 privately. Any member of the jury panel related by blood
5 or marriage to either Anthony Maurice Wise or Benzena
6 Wicker. If so please stand.

7 (No response.)

8 THE COURT: Any member of the jury panel have or had
9 in the past a close personal or social relationship with
10 either Anthony Maurice Wise or Benzena Wicker. If so
11 please stand. Yes ma'am, your name and your juror number
12 if you know it.

13 JUROR: I don't know my number. Ruby Davis. They
14 are my neighbors.

15 THE COURT: When you say neighbors.

16 JUROR: Anthony Wise and Benzena Wicker.

17 THE COURT: Both are your neighbors?

18 JUROR: Yes.

19 THE COURT: Well, let's do this. At the conclusion
20 speak with me privately, actually form a line over on that
21 side and you get in that line and speak to me privately.
22 Thank you, ma'am. The next question deals with potential
23 witnesses. And I am going to publish the potential
24 witnesses in this case. They are as follows, Kathy Tapia,
25 T-A-P-I-A; Michael Claytor of the Newberry County Sheriffs

1 Office; Benzana Wicker; Matthew Ryan Dickert with the
2 Newberry County Sheriffs Office; Chris Johnson with SLED;
3 Walter Bentley with the Eighth Circuit Solicitors Office;
4 Robert Dennis with the Newberry County Sheriffs Office;
5 Laswan Renee Anderson; Irene Griesbach, that's
6 G-R-I-E-S-B-A-C-H; David Simmons and PJ Patel. Any member
7 of the jury panel related by blood or marriage or who is
8 now formerly, any of those individuals I have just listed
9 or published, or any member of the jury panel have or had
10 in the past a close, personal or social relationship with
11 any of those potential witnesses. If so please stand.
12 Yes sir, your name and your number if you know it.

13 JUROR: John Dennis, juror 46. Ryan is my second
14 cousin.

15 THE COURT: Who is your second cousin?

16 JUROR: Ryan Dickert.

17 THE COURT: Okay, all right, okay. The fact that
18 Ryan Dickert is a second cousin of yours, do you believe
19 you would be unable to be fair and impartial to both
20 sides?

21 JUROR: No, sir.

22 THE COURT: Do you think you could be fair and
23 impartial to both sides?

24 JUROR: Yes, sir.

25 THE COURT: Okay. Thank you, sir. All right, next I

1 am going to give the attorneys involved in this case an
2 opportunity to introduce themselves to you and I will tell
3 you, these attorneys are excellent attorneys. The State
4 first.

5 MR. SCOTT: Thank you, Your Honor. Ladies and
6 gentlemen, I am Dale Scott, Deputy Solicitor of the Eighth
7 Circuit, primarily in charge of Newberry County and
8 Laurens County. I am going to be working with Taylor
9 Daniel who is an Assistant Solicitor with our office.
10 Walter Bentley is going to assist us, he is an
11 investigator for our office. And then you heard from the
12 witness list, Ryan Dickert is going to assist me in trying
13 this case, Captain Robert Dennis. Our victim is Benzena
14 Wicker who is seated in the front here. And look forward
15 to trying this this week. Thank you.

16 THE COURT: Mr. Verner.

17 MR. VERNER: My name is Charles Verner, I am an
18 attorney, lawyer here in Newberry County. I work with my
19 father across the street next to the Cabana Restaurant.
20 Thank you.

21 THE COURT: Thank you very much. Any member of the
22 jury panel ever been represented by any of the attorneys
23 involved in this case or anyone in their respective
24 offices please stand. Yes sir, your name and your number.

25 JUROR: I don't remember my number but I am John

1 Frazier. Mr. Verner in his practice has represented my
2 company and me in the past and he is currently
3 representing some clients of mine.

4 THE COURT: Okay. They are currently representing
5 your company in some matters?

6 JUROR: No, sir. I have clients that they are
7 representing.

8 THE COURT: Okay. All right. The fact that Mr.
9 Verner and his office has in the past representing your
10 company and currently represents clients of yours do you
11 believe you could still be fair and impartial to both
12 sides?

13 JUROR: Yes, sir.

14 THE COURT: Thank you, sir. Any member of the jury
15 panel related by blood or marriage either now or formerly
16 to any of the attorneys involved in this case or anyone in
17 their respective offices or any member of the jury panel
18 have or had in the past a close, personal or social
19 relationship with any of the attorneys or anyone in their
20 respective offices. If so please stand.

21 (No response.)

22 THE COURT: Now the next question, I realize you know
23 very little about this case other than my publication of
24 the indictments. But I need to ask you anyways. Any
25 member of the jury panel already formed or expressed any

1 opinion about any issue or matter or anything involved in
2 this case or related to this case. If so please stand.

3 (No response.)

4 THE COURT: Any member of the jury panel aware of any
5 biased or prejudiced towards either the State of South
6 Carolina or the Defendant, Anthony Maurice Wise in this
7 case. If so please stand.

8 (No response.)

9 THE COURT: Is there any member of the jury panel who
10 is a member of or a contributor to any group which has as
11 its primary concern the promotion of law enforcement or
12 victims rights. And these groups would include and
13 certainly not limited to and I will give you the acronyms
14 for these groups, MADD, SADD or CAVE. If that applies to
15 you please stand.

16 (No response.)

17 THE COURT: Any member of the jury panel know of any
18 reason whatsoever why you should not serve as a juror in
19 this case with particular emphasis being placed on your
20 ability to be fair and to be impartial to both the State
21 and the Defendant. And that is the key, ladies and
22 gentlemen, we want complete fair and impartial jurors to
23 sit on this trial jury. If you believe that for some
24 reason that you cannot be I will need you to stand at this
25 time.

1 (No response.)

2 THE COURT: Now, other than the one juror, anybody
3 else need to speak with me privately and did not want to
4 respond to any of the questions I have asked in front of
5 the other members of the jury panel or particular concern
6 or issue that you need to provide to the Court then please
7 stand at this time. Okay, stand along the wall and I will
8 speak with you privately, individually. Give us your
9 name, please.

10 JUROR: Ruby Davis.

11 THE COURT: And you are neighbors?

12 JUROR: Yes, sir.

13 THE COURT: And you know them pretty well?

14 JUROR: Yes, sir.

15 THE COURT: I am going to excuse you from the trial
16 of this case but stay here for further instructions. I
17 will excuse you from the trial of this case.

18 JUROR: Okay. Thank you.

19 THE COURT: Your name and number.

20 JUROR: Katie Frick, number 63. I am going to
21 Magistrate's Court.

22 THE COURT: This will trump Magistrate's Court. If
23 you are selected contact Magistrate's Court to get you
24 excused from that. And if you are not selected then you
25 may be free to go. Thank you.

1 JUROR: Okay.

2 THE COURT: Your name.

3 JUROR: Shakoria Hayes.

4 THE COURT: Yes, ma'am. Number 85.

5 JUROR: I am suppose to be in Columbia for court.

6 THE COURT: Are you suppose to be there for a

7 defendant or a victim or what?

8 JUROR: I am being charged for something.

9 THE COURT: You are being charged for something.

10 JUROR: I have been charged.

11 THE COURT: If you have to be in court it seems to me
12 you have already been charged for something.

13 JUROR: Yes, I have been charged but not convicted.

14 THE COURT: Right, I understand. If you are selected
15 on the jury then we will notify the people down there to
16 protect you. Okay.

17 JUROR: Okay.

18 THE COURT: Thank you. Your name.

19 JUROR: Henry Huff.

20 THE COURT: Okay, Mr. Huff.

21 JUROR: I was involved in a home intrusion in
22 Beaufort County, Beach House. We were the victims and it
23 didn't turn out good for us.

24 THE COURT: You believe you would be unable to be
25 fair and impartial?

1 JUROR: Absolutely would not be fair.

2 THE COURT: Okay. I am going to excuse you from the
3 trial of this case but stay with us to receive further
4 instructions. Okay.

5 JUROR: Okay.

6 THE COURT: Your name.

7 JUROR: Ray Austin.

8 THE COURT: Okay, what do you need to tell me.

9 JUROR: I am not sure, I don't think I can do this
10 and work, my job--

11 THE COURT: They can't hold it against you from
12 serving on a jury. I can transfer you but you are going
13 to have to make arrangements not to work.

14 JUROR: That's fine.

15 THE COURT: So, we will transfer you to another term
16 and you will be notified just like you were notified to be
17 here today. Make sure you make arrangements with your
18 employer so you don't have to work. Okay. You are free
19 to go and make sure you take care of things next go round.
20 Okay.

21 JUROR: All right.

22 THE COURT: This juror is transferred. Your name.

23 JUROR: Richard Dillesshaw.

24 THE COURT: Dillesshaw, okay, what you got.

25 JUROR: You said one of the witnesses' is Michael

1 Claytor. I served with the Fire Department with him and
2 we hung out on personal terms and I think he represented
3 me when I was a juvenile.

4 THE COURT: So you think you would have some
5 difficulties being fair and impartial?

6 JUROR: Yes, sir.

7 THE COURT: I am going to excuse from the trial of
8 this case but stay with us. Okay. Yes, ma'am.

9 JUROR: Lucinda Gary.

10 THE COURT: Okay, Ms. Gary.

11 JUROR: I just wanted to let you know, tomorrow, I
12 will serve but I am working the polls.

13 THE COURT: You are working the polls. We are going
14 to transfer you to another week that you don't have a
15 conflict. So you will be notified to be here whatever
16 that week is so make sure your whole week is clear. Okay.

17 JUROR: Okay.

18 THE COURT: This juror is transferred. When I call
19 out your name if you will come up, please. Brian
20 Caldwell. Number 31. Mr. Caldwell, you have got some
21 drug offenses, convictions on your record?

22 JUROR: Not really.

23 THE COURT: You don't know that?

24 JUROR: No. It was expunged.

25 THE COURT: Let's make sure, it hasn't been expunged

1 off of here. Let's get your date-of-birth.

2 JUROR: 8/9/80.

3 THE COURT: You have got a 1998 conviction for some
4 drugs. You have got a conviction of distribution of
5 marijuana in '99. You thought it was expunged you might
6 need to hire a lawyer to help you get it off of your
7 record. These typically don't come off. You might need
8 to talk to a lawyer.

9 JUROR: I will do that.

10 THE COURT: I will excuse you. You can leave. Sammy
11 Clark, come down, please sir. Back in 1979 you have a
12 problem.

13 JUROR: Yes, sir.

14 THE COURT: So I am going to have to excuse you. You
15 are free to go.

16 JUROR: Right now?

17 THE COURT: Yes, sir. Ruby Davis, come on down. You
18 had a theft conviction back in 1992, a long time ago.
19 That will disqualify you, you are free to go.

20 JUROR: Okay.

21 THE COURT: Patricia Houston. Back in 2003 you had a
22 theft conviction on your record.

23 JUROR: I am Patricia Houston.

24 THE COURT: I am going to try to find your
25 date-of-birth.

1 JUROR: [REDACTED].

2 THE COURT: Okay. And your social security number.

3 JUROR: ***-**-****.

4 THE COURT: Okay. This is not you so stay with us.
5 Didn't mean to embarrass you. Okay. David Collins, 179.
6 Mr. Collins, you are fine, you can go back to your seat.
7 Does the State have any additional voir dire or any
8 objection or exceptions to the Court's voir dire?

9 MR. SCOTT: No, Your Honor.

10 THE COURT: The Defense?

11 MR. DANIEL: No, Your Honor.

12 THE COURT: Okay. Thank you very much. Ladies and
13 gentlemen, what will happen next is if your name is called
14 out bring whatever belongings you may have and come down
15 and you will stand in this area here, facing out towards
16 the door. And you will hear words such as swear the juror
17 or we accept the juror or excuse the juror. And this is
18 the process of getting a twelve person jury plus we will
19 have two alternates. If you are not selected, if you come
20 down and one of the lawyers does not select you, don't
21 take that personal, don't be offended. But these lawyers
22 have certain reasons to have certain people on the jury
23 and reasons for having others not on their jury. So,
24 don't take it personally and we will select a twelve
25 person jury, two alternates. This is a 10 and 5

1 situation. So, everybody be at ease for just a moment.

2 (Whereupon, a short break was taken.)

3 THE COURT: Madam Clerk, I am ready anytime you are.

4 CLERK OF COURT: As we call your name and number
5 please come up and stand right here in front of us.

6 Number 169, Kendra Wilson. What says the State?

7 MR. SCOTT: Please present the juror.

8 CLERK OF COURT: The Defense?

9 MR. VERNER: Please seat the juror.

10 CLERK OF COURT: Number 126, Keema Praylow. What
11 says the State?

12 MR. SCOTT: Please present the juror.

13 CLERK OF COURT: The Defense?

14 MR. VERNER: Please seat Ms. Praylow on this jury.

15 CLERK OF COURT: Number 152, Jamie Smith. What says
16 the State?

17 MR. SCOTT: Please present the jury.

18 CLERK OF COURT: The Defense?

19 MR. VERNER: Please seat Ms. Smith in the jury box.

20 CLERK OF COURT: Number 14, Joshua Baird. What says
21 the State?

22 MR. SCOTT: Please present the juror.

23 CLERK OF COURT: The Defense?

24 MR. VERNER: From today's case I am going to excuse
25 Mr. Baird.

1 CLERK OF COURT: Number 26, Mary Bowers. What says
2 the State?

3 MR. SCOTT: Please present the juror.

4 CLERK OF COURT: The Defense?

5 MR. VERNER: Please seat Ms. Bowers in the jury box.

6 CLERK OF COURT: Number 160, Amy Turner. What says
7 the State?

8 MR. SCOTT: Please present the juror.

9 CLERK OF COURT: The Defense?

10 MR. VERNER: From today's case I am going to excuse
11 you, Ms. Turner.

12 CLERK OF COURT: Number 17, Brian Bauer. What says
13 the State?

14 MR. SCOTT: Please present the juror.

15 CLERK OF COURT: The Defense?

16 MR. VERNER: From today's case I am going to excuse
17 you, Mr. Bauer.

18 CLERK OF COURT: Number 139, Nora Sanders. What says
19 the State?

20 MR. SCOTT: Please present the juror.

21 CLERK OF COURT: The Defense?

22 MR. VERNER: From today's case I am going to excuse
23 you, Ms. Sanders.

24 CLERK OF COURT: Number 8, Courtney Alston. What
25 says the State?

1 MR. SCOTT: Please present the juror.

2 CLERK OF COURT: The Defense?

3 MR. VERNER: Please seat Ms. Alston. And, Your
4 Honor, I would typically, instead of stopping at the
5 prosecutor's desk, I would ask the jury to come up to the
6 middle of the courtroom.

7 THE COURT: Very good. If your name is called out if
8 you will kind of go right in front of that middle counsel
9 table, please.

10 CLERK OF COURT: Number 132, Teofilo Rivas. What
11 says the State?

12 MR. SCOTT: Please present the juror.

13 CLERK OF COURT: The Defense?

14 MR. VERNER: I will excuse Mr. Rivas.

15 CLERK OF COURT: Number 192, Kevon Fant. What says
16 the State?

17 MR. SCOTT: Please present the juror.

18 CLERK OF COURT: The Defense?

19 MR. VERNER: Please seat Mr. Fant.

20 CLERK OF COURT: Number 155, Brian Summer. What says
21 the State?

22 MR. SCOTT: Please present the juror.

23 CLERK OF COURT: The Defense?

24 MR. VERNER: From today's case I will excuse you, Mr.
25 Summer.

1 CLERK OF COURT: Number 51, Mary Doolittle. What
2 says the State?

3 MR. SCOTT: Please present the juror.

4 CLERK OF COURT: The Defense?

5 MR. VERNER: From today's case I will excuse Ms.
6 Doolittle.

7 CLERK OF COURT: Number 133, Christian Rodriquez.
8 What says the State?

9 MR. SCOTT: From this first trial please excuse this
10 juror.

11 CLERK OF COURT: Number 33, William Chapman. What
12 says the State?

13 MR. SCOTT: Please present the juror.

14 CLERK OF COURT: The Defense?

15 MR. VERNER: Please seat Mr. Chapman in the jury box.

16 CLERK OF COURT: Number 2, Mary Abney. What says the
17 State?

18 MR. SCOTT: From this trial please excuse the juror.

19 CLERK OF COURT: Number 146, Randy Shirey. What says
20 the State?

21 MR. SCOTT: Please present the juror.

22 CLERK OF COURT: The Defense?

23 MR. VERNER: From today's case I will excuse you, Mr.
24 Shirey.

25 CLERK OF COURT: Number 73, Curtis Gray. What says

1 the State?

2 MR. SCOTT: Please present the juror.

3 CLERK OF COURT: The Defense?

4 MR. VERNER: Please seat Mr. Gray in the jury box.

5 CLERK OF COURT: Number 67, Sherri Gentry. What says
6 the State?

7 MR. SCOTT: Please present the juror.

8 CLERK OF COURT: The Defense?

9 MR. VERNER: Please seat Ms. Gentry in the jury box.

10 CLERK OF COURT: Number 166, William White. What
11 says the State?

12 MR. SCOTT: Please present the juror.

13 CLERK OF COURT: The Defense?

14 MR. VERNER: From today's case I will excuse Mr.
15 White.

16 CLERK OF COURT: Number 111, Debbie McCullough. What
17 says the State?

18 MR. SCOTT: Please present the juror.

19 CLERK OF COURT: The Defense?

20 MR. VERNER: Please seat Ms. McCullough in the jury
21 box.

22 CLERK OF COURT: Number 62, John Rhett Frazier. What
23 says the State?

24 MR. SCOTT: Please present the juror.

25 CLERK OF COURT: The Defense?

1 MR. VERNER: I will excuse Mr. Frazier from today's
2 case.

3 CLERK OF COURT: Number 199, Gerald Johnson. What
4 says the State?

5 MR. SCOTT: Please present the juror.

6 CLERK OF COURT: Any challenge for cause?

7 MR. VERNER: Please seat Mr. Johnson in the jury box.

8 CLERK OF COURT: Number 140, Tyler Sanfilippo. What
9 says the State?

10 MR. SCOTT: Please excuse the juror from this trial.

11 CLERK OF COURT: Number 45, Katie Delesandro. What
12 says the State?

13 MR. SCOTT: Please present the juror.

14 CLERK OF COURT: Any challenge for cause?

15 MR. VERNER: Please seat Ms. Delesandro.

16 THE COURT: Two alternates.

17 CLERK OF COURT: Alternate number one, 184, William
18 B. Dickert. What says the State?

19 MR. SCOTT: Please present the alternate.

20 CLERK OF COURT: The Defense?

21 MR. VERNER: Is this one and two, Your Honor?

22 THE COURT: Right, one and two.

23 MR. VERNER: From today's case I will excuse this
24 juror.

25 CLERK OF COURT: Number 5, Jerry Alewine. What says

1 the State?

2 MR. SCOTT: Please present the alternate.

3 MR. VERNER: I will excuse Mr. Alewine today too.

4 CLERK OF COURT: Number 177, Timothy Chandler. What
5 says the State?

6 MR. SCOTT: Please present the alternate.

7 CLERK OF COURT: Any challenge for cause?

8 MR. VERNER: Please seat the alternate juror.

9 CLERK OF COURT: Number 210 Otha Roberts. What says
10 the State?

11 MR. SCOTT: Please present the alternate.

12 CLERK OF COURT: The Defense?

13 MR. VERNER: Please seat Mr. Roberts.

14 THE COURT: Okay, ladies and gentlemen, we have a
15 trial jury of twelve with two alternates. What I am going
16 to ask that you do is, our jury room is right there. I am
17 going to ask that you go back to the jury room for just a
18 few minutes. I will give instructions to the remaining
19 jury panel. And one thing I am going to tell you now and
20 you will hear me to tell you throughout this entire
21 proceeding. Don't start any discussions about anything
22 related to this case. I know you know very little. But
23 no discussions can take place among yourselves until the
24 end of the case when I tell you to begin your
25 deliberations in order to reach a verdict. So until that

1 happens you can have no discussions among yourselves,
2 anybody that you come into contact with. We are going to
3 break for lunch in just a few minutes and when you break
4 for lunch or adjourn for the evening, family friends that
5 you come into contact with no discussion with them as
6 well. Okay. So go back to the jury room, take a few
7 minutes to become accustomed to your new surroundings and
8 get to know each other and we will get you back out
9 shortly.

10 (Whereupon, the jury was excused from open court.)

11 THE COURT: All right, ladies and gentlemen, some of
12 you may be relieved, right. Some are a little
13 disappointed maybe. We never know what the week holds for
14 us, whether this will be the only trial. You may be
15 summoned back. What you need to do is at 6:00 o'clock,
16 after 6:00 this evening, there is a call-in number on your
17 card, call that number, there will be a recording and it
18 will tell you what to do. Chances are this call tonight
19 will tell you to call back after 6:00 tomorrow night, more
20 than likely. We never know for certain what our week will
21 hold for us. So don't forget to call because if you don't
22 call then you are not going to know what you are suppose
23 to do. With that said you are free to leave and I hope I
24 will get an opportunity to see you some time this week.
25 Have a good afternoon.

1 (Whereupon, the remaining jury panel was excused from
2 open court.)

3 THE COURT: Okay, gentlemen, it is my understanding
4 that there are going to be some pretrial motions. Is that
5 correct, Mr. Verner?

6 MR. VERNER: Yes, Your Honor.

7 THE COURT: So we can break for lunch and start back
8 at 2:00, spend this afternoon on trial matters and we will
9 start opening in the morning?

10 MR. SCOTT: Yes, sir.

11 MR. VERNER: Yes, sir.

12 THE COURT: Let's bring the jury in.

13 (Whereupon, the jury came into open court at
14 approximately 12:23 p.m.)

15 THE COURT: Let the record reflect the jury is back
16 in. Ladies and gentlemen, what we are going to do, we are
17 going to start the trial of this case in the morning. We
18 have some pretrial matters that I need to deal with the
19 lawyers and that will take probably the better part of
20 this afternoon. So, I will go ahead and send you on and
21 if you will be back here promptly at 9:45 in the morning.
22 Be sure to allow yourself enough time because unexpected
23 things do happen. And as I told you a moment ago before
24 you went to the jury room as far as no discussion among
25 yourselves, no discussion among anybody that you come into

1 contact with this afternoon or this evening. Certainly
2 you can tell people, if you are asked, yes, I have been
3 picked on a jury but leave it at that and explain to that
4 person, if that person wants to find out some information,
5 just say the Judge has instructed us not to have any
6 discussions with anyone at this case. Put the blame on
7 me, okay. And lastly, I will explain in more detail about
8 this in the morning. And this rule applies throughout
9 this whole proceeding. It may be tempting for you to go
10 on the internet, social media, that sort of thing to try
11 to find out something about this case, do a little
12 research into the charges, that sort of thing. That is
13 completely prohibited. And the reason for that is, is
14 that your verdict in this case has to be based one-hundred
15 percent on what is brought out in this courtroom, by
16 witness testimony and exhibits and that sort of thing. So
17 we don't want you going out on your own doing your own
18 research about anything related to this case. Okay. So
19 with all of that said you are free to go for the remainder
20 of the day. We will see you back here at 9:45 in the
21 morning. Have a good afternoon and evening.

22 (Whereupon, the jury was excused from open court for
23 the day.)

24 THE COURT: On this case we will start back at 2:15
25 this afternoon.

1 (Whereupon, a lunch break was taken.)

2 THE COURT: Okay. Gentlemen, I understand we have
3 some pretrial matters that we need to discuss.

4 MR. VERNER: Yes, sir. Clerically, I had some
5 pleadings lined up, but just for their benefit, if we're
6 going to go into pleas, and I will tell them to come back
7 at a different time or we can do them now.

8 THE COURT: If we have time this afternoon and you
9 got a few pleas to put up, I don't mind doing some pleas
10 afterwards. I think we need to do this first --

11 MR. VERNER: Yes, sir.

12 THE COURT: But if we've got some, if it's not too
13 late in the day, I could do some pleas.

14 MR. VERNER: I was just going to give them maybe an
15 option of coming back maybe Wednesday or just,
16 procedurally, the pretrial matters will probably take
17 about an hour. Okay, I am ready, Judge.

18 THE COURT: Okay. All right. I understand we have a
19 Jackson v. Denno issue and maybe a photo ID lineup or some
20 sort of an identification?

21 MR. SCOTT: Yeah. We could probably kind of merge
22 the two together through testimony.

23 THE COURT: All right.

24 MR. SCOTT: But I'll call Robert Dennis.

25 THE COURT: Okay.

1 ROBERT DENNIS, being
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 By Mr. Scott:

5 Q All right. Captain Dennis, you had a chance to begin
6 the investigation on a, I guess, a home invasion situation
7 September 21st, 2016?

8 A That is correct.

9 Q And that was an incident location at [REDACTED]
10 [REDACTED] in Newberry?

11 A That is correct.

12 Q Okay. At some point were you given, I guess, a
13 description of the person, a suspect in that case?

14 A We were, yes.

15 Q And by the victim?

16 A That's correct, yes.

17 Q That's Ms. Benzena Wicker?

18 A That's correct.

19 Q And I'm trying to just cut to the chase. Eventually,
20 did y'all sort of make Mr. Anthony Wise a person of
21 interest?

22 A We did. One of the biggest things that stood out was
23 that in the description that was given, Ms. Wicker
24 indicated that the individual that she was describing fit
25 the description of one of her neighbors and knowing that

1 he had just gotten out of jail.

2 Q Okay. So if this happened September 21st in the
3 nighttime hours, when did you first speak with Mr. Anthony
4 Wise?

5 A We had learned that Mr. Wise was on probation. So we
6 went out and made contact with the agent in charge, David
7 Simmons, to gather information on what his charge was for
8 the probation and to find out where he was staying at,
9 where he was living, and any other information that we
10 could get such as telephone numbers.

11 Q Okay. And so if this happened September 21st, when
12 did you first speak with Mr. Wise?

13 A I believe we talked with Mr. Wise the next day on the
14 22nd, because he had had a, had to come out to the
15 probation office for a drug test. So we met with Mr. Wise
16 and Agent Simmons at the probation office to confirm
17 address information, as well as contact information and to
18 let him know that, you know, we had the allegation that he
19 could be a possible suspect.

20 Q Okay. So and the probation office is right over here
21 in the annex?

22 A That's correct; yes, sir.

23 Q And so you first made contact with him in the office
24 of probation?

25 A That's correct.

1 Q And did you begin asking him questions at that time?

2 A The only information that we were obtaining was just
3 the confirming what David Simmons had already given us,
4 address, contact information, such as cellphone and, you
5 know, what he was on probation for.

6 Q Okay. Was he detained at that time?

7 A No. He was not detained.

8 Q All right. He was not under arrest?

9 A No. No.

10 Q Okay. So did you Mirandize him at that point?

11 A No.

12 Q All right. So the questions, what did you ask him
13 then? Did you ask him his cellphone number?

14 A Confirming his cellphone information, where he was
15 living at at the time --

16 Q Okay.

17 A -- and the charges that he was on probation for.

18 Q All right. And where did he indicate that he lived?

19 A The 605 Green Meadows Drive which is his mom's
20 residence.

21 Q Okay. And you have your notes up there?

22 A Yes. I have notes up here with me.

23 Q Do you have the phone number that he, Mr. Wise gave
24 you that he was using?

25 A Let me look real quick. I don't see it listed in

1 here. I know we've got it in my notes. It was a 404
2 number or area code.

3 Q Do you have the search warrant up there?

4 A I do not have the search warrant, no.

5 Q All right. Let me see if I can find it. Okay. And
6 would it be the 404-308-0449 number?

7 A That's it. Yes. If you'd let me just take a look at
8 that.

9 Q This is State's, premarked State's number 59.

10 A That is correct. Yes.

11 Q Okay. So he gave you the phone number with the [REDACTED]
12 area code as being the number he used, and he gave you the
13 [REDACTED] is where he was living at the
14 time?

15 A That is correct.

16 Q Okay. And was that pretty much the substance of
17 y'all's conversation on the 22nd?

18 A And we let him know that, you know, his name had come
19 up as far as being a possible suspect in the
20 investigation.

21 Q Okay. Was he allowed to leave at that time?

22 A Yes. Matter of fact, we left first. He was still
23 dealing with probation.

24 Q Okay. What was the next contact you had with Mr.
25 Wise?

1 A The next contact was on the 23rd after we had
2 received information from SLED on obtaining the phone
3 records. Once we got that information, we began looking
4 for him, checking the Green Meadows address, and then kind
5 of coordinating with SLED, and they were giving us
6 information that he had been up in Grant Homes at a family
7 member's residence. So we went up there to talk with
8 them, and then we started making our way back toward
9 probation office where we encountered Anthony and his
10 girlfriend right here at Harrington and McKibben Street.

11 Q Okay. And, at that time, was he placed under arrest?

12 A Yes. He was taken into custody there on the street
13 and verbally given his Miranda by myself. Because we were
14 right there at an intersection, we all loaded up placing
15 Anthony in one vehicle, his girlfriend in another vehicle,
16 and then going to the Sheriff's Office.

17 Q Okay. Do you remember about what time that was, been
18 during business hours?

19 A It was in the afternoon. We were probably pushing
20 around 3:30, 4:00.

21 Q Okay. And tell me the warnings you would give. How
22 do you recite Miranda?

23 A The Miranda, we keep on cards just so we don't make a
24 mistake which is, It is my duty to advise you that you're
25 under investigation by the Sheriff's Office. You have the

1 right to remain silent. Anything you say can and will be
2 used against you in a court of law. You have the right to
3 a lawyer and to consult with a lawyer before and while
4 answering any questions and if you cannot afford a lawyer,
5 one will be provided for you without cost to you if you
6 wish. He was asked if he understood those rights and if
7 he was willing to talk. And verbal affirmative on both of
8 them, yes.

9 Q Okay. Did he seem to understand those rights as you
10 read them to him?

11 A Yes. He did.

12 Q Seem like he was under the influence of anything?

13 A No, sir.

14 Q Okay. Did you make any threats or anything like
15 that?

16 A No, sir.

17 Q Okay. So did you begin questioning him there?

18 A No. We actually went to the Sheriff's Office out on
19 Wilson Road where we went into my office.

20 Q Okay. So to drive from here, the annex, to y'all's
21 office would be, what five --

22 A Less than five minutes.

23 Q A five-minute drive. All right. And then when you
24 got there, what office did you take him to?

25 A We went into my office at the Sheriff's Office.

1 Q Okay. Is he in handcuffs at this point?

2 A He was, and then he was taken out of handcuffs.

3 Q Okay. Did you begin questioning him then or did you
4 re-Mirandize him?

5 A No. We began talking there, explaining the
6 information that we had received on the phone records.
7 And we wanted to get his side of the story to try to get
8 through this and get an understanding.

9 Q Okay. And correct me if I'm wrong, but the gist of
10 the conversation or he had confirmed the phone number and
11 you had used some technology to put that phone number at
12 certain places during the date of this incident?

13 A That is correct. We obtained a search warrant for
14 carrier, excuse me, my allergies, we had gotten the search
15 warrant for the carrier on the phone so that they could
16 give us the information as far as plotting the phone, so
17 to speak, location-wise.

18 Q Okay. All right. Did you ask him about his phone
19 plotting near the ATM where the victim's money was taken?

20 A Matter of fact, we talked to him about being at the
21 victim's residence. He said, you know, he lived in that
22 area. We talked to him about the ATM over in the Helena
23 section. He stated he had gone to the Chinese restaurant
24 over there to get food for his girlfriend. When we told
25 him we could confirm that with video, he said, well, I

1 didn't go in because I realized I didn't have money. So
2 he left. And then the last location we asked him about
3 was Boyd Crossing which is at the sawmill. That's where
4 we found Ms. B's car.

5 Q Okay.

6 A I know it's Ms. Benzena, but we been calling her Ms.
7 B, so.

8 Q But kind of the questions you were asking him about
9 why the phone would be plotting in certain areas, and he
10 would give reasons why his phone would probably be found
11 in that area. Is that right?

12 A That is correct.

13 Q Did you ask him or did he ever indicate whether he
14 knew who the victim was in this case?

15 A He knew who she was, yes, he acknowledged that.

16 Q Okay.

17 A Because he had talked about going and visiting her
18 husband who is now deceased.

19 Q Okay. And then what about, why is the Economy Inn
20 relevant in this case?

21 A Well, we were asking about the time-period where he
22 was at. He acknowledged that he and his girlfriend had
23 gone and gotten a room. I'm looking here to see what the
24 time, I asked him where he was at around 1900 which was
25 around 7:00 o'clock, and he advised that he was on his way

1 to the motel, if he wasn't mistaken. And that I confirmed
2 with him that, you know, he had checked, they had checked
3 into the motel, the girlfriend had checked into the motel
4 at 2105 which was 9:05.

5 Q When did he indicate that he had been at the hotel,
6 though?

7 A Around 1900.

8 Q Which is 7:00?

9 A 7:00, yes sir.

10 Q Okay. Well, just to be clear, he denied any
11 involvement with the kidnapping or armed robbery or
12 burglary of Ms. Benzene Wicker?

13 A That is correct.

14 Q Okay. But at least the interview he did give you at
15 the Sheriff's Department, was it freely and voluntarily
16 given?

17 A Yes, it was.

18 Q Okay. And it was under the warnings of Miranda?

19 A Yes, it was.

20 Q Okay. When it was over, when the interview with him
21 was over, was he allowed to leave?

22 A No, he was not. He was explained that based off of
23 the information we had received, because he had confirmed
24 that phone number as being the phone that he used and that
25 very seldom was it with someone else, but he has let his

1 girlfriend use it which it is in her name at times. He
2 was caught with the phone whenever we took him into
3 custody. So we just basically told him, based off of that
4 information, he was under arrest for the offenses.

5 Q Okay. I just want to cover a little bit as far as
6 the Neil v. Biggers aspect. How did he appear on the date
7 that you interviewed him?

8 A As far as?

9 Q If you're looking at him right now, how did he look
10 different?

11 A Oh, I mean, he had long hair or dreads. They were
12 kind of highlighted at the end, I guess that's the correct
13 word, with color in them. And, you know, he wasn't
14 belligerent. He wasn't, you know, standing up on the
15 table demanding anything.

16 Q Okay. Again, not under the influence of anything, at
17 least as far as you could tell?

18 A No, sir.

19 Q Let me show you, this has been premarked State's
20 number 5. Is that generally how he is?

21 A Yes. And that's how he appeared on the 21st, excuse
22 me, the 22nd and 23rd.

23 Q Okay. The interview at the Sheriff's Department, was
24 it recorded?

25 A Yes, sir. Sergeant Dickert recorded it.

1 Q Okay. And you had a physical description at that
2 time from the victim of the suspect in the case?

3 A That is correct.

4 Q Okay.

5 A And Sergeant Dickert had obtained that before Ms. B
6 was transported to the hospital, and then our victim's
7 advocate responded and confirmed the ID at the hospital.

8 MR. SCOTT: Okay. Thank you. Nothing further.

9 Captain Dennis, that's all I have. Answer any questions
10 Mr. Verner has for you.

11 THE COURT: Mr. Verner, anything for this witness?

12 MR. VERNER: Please, Your Honor.

13 CROSS-EXAMINATION

14 By Mr. Verner:

15 Q Investigator, is there a written Miranda waiver form
16 in this case?

17 A I do not believe we did a written on him.

18 Q Do you know why there's not?

19 A You know, whenever you start interviewing, the first
20 thing is securing their rights and that's verbally of
21 getting it. There have been occasions that no, we don't
22 obtain the written. We just go right into the information
23 being obtained.

24 Q And who was with you when you said you gave the
25 Miranda warning?

1 A It was several of us, Sergeant Dickert was one,
2 myself and other investigators.

3 Q Okay. Now, the lady that indicated that she was
4 robbed the evening of September the 21st of 2016 --

5 A Yes, sir.

6 Q -- between what timeframe, just roughly, roughly,
7 5:30 to?

8 A Yes, sir. I think she was, somewhere between 5:30 to
9 maybe a hour or so through that time-period. But she was
10 not able to get free to go to a neighbor's house, because
11 she had to work duct tape off of her leg.

12 Q Did you respond to her home?

13 A I responded to the neighbor's house, Ms. Kathy.

14 Q Where she'd went to a neighbor's house to call the
15 police?

16 A That is correct.

17 Q So you --

18 A Or where they called the police.

19 Q So you would have been one of the initial
20 investigators on the scene?

21 A Actually, Sergeant Dickert and them were.

22 Q Okay.

23 A I responded as the supervisor.

24 Q All right.

25 A And then once we gathered information about the

1 Cadillac, which is Ms. B's car being taken, we obtained
2 information that she had OnStar in that vehicle. So we
3 were in communication with OnStar, and they were giving us
4 information of where the vehicle was at. So I broke from
5 that location to go and look for the vehicle.

6 Q Okay. And do you remember what time you found the
7 vehicle? A little bit off the subject, but we'll come
8 back to it.

9 A I'd have to look back on my notes, but I think it was
10 around 9:00 or so.

11 Q Late that night?

12 A Late that night.

13 Q That same night?

14 A That's correct.

15 Q Okay. So the car was recovered the same day?

16 A Yes.

17 Q My question is, did Ms. Wicker, she did not identify
18 Anthony Wise by name that night, did she?

19 A No. She did not identify him by name other than the
20 voice sounded familiar and looked similar to the
21 individual she knew lived in the neighborhood.

22 Q She gave a description that law enforcement felt was
23 suspiciously like one of her neighbors that you were aware
24 of, Anthony Wise?

25 A That is correct.

1 Q But just, at that point, she had not identified him
2 by name?

3 A No, sir; not by name.

4 Q But the description of the attacker she gave was, put
5 you on notice or suspicious that it generally matched
6 Anthony Wise's description?

7 A That is correct, Mr. Verner.

8 Q Was she ever shown a photo lineup?

9 A No, sir.

10 Q Okay. And, I believe she indicated that the attacker
11 had a mask?

12 A That's correct; yes, sir.

13 Q Did she ever identify Anthony Wise in a photo lineup
14 that you're aware of?

15 A No, sir.

16 Q Are you aware of whether she was shown Anthony Wise's
17 booking photograph?

18 A I can't answer that, but I know, when I say I can't
19 answer that. I know we did not show her anything as far
20 as the booking photo.

21 Q Okay. But the description of the attacker she gave
22 that night was close enough to Anthony Wise where you felt
23 it was worth investigating him more thoroughly?

24 A That is correct.

25 Q And, I believe, you saw him the next day at the

1 probation department?

2 A That is correct.

3 Q Based on her identification of the attacker, did you
4 believe you had probable cause to arrest Anthony Wise at
5 that point?

6 A No.

7 Q Okay. It was a close description, but nothing really
8 else backing it up, and she didn't specifically say that
9 was Anthony Wise?

10 A That is correct.

11 Q Okay. So he was allowed to leave after the first
12 interview at the probation department?

13 A After he finished up with them. Because, like I said
14 earlier, we left prior to Mr. Wise leaving.

15 Q Okay. And was he Mirandized at the probation
16 department?

17 A No, he was not.

18 Q Okay. Well, then what would be the nature of that
19 conversation or the point? He would have been a suspect
20 of the crime at that point, wouldn't he?

21 A He was a, I guess the words we would use would be a
22 person of interest.

23 Q Okay.

24 A So we would want to confirm where he lived at, what
25 he was on probation for, and any phone numbers, contact

1 information.

2 Q Right.

3 A I mean, now, we could, if we had to do follow-up
4 information, we would have a way of getting back in touch
5 with him.

6 Q Okay. And I don't want to quibble over what term you
7 use, but the reason you're talking to him is because you
8 believe he might be the attacker in the case?

9 A Person of interest.

10 Q Okay. And could possibly be charged criminally based
11 on what you found out?

12 A At that time, a person of interest.

13 Q Right. But he was not Mirandized at the probation
14 department?

15 A No, he was not.

16 Q Did Mr. Simmons, the probation agent, Mirandize him
17 or was he even part of that conversation?

18 A I don't think he was. He was in the other room
19 getting ready, but I, because we were sitting right out in
20 the little sitting area of probation.

21 Q Okay. Now, tell me the gist of the interaction
22 between you and Mr. Wise at the probation department on
23 the 22nd?

24 A On the 22nd at the probation office, we obtained
25 information from David Simmons on Mr. Wise. That was what

1 he was on probation for, his demographics of where he
2 lived at and any contact numbers or contact persons for
3 him.

4 Q You pulled his --

5 A Once --

6 Q I'm sorry. I'm sorry. Go ahead.

7 A And once we obtained that information, Mr. Wise was
8 there to submit, I don't know if he had a scheduled
9 appointment or what, but he was there to already meet with
10 David and them and was going to do a drug test.

11 Q Okay.

12 A We confirmed with Mr. Wise the information we had as
13 far as his name, his address, and his phone numbers, and
14 contact numbers.

15 Q Okay. So it was coincidental that you ran into him
16 at probation or you were expecting him to be there?

17 A David had already told us he was going to be there.

18 Q Okay. And then you confirmed his contact information
19 through probation?

20 A That is correct.

21 Q What was the nature of the conversation with Anthony?
22 Did you tell him about the, and just --

23 A -- Mr. Verner, I was just answering that. We
24 confirmed his information of --

25 Q Right.

1 A -- where he lived at, his phone numbers and contact
2 information.

3 Q Did you question him further about the --

4 A -- he was a person of interest.

5 THE COURT: Don't talk over each other, please, sir.

6 Q Did you question him further about this particular
7 crime?

8 A No, sir.

9 Q Oh, okay. You didn't say that --

10 A -- No, sir. We didn't go into detail about the crime
11 that, that we had had an incident that happened in his
12 neighborhood and that his name had surfaced as a person of
13 interest.

14 Q So you did tell him that?

15 A We didn't go into any detail of the crime or ask him
16 anymore questions about the crime other than he was a
17 person of interest based off of the description.

18 Q Okay. So what the lady alleging he's doing and what
19 his alibi would be or anything like that, you didn't get
20 into the, you just told him that your name has come up in
21 something we're investigating and we just want to confirm
22 where you're living?

23 A That is correct.

24 Q Okay.

25 A Because the main thing that we were focusing on is

1 getting contact information, because we knew that would be
2 the best way of identifying him more further as a subject.

3 Q Okay.

4 A So once we got that information, as far as the phone
5 information, that's what made us go to SLED to get the
6 search warrants for his phone information.

7 Q Did you ask him to confirm, is this your number,
8 Anthony? On the exhibit, I saw there were like four phone
9 numbers that were listed.

10 A According to State's Exhibit number 59, we confirmed
11 the information that was provided to us by South Carolina
12 Department of Probation Patrol, David Simmons, of the
13 cellphone number, as well as other phone numbers that he
14 had given which was, is a total of three, actually four.

15 Q But my question is did you say, Anthony, is this your
16 number, 404-380, or did you just get the list from Mr.
17 Simmons?

18 A As I said earlier, we confirmed with Mr. Wise if
19 these were his numbers --

20 Q Okay.

21 A -- that he could be gotten in contact with.

22 Q Okay. And then after confirming his address and
23 phone numbers, that was pretty much it, just you could go
24 ahead--

25 A -- that was pretty much the end of that with Mr.

1 Wise.

2 Q And then the following day SLED was able to, that
3 was, was there any other evidence used to obtain the
4 search warrant other than that the lady gave a description
5 that was similar to him and that he confirmed or that the
6 probation department indicated those were his contact
7 numbers?

8 A I'd have to look at the search warrant to see if
9 there was anything else in it.

10 Q Are you the person who obtained the search warrant or
11 was that --

12 A -- no.

13 Q Are you aware of any other information that may have
14 been used?

15 A No.

16 Q I'm just asking if you remember any other information
17 you had on it?

18 A Not right off the top of my head, no.

19 Q Okay. And there was no further conversation with him
20 until after these SLED reports came back in?

21 A That is correct.

22 Q And that was the following day?

23 A That was on, I believe, it was the 23rd.

24 Q Okay. So it only took one day for the phone records
25 to come into SLED?

1 A That is correct.

2 Q Okay.

3 A That is correct.

4 Q Did those include the graphs of location or just the
5 little overhead views of where he was or what were just
6 the actual phone records, phone calls were made at such
7 and such a time to?

8 A The phone records that came in were all the
9 incoming/outgoing calls, as well as the information to do
10 a plot --

11 Q Okay.

12 A -- of where that phone is at. So the agents, and
13 he'll be able to testify to this, but the agent was able
14 to take the time-period in which we had information of at
15 Ms. B's house, at the ATM, at the Boyd Crossing Lumberyard
16 where the car was found. He was able to place 404, that
17 number, at all three of those locations.

18 Q Okay. Now, and so then you already had the overhead
19 map prior to --

20 A No, sir.

21 Q -- or that was done prior to trial?

22 A That was done for preparation for trial.

23 Q Was it done prior to Anthony being arrested?

24 A The information that we had was the SLED agents can
25 show us on the computer --

1 Q Okay.

2 A -- and plot the information for us. So we're able to
3 see that, the locations on a map, and then they blow it up
4 so you can see it bigger for trial purposes.

5 Q It was on computer, but you did see kind of an
6 overhead plat where you could get the general circle area
7 where he would have been located?

8 A That is correct.

9 Q Okay. And it's fair to say that the [REDACTED] number on
10 his probation files are listed as Laswan Williams?

11 A That's his girlfriend; yes, sir.

12 Q Anderson? Okay.

13 A That's his girlfriend. However, when he was taken
14 into custody he had the phone in his pocket.

15 Q What about the 924 number or the 944 number?

16 A There was another phone he had on him that was not
17 working.

18 Q Okay. And that was the other phone that was also,
19 the search warrant was issued for?

20 A That is correct.

21 Q And then did, I think he was arrested after his
22 interview on the 23rd?

23 A That is correct; yes, sir.

24 Q Okay. Are you aware of whether Ms. Benzena Wicker
25 ever identified him following the arrest?

1 A No, sir.

2 Q Okay. And so you're relying on the description she
3 gave at the time of the incident or to the officers who
4 investigated the scene?

5 A As well as the investigating officer, yes.

6 Q But as far as you know, she never identified him by
7 face or --

8 A No, sir.

9 Q -- in person or through a photo identification?

10 A No, no photo identification.

11 Q Okay.

12 MR. VERNER: Okay. Thank you, investigator.

13 THE COURT: Anything on redirect, Solicitor.

14 MR. SCOTT: No, Your Honor.

15 THE COURT: You can step down, Captain Dennis.

16 MR. SCOTT: The State calls Ryan Dickert.

17 THE COURT: Okay.

18 RYAN DICKERT, being
19 first duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 By Mr. Scott:

22 Q Okay. Investigator Dickert, 21st September of last
23 year, did you go to the crime scene at [REDACTED]
24 Drive, I'm sorry, [REDACTED]?

25 A That is correct.

1 Q And that is the home of Benzena Wicker?

2 A That is correct.

3 Q And did you speak with Ms. Wicker?

4 A Briefly, yes.

5 Q And did you get a description of the suspect who had
6 entered her home and, I guess, taken her around town and
7 made her go to the ATM that night? Did you get a
8 description from her?

9 A Yes.

10 Q And what was the general description you were looking
11 for?

12 A She described him as being a black male in his
13 twenties, weighing about 125 pounds, about five foot tall,
14 real thin with dreads.

15 Q Okay.

16 A She further described him as having a black hooded
17 sweatshirt, blue tight pants, red top, and a white mask.

18 Q Okay. So the person that she described, she
19 described him as wearing a mask over his face?

20 A Yes.

21 Q Did she indicate any familiarity with the person even
22 though he was wearing a mask?

23 A Based off of what she observed and what she heard,
24 she felt like it was a neighbor that lived down the road.

25 Q Okay. And did she know the name of the person?

1 A She did not know his name.

2 Q Were you all, that being the Sheriff's Department,
3 were you familiar with Anthony Wise at that time?

4 A I personally was not.

5 Q Okay.

6 A But the Sheriff's Office has had dealings with him.

7 Q Okay. And, well, then how did y'all make him a
8 person of interest?

9 A We went through Law Track that night. And basically
10 pulled every black male that lived on Green Meadows Road
11 and started going through them looking at physical
12 descriptors, height/weight. If there was a picture, if it
13 looks like a DMV photo, it's not always accurate. But
14 based on physical description that she presented and the
15 fact that he lived in the neighborhood and started making
16 a list, compiling a list based off of that.

17 Q Okay. At that time, Anthony Wise would have been in
18 his twenties?

19 A Yes, sir.

20 Q And general description was he around five-five,
21 five-six or so?

22 A That is correct.

23 Q And 120 to 140 pounds, a slender guy?

24 A That is correct.

25 Q At the time, what kind of hairstyle did Mr. Wise

1 have?

2 A He had dreads with highlighted tips.

3 Q So not only were they have dreadlocks, but they had
4 kind of the ends of them were blonde or something?

5 A Yes, sir.

6 Q He had dyed them?

7 A They were.

8 Q Let me show you State's number 8. Do you recognize
9 this.

10 A That appears to be Green Meadows Drive.

11 Q Okay. The house that we first see at the bottom, the
12 closest one to us, that would be Ms. Benzena Wicker's
13 home?

14 A That is correct.

15 Q Okay. And then do you see, generally, do you see
16 where Anthony Wise's home is in this picture?

17 A If you go down the road on your left-hand side, there
18 is a house that appears to have a red roof.

19 Q If you look, there is a, okay. If you look, there is
20 a point in the road that it sort of veers to the right, at
21 least it curves a little bit to the right?

22 A Correct.

23 Q And then just past that curve in the road, it looks
24 like about one of the last houses on the left before that
25 wooded area, there is a red-roofed home?

1 A Correct.

2 Q Okay. Where in relation to that would the home
3 Anthony Wise lived in be?

4 A Just prior to the red-roofed one, on the left.

5 Q And just the one right before it. Okay. Any idea
6 about how far away the home he lived in was from the
7 victim's home?

8 A About several hundred yards.

9 Q Okay. All right. Were you present on the 22nd at
10 probation?

11 A No.

12 Q Okay. What Robert just testified to, you were not
13 present then?

14 A That's correct.

15 Q All right. What about the 23rd when Mr. Wise was
16 brought to the Sheriff's Department, were you present for
17 that interview?

18 A I was.

19 Q Okay. Would you have anything to do with the
20 Miranda, was Miranda given at that time?

21 A No. Captain Dennis Mirandized him on the corner of
22 Caldwell.

23 Q Okay. Were you there when he --

24 A Yes. Yes.

25 Q -- and you heard Captain Dennis Mirandize him?

1 A Yes.

2 Q At that point, did he make any statements out here by
3 the annex?

4 A We really didn't spend a whole lot of time out
5 because we were blocking traffic.

6 Q Okay.

7 A It was around 3:30 to 4:00 o'clock, so we packaged
8 him up and took him to the office and began.

9 Q Did you, were you in the same car with Captain
10 Dennis?

11 A No, sir.

12 Q Okay. And then y'all put Mr. Wise in the backseat of
13 the car?

14 A That is correct.

15 Q What was Robert driving at the time?

16 A I believe he had a Ford Explorer.

17 Q Okay. And so that car didn't have a cage or
18 anything, did it?

19 A No.

20 Q But Mr. Wise was in handcuffs?

21 A That is correct.

22 Q Okay. And so y'all weren't asking him any questions
23 on the ride from here to the Sheriff's Department?

24 A I'm sure that questions were asked, but they weren't
25 specific necessary to trying to get an alibi or location.

1 We're just letting him know what is going on.

2 Q Okay. You don't recall, if anything, what answers he
3 gave?

4 A I truthfully do not.

5 Q Okay. And about, from your testimony is, how long
6 would it take to get from the annex over here to your
7 office?

8 A Depending on the traffic and the stop lights, five to
9 ten minutes roughly.

10 Q And then once you got there, whose office did you go
11 to?

12 A Captain Dennis'.

13 Q Okay. Did you record the conversation?

14 A I did.

15 Q Okay. All right. Did he give indications where he
16 had been on the day of the 21st?

17 A He did. He was asked about certain locations, ATM.
18 Advised that he had gone there to get his girlfriend some
19 Chinese food. And I said, that's great. It gives me an
20 opportunity to view that camera system to confirm that you
21 were there. He quickly backed up and said, well, I didn't
22 actually go in. I went to go, but I didn't have money to
23 buy food.

24 Q Okay. But the gist, and it'll be explained more
25 later. The gist of it was you were kind of, you were

1 indicating that you had information that his phone was in
2 certain areas of Newberry?

3 A Correct.

4 Q Is that safe to say?

5 A Correct.

6 Q And then he would explain why that would possibly be
7 that his phone would be found there --

8 A Correct.

9 Q -- is that what the gist of that conversation was?

10 A Correct.

11 Q And you did record his voice that day?

12 A Correct.

13 Q Okay. All right. At some point, did you take that
14 recording and did you go revisit Ms. Benzena Wicker?

15 A That evening we did.

16 Q Okay. On the evening of the 23rd --

17 A 23rd.

18 Q -- September 23rd? And what was the, where did you
19 go?

20 A We went to her house, [REDACTED].

21 Q Okay. And what was the purpose of going to revisit
22 her?

23 A Two reasons. One was to return her vehicle which we
24 processed. And two, was to inform her that we had made an
25 arrest and also allowed her to listen to the audio

1 recording. Due to her not being able to see his face due
2 to the mask, she said if she ever heard his voice again,
3 she would, she would know it was him.

4 Q Okay. At this point, did you give her the name of
5 the person?

6 A No.

7 Q All right. So, well, what did you do?

8 A I opened up my audio recording on the phone and made
9 sure I went to an area where it was his voice and his
10 voice only. Played a short snippet, and Ms. Wicker all
11 but latched onto the front porch and let it be known that
12 that was the voice that she heard on the 21st.

13 Q Okay. And your testimony was that the voice you
14 played from her, for her rather was the voice of Anthony
15 Wise that you had recorded during your interview on
16 September 23rd, earlier that same day?

17 A Correct.

18 Q Okay. This is State's number 50. It's been
19 premarked. Do you recognize what that is?

20 A I do.

21 Q And that's the audio, I guess, of your interview with
22 him?

23 A That is correct.

24 Q And just to be clear, the snippet, I guess, is what
25 you called that you played for her. Did he, did the

1 suspect mention his name or his identity?

2 A No.

3 Q But your testimony is that Ms. Wicker did recognize
4 it and associate that voice with her attacker?

5 A That is correct.

6 MR. SCOTT: Thanks, Ryan. Answer any questions Mr.
7 Verner has for you.

8 THE COURT: Mr. Verner, any cross-examination?

9 CROSS-EXAMINATION

10 By Mr. Verner:

11 Q Are you aware of any identifications by Ms. Wicker of
12 the physical identity of like a picture or in-person
13 identification of Anthony?

14 A No.

15 Q Okay. So she gave her first general depiction of the
16 young black man in dreads. And then you're going to
17 testify that she, that you played her his voice and she
18 said that is, sounds like the man?

19 A And she said, that is him.

20 Q Okay. Do you know, did you play the whole tape?

21 A I did not.

22 Q Okay. Do you know, did she indicate to you how
23 familiar she was with the voice?

24 A She said it was the voice of the person who attacked
25 her.

1 MR. VERNER: Okay. Thank you, Investigator.

2 THE COURT: Okay. You can step down, sir.

3 MR. DICKERT: Thank you.

4 MR. SCOTT: Your Honor, the State calls Benzena
5 Wicker.

6 THE COURT: Okay. Come around, please, ma'am.

7 BENZENA WICKER, being
8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 By Mr. Scott:

11 Q Ms. Wicker, you clearly remember September 21st of
12 2016, don't you?

13 A I do.

14 Q And that date you were living at [REDACTED]
15 Drive?

16 A Yes.

17 Q And you still live there, right?

18 A Yes.

19 Q How long have you lived there?

20 A Fourteen years.

21 Q Fourteen years. And I know this. We've spoken, when
22 did your husband pass away?

23 A January the 31st, 2015.

24 Q January of 2015?

25 A Uh-huh.

1 Q And so you guys had lived there for some time before
2 he passed away?

3 A Yes.

4 Q And is that, describe Green Meadows Road. Describe
5 you and your neighbors?

6 A My neighbors and I, the only connection, Kathy and,
7 excuse me, I have got sinus troubles. And the other on
8 the other side of me.

9 Q Okay.

10 A I don't, I see the other people, but I don't visit
11 with them.

12 Q Okay. Well, I guess, that's what I was going to ask.
13 Is it kind of a close-knit neighborhood or?

14 A It is a close neighborhood but just, you know, like
15 in section. If you see people passing by but you don't
16 know who it is and you didn't know they live on that road.

17 Q Okay. You see people walking by, you mean like
18 people walking up and down the street?

19 A Well, they'll be walking down the road and also,
20 you'll see them pass by and you see them driving. And you
21 know them by their car.

22 Q Well, you're talking about Kathy Tapia --

23 A Uh-huh.

24 Q -- that's Ms. Tapia sitting right there. Does she
25 live right across the street from you?

1 A Yes.

2 Q I know you guys kind of keep up with one another,
3 don't you?

4 A Yes.

5 Q Is it fair to say you kind of look after her and she
6 looks after you?

7 A Yes.

8 Q And then the neighbor to your left, I can't remember
9 who that was. What was that fellow's name?

10 A The guy?

11 Q Yeah.

12 A Bryan.

13 Q Bryan and at least as far as you three neighbors,
14 y'all kind of look after one another?

15 A Yes, sir.

16 Q Were you familiar with your other neighbors? I mean,
17 you say you see them pass by walking up and down the
18 street?

19 A Well, I was not familiar with a lot of them. I
20 didn't know their names, but I just know them, recognize
21 them by their cars.

22 Q Oh, cars?

23 A Uh-huh.

24 Q Okay. We'll get into a lot of the details later.
25 But when the person who came into your home on September

1 21st. Describe what they had around their face.

2 A They had a white mask on, a mask, mask and a hoodie
3 with dreadlocks, you know, falling on his shoulder.

4 Q Okay. Did the mask cover up the whole face?

5 A Yes.

6 Q Okay. But it had eye holes, I guess?

7 A Eye holes and a mouth hole.

8 Q Okay. And you said that a hoodie?

9 A Yes.

10 Q But the hair came out from the hoodie?

11 A Yes.

12 Q And describe the hair of this individual?

13 A I was fighting so cannot exactly describe, but I know
14 it was dreadlocks.

15 Q Okay.

16 A He had on, he had them.

17 Q Any other description other than just dreadlocks?

18 Was there anything else that you remember?

19 A No, the hood was black.

20 Q The hood was black.

21 A And the shirt was red.

22 Q Okay. The shirt was red.

23 A Uh-huh.

24 Q Anything else about his hair?

25 A I don't, I don't remember.

1 Q Okay. How close was the person to you? How much
2 opportunity did you get to see the person?

3 A That night?

4 Q Yes, ma'am.

5 A Oh, it was like close. One time, I thought I could
6 take the mask off but couldn't. And we was actually right
7 outside, and he grabbed my hand, my hand and went like
8 this in order for me to stop screaming. And then he
9 brought me up the steps and I pushing on him and finally,
10 he got me up the steps and held me down. I don't know
11 whether it was his hand or his knee, until he found the
12 right key to open my backdoor.

13 Q Okay. So y'all were at least within arm's length of
14 one another --

15 A Yes.

16 Q -- for a period of time? .

17 A Uh-huh.

18 Q And at one point, you said he was on top of you with
19 his knees on you?

20 A Yeah. I don't know was it his knee or his hand
21 holding me down in the back until he opened the door.

22 Q Okay. And then once you got inside, were the lights
23 cut on inside your home?

24 A I have a light always on in the kitchen. I did get
25 away from him. And we began fighting again in the middle

1 of the, between the dining room and the living room, the
2 center of the living room. And there was a hammer there
3 and I picked it up. I was going to hit him with the
4 hammer, but he have knock it out of my hand. And so I
5 grabbed him in a unmentionable place and he told me if I
6 didn't turn him loose, my mother would not see me the next
7 morning and my mother was gone like a year or so at that
8 time.

9 Q Okay. So this person indicated, they knew at least
10 that your mother was still alive and she was in your home?

11 A Yes.

12 Q But your mother was not there that particular night?

13 A She wasn't there that night, no.

14 Q Okay. Well, what else did the person say that was, I
15 guess, that was compelling for you, that was interesting
16 for you?

17 A Because it was interesting to me, because he knew my
18 husband had passed.

19 Q And what do you mean? What did he say to make you
20 think he knew your husband had passed?

21 A He said, he had took all of my rings off of my hand
22 and he said, I will put them back, because I know your
23 husband just died and this is sentimental. So he put them
24 back on the table where my TV was.

25 Q Uh-huh.

1 A And by him knowing that my mother was there living
2 with me, because anybody live down behind me, beside me
3 did not know my mother was there until we gave her a
4 birthday party for a hundred years old.

5 Q So this, the person mentioned something about your
6 mother. And asking you, you know, you better pay a, you
7 better do what I say if you want to see your mother
8 tomorrow?

9 A Uh-huh.

10 Q And then your testimony was that after taking your
11 jewelry, he gave it back?

12 A He didn't give it to me. He put it on the TV stand.

13 Q And, basically, indicated, well, I know your husband
14 died recently, so I'll leave these here.

15 A Yeah. And he always used the term, too, I'm a man of
16 my word.

17 Q I'm a man of my word?

18 A Yeah. A man of his word --

19 Q Okay.

20 A -- that he wouldn't hurt me if I'd do what he said
21 do.

22 Q Do you remember, and I know, I guess this will come
23 out later, but you were at the grocery store. And then
24 you came to your home before you went to Bible study?

25 A I was in Clinton, and I came to my home to pick up

1 the material for Bible study. We was having Rainbow tea
2 that Sunday. And when I got ready to open the truck door,
3 this person lurching out of my backseat of my truck and I
4 dropped everything screaming. And when I did that and we
5 fought, and he definitely grabbed my mouth to keep me from
6 hollering.

7 Q Okay. Well, so if this would have been after getting
8 the materials from Clinton --

9 A Yes.

10 Q -- and before Bible study. Do you have an idea about
11 what time it was exactly?

12 A I was running late for Bible study, so I would say it
13 was between 6:40, 6:30 and 6:40, somewhere in there.

14 Q 6:30 and 6:40?

15 A Uh-huh.

16 Q And that would be September 21st. Do you remember
17 was it still daylight out?

18 A Yes.

19 Q Okay. And so you had an opportunity to see him
20 outside --

21 A Uh-huh.

22 Q -- and then he grabbed your face and you went inside?

23 A Uh-huh.

24 Q Was the house dark or was it lit?

25 A No. I had one light on in the kitchen.

1 Q Okay.

2 A And but I broke away from the person and was running
3 around and he grabbed me and pulled me down behind. And
4 that's when I saw the hammer and I tried to hit him with
5 it.

6 Q Okay.

7 A Then, he threatened to hit him with the hammer. If I
8 want to see my mother tomorrow, I need to do what he say.

9 Q What, could you tell what color the person was?

10 A According to his arm, he was brown-skinned.

11 Q Okay. Brown-skinned like me if I have a tan or
12 African-American or?

13 A No, African-American.

14 Q And the dreadlocks, you said you could see those
15 coming out from under the hoodie?

16 A Yes.

17 Q What other, you know, they just talked about the
18 description they had. How old did you consider the person
19 to be?

20 A And I would say the way, the voice and everything, I
21 would say he was in between 25 and 27, somewhere along in
22 there.

23 Q Okay. And kind of a younger man's voice you say?

24 A Yes.

25 Q And then his build, what was his build?

1 A His what?

2 Q His build? You know, his --

3 A Oh, he was kind of, I would say between five-two and
4 five-four and somewhere along there. He had like broad
5 shoulders and his arms that I could see was like he had
6 been lifting weights or something.

7 Q Okay. But now how much would you, was he slender or
8 was he thicker?

9 A He was thick or say medium.

10 Q I'm sorry?

11 A I said medium, between thin and thick.

12 Q Okay. Tell me about when your husband was alive,
13 what kind of, what did he do as far as pastimes when he
14 was at your home?

15 A He retired from the Army for 30 years and retired
16 from the Post Office 15 years, so he generally sits on the
17 front porch --

18 Q Okay.

19 A -- and I go to work.

20 Q Okay. And you go to work, is that what you said?

21 A Uh-huh.

22 Q Where would you work then?

23 A At the time, I was a director at Whitten Center.

24 Q The Whitten Center?

25 A Uh-huh.

1 Q Okay. Did he have visitors that you knew of that
2 would come?

3 A Well, he told me about Mr. Wise would come up to the
4 house during the summer and get roses off the rose bush
5 for his mother. And he always told me, there was a fellow
6 came up today to get a rose for his mother. So, you know,
7 that's the only relationship or concern I had with him
8 until, it was like the week before, I saw Mr. Wise walking
9 down the road --

10 Q Okay.

11 A -- and I didn't think nothing about it.

12 Q Okay. Well, how did he appear at that time?

13 A He had dreadlocks at that time.

14 Q The person had dreadlocks that you knew as --

15 A Uh-huh.

16 Q -- did you know his name, though, at that time?

17 A No.

18 Q Okay. Did you kind of know about where he lived at
19 the time?

20 A No.

21 Q But you'd see him around your house?

22 A Well, I didn't see him. My husband always told me
23 when he would come up. But I seen him coming down the
24 road walking like that.

25 Q Okay. And you had, had you seen him multiples times

1 walking up and down your street?

2 A Back, back in the winter like, I wouldn't know
3 because the fact it would be cold. But before then, I
4 might see him once in a while, but not regular.

5 Q Okay. If this happened September 21st, before this,
6 when do you think the last time you had seen Anthony Wise
7 was?

8 A About a week before then.

9 Q About a week before this happened?

10 A Yes.

11 Q And he was walking up Green Meadows?

12 A Yes.

13 Q Did you indicate to law enforcement when they came
14 and spoke with you who you thought may have been the one
15 who broke into your house with the mask on?

16 A Not at the time.

17 Q Okay. You gave a description at some point?

18 A I gave a description. I gave a description but I
19 couldn't remember at that time.

20 Q Okay. At some point, did you say who you thought it
21 may have been?

22 A I don't remember not really. I was so, that I don't
23 remember half of what I said.

24 Q Okay.

25 A And, you know, I tried to remember as much as I

1 could.

2 Q Okay. Do you recall, you mentioned you got a chance
3 to hear the voice of the person. You said it sounded like
4 somebody in their younger years, I guess, or early
5 twenties or mid-twenties.

6 A Uh-huh.

7 Q Do you recall a time when Investigator Dickert came
8 to your house with a audio recording?

9 A Yes.

10 Q Okay. And do you remember when he played it for you?

11 A Yes.

12 Q Okay.. And what, what happened after he played the
13 audio for you?

14 A After he played the audio, I recognized the voice.

15 Q Okay. How certain were you?

16 A I was certain because he, I go by, I'm a man of my
17 word. If you know what's good for you, if you want to see
18 your mama tomorrow. And that stood out to me more than
19 anything else, because I visualized myself laying in the
20 floor and my 100-year-old mother coming in and see my
21 body. That's why I backed off and started doing what he
22 asked me to do.

23 Q Okay. But what I'm saying is, so his voice was stuck
24 in your head?

25 A It stuck in my head.

1 Q Now, how sure were you that that was the same voice
2 on the audio cassette that Investigator Dickert played for
3 you?

4 A I have no doubt at all.

5 Q Okay.

6 A I didn't have no doubt about it.

7 Q Okay. You recognized it immediately is what you're
8 saying?

9 A I recognized it immediately.

10 Q Okay.

11 MR. SCOTT: Okay. Ms. Wicker, answer any questions
12 Mr. Verner has for you, please.

13 THE COURT: Mr. Verner, any questions.

14 MR. VERNER: A few, Your Honor.

15 THE COURT: Excuse me?

16 MR. VERNER: A few, Your Honor.

17 THE COURT: Okay.

18 CROSS-EXAMINATION

19 By Mr. Verner:

20 Q So, Ms. Wicker, you have not identified Anthony Wise,
21 and the police didn't show you any kind of photo lineups
22 or anything?

23 A No.

24 Q And that would have been kind of pointless, because
25 the attacker had on a face mask?

1 A Yes.

2 Q Now, just so I've, I've got an idea. Was it like a
3 Halloween mask, like a already preformed plastic mask?

4 A It was a fit real tight white plastic mask.

5 Q All right. So not like a bag or anything like that
6 --

7 A No.

8 Q -- but just kind of like you'd go to a Walmart or
9 something and just get like a hockey mask or something?

10 A Like a hockey mask, it was hard.

11 Q And the only thing that, there were two eye holes?

12 A And a mouth hole.

13 Q And a, just one mouth hole itself?

14 A Yes.

15 Q Or it's like a lot of little holes or a line?

16 A No. Just, it was a solid white mask --

17 Q Right.

18 A -- with the eye holes and the mouth.

19 Q And you said he was wearing a black hoodie?

20 A Yes.

21 Q Long sleeve or short sleeve?

22 A Short sleeve with a red shirt.

23 Q And I think you indicated you recall he was wearing
24 dreads?

25 A Yes.

1 Q The man had dreads?

2 A Yes.

3 Q Okay. And nobody else that you saw involved at the
4 scene, just that one person?

5 A Yes.

6 Q Okay. Now, did you know Anthony Wise by name prior
7 to September 21st of last year?

8 A No.

9 Q Okay. Did you know any of his family members?

10 A No.

11 Q When you indicated that your late husband had let him
12 pick flowers for his mother --

13 A Uh-huh.

14 Q -- we know that you indicated your husband passed
15 away in January of '15?

16 A Right.

17 Q Was that shortly before '15 or was that several years
18 ago?

19 A It's several years back.

20 Q Okay.

21 A Uh-huh.

22 Q So and did you know Anthony Wise by name at that
23 time?

24 A No.

25 Q Did you know his mother?

1 A No.

2 Q Did you know which house he lived in?

3 A No.

4 Q Okay. But you were just familiar? You would see him
5 enough going by that he lived somewhere in my
6 neighborhood?

7 A Right.

8 Q Okay. Did you have children about Anthony's age?

9 A No.

10 Q Okay. So he wouldn't be coming to your house to play
11 with kids or?

12 A No.

13 Q Other than the interaction that your husband had with
14 him that he would say, you know, that kid came by and
15 picked some flowers --

16 A Yes.

17 Q -- but you didn't have any personal real acquaintance
18 with Anthony Wise --

19 A No.

20 Q -- other than you would see him now and then?

21 A Right.

22 Q And that was when he was a young teenager?

23 A It was--

24 Q How many years ago would that have been?

25 A I would say about three years ago, but it was like

1 before my incident happened --

2 Q Yes, ma'am.

3 A -- I saw him like a week before --

4 Q Okay.

5 A -- walking down the road.

6 Q When he walked past your house, did y'all have any
7 kind of conversations --

8 A No.

9 Q -- where he would say hey --

10 A No.

11 Q -- Ms. Wicker, how are you?

12 A No.

13 Q Okay. So you weren't acquainted with his voice prior
14 to September 21st?

15 A No.

16 Q Okay. How long did the attack, how long, the
17 incident when you were attacked by the man on September
18 21st --

19 A Uh-huh.

20 Q -- how long were y'all together? How long was the
21 whole thing?

22 A Oh, approximately four hours.

23 Q About four hours?

24 A Give or take. That's including him tying me up with
25 the telephone cord first.

1 Q Okay.

2 A And him going outside, getting my pocketbook,
3 emptying my pocketbook on the table and got all my money
4 and my ATM card.

5 Q Okay.

6 A He asked me for the number, and I gave it to him. He
7 started out the door and he turned around and got back and
8 he picked me up and trying to, starting dragging me to the
9 door and he put me in the back, backseat of my truck on
10 the floor tied up.

11 Q Okay. Did he talk to you while you were in the
12 pickup truck?

13 A No.

14 Q Okay. So the whole incident, in your opinion, lasted
15 about four hours?

16 A I say give or take, because I --

17 Q Okay.

18 A -- lost focus of time.

19 Q We understand that you're doing the best of your
20 memory. But I'm talking from when he first jumped me
21 until I got to my, until he left was about four hours.

22 A Give or take.

23 Q Give or take?

24 A Yes.

25 Q Okay. And of that time, how long were you in the

1 back of the pickup truck?

2 A I know it was at least two hours.

3 Q All right. About half of the time in the pickup
4 truck?

5 A Yes. Yes.

6 Q And he's not talking to me at that time?

7 A No. He turned the radio on and the awfulest rap
8 music.

9 Q Okay. And then I think you indicated he, that the
10 man had taken you to different places and left you while,
11 because I think you indicated you could hear other people
12 or?

13 A I could hear a lady talking. At first he stopped,
14 and I thought he had left me abandoned and I raised up and
15 got, managed to get my, the pillowcase off my head. But
16 he happened to be right there looking at me. When I did
17 that, he shoved my head back down and tightened the
18 pillowcase on my head.

19 Q And so while you were out in the pickup truck, you've
20 actually got a pillowcase put over your head?

21 A He had a pillowcase over my head, yes.

22 Q With breathing holes or eye holes?

23 A Just a breathing hole.

24 Q Okay. The point of while he's talking to you, was
25 that during the struggle with him?

1 A Within the house.

2 Q Okay. But was that, most of that talking while you
3 two were actually kind of, I don't want to say wrestling,
4 because I know it was more serious than that, but it was
5 during the confrontation --

6 A Yes. He tied --

7 Q -- when y'all struggling?

8 A Yes. He talked more, he first told me that he needed
9 \$500.00 dollars because he had to feed his children. And
10 then he come back and tied, after he tied me up is when he
11 got my pocketbook and came back and got all the money and
12 stuff. And then after that he carried me back. We went
13 to the truck. We got, went to the truck, went to the
14 AMTM, he asked me again for the PIN. I came back and we
15 rode then before he brought me back home.

16 Q But you didn't have any kind of conversation with him
17 about, why are you doing this. Or any, where he had
18 actually got the--

19 A -- yes. I asked him how will he feel if somebody was
20 doing his mother like this? He didn't answer me then.
21 And then when I actually told him that God love him and
22 God forgive him for what he done, I forgive him, too, and
23 I love him. And that's when he told me, shut up, shut up,
24 and don't you ever say nothing else.

25 Q Okay. So he, at that point, he got angry and kind of

1 told you to --

2 A Yes.

3 Q -- be quiet --

4 A Yes.

5 Q -- and were you quiet from that point on?

6 A Yes, I was.

7 Q Okay. So most of the talking to you was in the
8 first, kind of first few minutes of the attack?

9 A Yes.

10 Q And then after that it was pretty much I'm tied up
11 and he's searching through my house, and he's putting me
12 in the back of the car?

13 A From the time that he tied me up the first time after
14 we got through, I'm going to say, fighting. We fought out
15 in the yard, we fought in the house. And then when we
16 were down there fighting the last time, that's when he
17 tied me up with the telephone cord. But during that time,
18 he threatened me with the hammer that if I want to see my
19 mother Thursday morning.

20 Q Was he talking to you in an angry voice or kind of a
21 calm voice.

22 A No. He got angry.

23 Q Okay. So most of the conversation with you was, stop
24 doing, stop fighting me back or you better?"

25 A Yeah, you better.

1 Q And it was in a demanding voice?

2 A Demanding voice.

3 Q Okay. Now, what you heard that Investigator Lominack
4 played to you was in a more conversational voice?

5 A It was more like conversational.

6 Q And in fairness, you had never spoken to Anthony Wise
7 prior to September 21st?

8 A No.

9 Q If you had, it might have been something very brief
10 in passing years ago, but nothing that you remember?

11 A If, but I didn't, don't remember.

12 Q Okay. And probably never have spoken to him?

13 A No.

14 Q But the only conversation you had with the attacker
15 was in the first 30 minutes or so while you're struggling
16 against each other --

17 A Yes.

18 Q -- and a lot of that is in angry --

19 A It might be 30 minutes or more.

20 Q Okay. And a lot of that is angry, threatening, and
21 it's conversation while you were trying to pull away
22 physically and he's struggling to --

23 A Yes.

24 Q And I think you grabbed him by the crotch area and
25 there's some conversation in there?

1 A Yes.

2 Q Okay. Are you sure that's, that you had a clear
3 enough hearing of his voice that you can positively
4 identify that to Anthony Wise, somebody that you've never
5 met before?

6 A Yes. Because of the fact, the way he was speaking
7 and my mentally focusing my mind keeping, praying that he
8 would not attempt to rape me or anything and that was
9 stuck in my mind. I can hear it now.

10 Q And then after Investigator Dickert brought you, I
11 may have said Lominack, but Dickert brought you the
12 audiotape --

13 A Uh-huh.

14 Q -- have you had any further part of the investigation
15 in this case other than --

16 A No.

17 Q -- just them telling you at some point --

18 A Yes.

19 Q -- to come here to trial?

20 A Uh-huh.

21 Q So you hadn't made any further identifications where
22 you've looked at his picture on the Internet or?

23 A I did find at Christmas, when I got ready to decorate
24 for Christmas --

25 Q Yes, ma'am.

1 A -- I found my extension cord and the tape on the
2 extension cord with my gold chain stuck to it. And they
3 found my husband's band because I had it around my neck on
4 the floor.

5 Q Okay.

6 A But he took the cord off of my neck and throwed it
7 back up on the shelf in my closet.

8 Q All right. So I think what you're telling me is in
9 your home, you found some other stuff that the police
10 missed or that you, that you, but as far as Anthony Wise
11 goes, you hadn't, you didn't do anything more?

12 A No.

13 Q Okay. We know you're very brave. We appreciate your
14 testimony, Ms. Wicker.

15 A Thank you.

16 MR. VERNER: He may have some follow up.

17 THE COURT: Any redirect?

18 MR. SCOTT: No, Your Honor.

19 THE COURT: You may step down, ma'am. Thank you.

20 Your next witness?

21 MR. SCOTT: That's all from the State, Your Honor.

22 THE COURT: Okay. Mr. Verner, do you intend to put
23 up anything concerning these pretrial issues?

24 MR. VERNER: Just one second, Your Honor.

25 THE COURT: Sure. Take your time.

1 MR. VERNER: Your Honor, just briefly, I'll call
2 Anthony Wise.

3 THE COURT: Okay. Let's go ahead and let's swear him
4 in, and then let me just advise him of --

5 MR. VERNER: Okay. You want to, can we just do that
6 right here.

7 THE COURT: Madam Clerk, please swear Mr. Wise.

8 ANTHONY WISE, being
9 first duly sworn, testified as follows:

10 THE COURT: Okay. Mr. Wise, do you understand the
11 purpose that Mr. Verner has for you to offer some
12 testimony in this matter?

13 MR. WISE: Uh-huh. Yes, sir.

14 THE COURT: Okay. Now, you understand that you have
15 the right, the constitutional right to remain silent and
16 no one, including myself, can require you to say anything
17 at any time. You understand that?

18 MR. WISE: Yes, sir.

19 THE COURT: And you understand that if you do testify
20 at this pretrial hearing and then later on elect to
21 testify at the trial of this case, that anything that you
22 say now could be used against you in the trial of the
23 case. You understand that?

24 MR. WISE: Yes, sir.

25 THE COURT: And understanding all that, is it your

1 desire to offer some testimony at this pretrial hearing
2 concerning the issues of identification by the alleged
3 victim and also any statements that you may have given.
4 You understand that?

5 MR. WISE: Yes, sir.

6 THE COURT: Your decision to offer some testimony at
7 this pretrial hearing, has it been made freely,
8 voluntarily and intelligently by you?

9 MR. WISE: Yes, sir.

10 THE COURT: And have you had full opportunity to talk
11 with Mr. Verner about your decision whether or not to
12 testify at this pretrial hearing?

13 MR. WISE: Yes, sir.

14 THE COURT: Okay. And it's your desire to offer some
15 testimony?

16 MR. WISE: Yes, sir.

17 THE COURT: All right. Very good.

18 MR. VERNER: Take the stand.

19 THE COURT: Just have a seat on the witness stand.

20 MR. WISE: (The Witness complies.)

21 THE COURT: You understand, one further matter for
22 Mr. Wise. You understand that you can elect at any time
23 to invoke your Fifth Amendment privilege and remain silent
24 and not offer any further testimony. You understand you
25 have the right to do that?

1 MR. WISE: Yes, sir.

2 THE COURT: All right, Mr. Verner.

3 DIRECT EXAMINATION

4 By Mr. Verner:

5 Q Anthony, how old are you?

6 A I'm 24.

7 Q How far did you go through school?

8 A I graduated.

9 Q High school?

10 A Yes, sir.

11 Q Did you ever go on to tech or college?

12 A No, sir.

13 Q Okay. What's the last full-time or, or the most
14 income-producing job you've had?

15 A The last job that I had was at Bojangles.

16 Q Okay. The fast food restaurant?

17 A At a fast food restaurant.

18 Q Okay. And how long had you been working there?

19 A About two months.

20 Q Is that the type of job you've had typically would be
21 like fast food type?

22 A No. No.

23 Q What other jobs?

24 A I used to work for USC Landscaping and before then, I
25 worked for Richard Fine Fencing --

1 Q Okay.

2 A -- and Amick's Farms.

3 Q All right. So Amick's Farm, the chicken farm, and
4 then some landscaping type jobs --

5 A Yeah. And Richard Fine Fencing.

6 Q -- and then the fast food restaurants, and the
7 fencing job? Okay.

8 A No. That was the first restaurant job I ever had.

9 Q All right. Do you remember the sheriff's
10 investigators meeting you at the probation department on
11 September 22nd of last year?

12 A Yes, I remember them being there.

13 Q Who do you recall meeting at that location?

14 A I went to go meet with the gentleman right there, the
15 pepper head.

16 Q And you identified Mr. Simmons the probation --

17 A Yeah, Mr. Simmons.

18 Q -- the head of the probation department?

19 A Yeah. I went to go meet him. And while I was there,
20 the gentleman over there with the glasses, he was there.
21 He came there.

22 Q You're identifying Robert --

23 A Yeah, Robert.

24 Q Do you know Robert Dennis by name or just know him by
25 his face?

1 A No. I don't know him by name. Just by his face,
2 Dennis, Robert Dennis.

3 Q Okay. Captain Dennis?

4 A Uh-huh.

5 Q Okay. You remember seeing him there on the 22nd?

6 A Yes. Him and another guy.

7 Q Okay. Do you remember who the other guy was?

8 A I don't know who the other one. It weren't Epps
9 right there, though.

10 Q Okay.

11 A It was, it was a white guy.

12 Q Okay. And he had a second deputy with him?

13 A Yes, sir.

14 Q But at that time, you didn't know either one of their
15 names?

16 A No, sir.

17 Q And how'd you know they were deputies?

18 A Well, that's what they, that's what they said. I
19 seen the gun, the badge, and stuff.

20 Q Okay. Were they wearing kind of a uniform or was it
21 like a --

22 A A black shirt, khaki pants.

23 Q Okay. And how did they approach you?

24 A Well, they came in and sat beside me. Robert Dennis
25 was asking me do I know about a incident that had happened

1 in the neighborhood of Green Meadows. My mother had told,
2 my mother had told me about it. My mother had told me and
3 I had said, yeah, I had heard the incident that had
4 happened in the neighborhood. After that, you know, he
5 asked me did I have anything to do with it. I'm telling
6 him no --

7 Q Okay.

8 A -- you know, at the time. He said --

9 Q Did he tell you that you were a person of interest or
10 a suspect in that crime?

11 A Yes.

12 Q Okay.

13 A He said your name came up like a person of interest.

14 Q Okay. So he, basically, indicated to you that your
15 name had come up as someone that they were interested in
16 investigating?

17 A Yes, sir.

18 Q Okay. Then, what else did he ask you or that you
19 recall that he had, the deputy asked you?

20 A The things that I recall, it was like, if you had
21 anything to do with this, like, to tell him if I did. I
22 kept telling him I didn't.

23 Q All right.

24 A He kept, he got closer to me like he, basically, like
25 he knew that I had did it, like, kind of like, they were

1 trying to be intimidating. I guess, trying to intimidate
2 me, I guess, to get me to say something or admit to
3 something. But I told them I didn't have anything to do
4 with it.

5 Q Do you recall them asking you about your phone
6 numbers or address?

7 A No, they didn't --

8 Q If you don't remember, you can say I don't remember.

9 A No, they didn't ask about that. The only thing they
10 asked was they seen that I had a phone. They asked could
11 they see, they asked could they see the phone and go
12 through it. And that's, that's what they did and that's
13 what, I think it was him. That's the one over there.
14 Yeah, it was him.

15 Q You're indicating Investigator Dickert.

16 A Yeah. It was Investigator, yeah, I think that's the
17 second one. No, no, no, it wasn't him. No, it wasn't
18 him. It wasn't him.

19 Q Okay.

20 A It wasn't him. It was a tall, that guy was taller
21 than him, but there was another investigator there --

22 Q Okay.

23 A -- and he asked for the phone. He got the phone. He
24 scrolled through it and he looked through the phone, and
25 he gave the phone back to me.

1 Q Okay. Well, do you know what the purpose of going
2 through the phone was?

3 A No. It was basically they was talking about that he
4 had, basically he was saying, I want to say it was
5 Lominack, but I think that's the investigator's name.

6 Q Investigator Lominack, Garrett Lominack?

7 A Yeah. I'm pretty sure it was Lominack, tall. Yeah.
8 It was him.

9 Q Do you know what your, do you know what your Miranda
10 warnings are?

11 A Yes, I know what it is.

12 Q Do you know if they read you your Miranda rights or
13 had you --

14 A No.

15 Q Did they get you to sign your Miranda rights?

16 A No.

17 Q All right. Did you have any more, after they gave
18 you your phone?

19 A No, that -- that was pretty much the discussion
20 after, after I gave them the phone, they said okay.

21 Q Okay.

22 A Basically, they ain't, they left.

23 Q Did you feel like you were free to just walk away
24 from them or, or did you feel like you were required to
25 sit with them until they were through talking to you?

1 A I felt like I had to sit there and talk to him,
2 because I wanted them, I felt like doing anything other
3 than like while they're questioning me, that that'd be
4 some type of guilt or something to make you look guilty.
5 I talked to them. I talked with them and I told them I
6 ain't had nothing to do with it.

7 Q What about the following day on the 23rd, do you
8 recall whether you were read your Miranda warnings?

9 A No. No, I wasn't. They just arrested me. I got in
10 the truck. Robert Dennis over there, basically, was
11 talking about, Oh, yeah. You know you done messed up. We
12 got you. You messed up for a long time. That's his exact
13 words. That pretty little woman you got, that pretty
14 little woman you got, you know, if she had anything to do
15 with it, both of y'all going to go to jail. Basically,
16 that's all. He was just talking smack.

17 Q Okay.

18 A You know, Mr. Epps was in the backseat with me. He
19 wasn't talking too much, though.

20 Q This is in the, on the ride to the detention center
21 at the sheriff's department?

22 A Yeah. Yes, sir.

23 Q Where were you interviewed by Captain Dennis, at the
24 Sheriff's Department?

25 A At the Sheriff's Department.

1 Q Okay. Were you offered a Miranda, like the written
2 piece of paper with your Miranda warnings on it?

3 A No, sir.

4 Q Do you recall whether he individually went over your
5 Miranda warnings?

6 A No, sir.

7 Q Were you told that you could have a lawyer with you?

8 A No, sir.

9 Q During examination?

10 A No, sir.

11 Q Were you told that any statements you gave, whether
12 confessions or any statements could be used at trial?

13 A No.

14 Q Okay. Were you told that you can stop talking to the
15 Police Department at any time you wanted to?

16 A No. That never came up. No. No, sir.

17 Q Were you told you didn't have to speak to them at
18 all?

19 A No, sir.

20 MR. VERNER: If the Solicitor has any questions for
21 you?

22 THE COURT: Solicitor?

23 MR. SCOTT: Yes, sir. Just briefly.

24 CROSS-EXAMINATION

25 By Mr. Scott:

1 Q How tall are you, Anthony?

2 A Five-five.

3 Q Five-five?

4 A Yes.

5 Q How much do you weigh?

6 A About 150 pounds.

7 Q About 150 pounds?

8 A Yeah, 145-150.

9 Q How would you describe your build, are you a big guy?

10 MR. VERNER: Your Honor, I would object. For the
11 purpose of my motion, he's getting into what I would think
12 are questions he's going to try to get into the
13 case-in-chief.

14 MR. SCOTT: Well, the earlier questions were how old
15 are you, where have you worked, just basic biographical
16 information.

17 THE COURT: Well, we do have, even though we don't
18 really have a true Neil v. Biggers issue, because she gave
19 a description, never identified the Defendant by name.
20 But, when the alleged victim testified there was
21 discussion about description, I think even asking the
22 police officers the same thing. I'll allow it.
23 Solicitor, let's not spend too much time on that, but I'll
24 allow him to do that at this time.

25 Q A slender guy?

1 A Yeah. I'm a small-built guy, skinny.

2 Q You're a small big guy?

3 A Small-built guy.

4 Q Small-built guy. Okay. Bojangles, were you working
5 there September 21st?

6 A Yes, I was still working.

7 Q How much did you owe probation at that time?

8 A Excuse me?

9 Q How much were you in arrears with probation?

10 MR. VERNER: Your Honor, I don't know how this is
11 relevant to--

12 THE COURT: I sustain the objection.

13 Q The question was you were working. Were you getting
14 paid money at Bojangles, I guess?

15 A Yes.

16 Q Okay. How much were you getting paid?

17 A That job was like \$8.00, about \$8.00 dollars.

18 Q An hour?

19 A Yeah.

20 Q Okay. And where were you living at the time?

21 A I was living with my girlfriend at the time. I
22 wasn't staying with my mom then.

23 Q Your girlfriend?

24 A Yeah.

25 Q And who else lived there with her?

1 A My mom--

2 MR. VERNER: Your Honor, I don't know how that is
3 relevant to a suppression on a voluntary statement or not.
4 He's fishing for questions that he can then say, well,
5 didn't you tell me ten minutes ago or earlier at the
6 hearing that --

7 THE COURT: All right. Now, that assumes that the
8 client's going to testify at trial.

9 MR. VERNER: Yes, sir. But the, they're beyond the
10 relevance of whether he was read his Miranda warning, who
11 was living in his house with him at the time --

12 THE COURT: Well --

13 MR. VERNER: -- what your hourly rate of pay is.

14 THE COURT: I think the testimony Ms. Wicker was that
15 the person that she described lived in the neighborhood.
16 And the Solicitor asked if he lived with his girlfriend,
17 and I'm just assuming and y'all correct me if I'm wrong,
18 that the girlfriend doesn't live in the neighborhood. He
19 didn't live with his mom which was presumably in the
20 neighborhood. I'll allow it for right now. You can
21 certainly, if the Solicitor goes too far with it, I'll let
22 you renew your objection.

23 Q What is your girlfriend's name?

24 A Laswan.

25 Q Last name?

- 1 A Anderson.
- 2 Q Do you know how to spell that first name?
- 3 A L-a-s-w-a-n.
- 4 Q And where do the two of you live?
- 5 A She stays on Fox Briar. She stays on Fox Briar.
- 6 Q Where?
- 7 A Off of Boyd Crossings, on Fox Briar..
- 8 Q Do you know the address?
- 9 A Yes, it's [REDACTED].
- 10 Q [REDACTED]?
- 11 A Yes, that's the address.
- 12 Q Who else lives there?
- 13 A Her mom and her dad, her brother.
- 14 Q Who? I'm sorry.
- 15 A Her mom.
- 16 Q Her mom?
- 17 A Yes, her parents.
- 18 Q What's her mom's name?
- 19 A Rhonda, Rhonda.
- 20 Q Anderson?
- 21 A I'm not familiar with her mother's last name.
- 22 Q You lived in the house with her, but you don't know
- 23 her last name?
- 24 A Yes, that's correct. I don't know her last name.
- 25 Her first name is Rhonda. She don't talk that much. That

1 lady done had a stroke and she pretty much quiet.

2 Q What about the brother?

3 A His name is Taz. I know him as Taz, Taz. That's all
4 I ever call him is Taz.

5 Q You don't know his last name either?

6 A No.

7 Q Okay. But you live with these people?

8 A I'm pretty sure it's Anderson, it is probably
9 Anderson.

10 Q Okay. But your testimony under oath was you live
11 with these people?

12 A Yeah. I was staying there, yes, on and off. Like,
13 not staying there all the time because things got crazy me
14 staying there all of the time. I was staying there, I was
15 staying with my mother.

16 Q During the recording, you, did you know they were
17 recording you during that interview on the 23rd, April
18 23rd?

19 A Yeah. I seen the phone down. I think, I didn't know
20 they were recording me, but I just figured that's what
21 police do.

22 Q Okay. Do you remember giving them your phone number?

23 A No, not that I remember.

24 Q Okay.

25 A I think they already had that information.

1 Q Okay. Did you give them your phone number at the
2 time?

3 A No, not that I recall. I think they already had that
4 information.

5 Q Okay. What was the phone number, do you remember?

6 A No, I don't remember. It's the one they listed that
7 I think they got it from the probation officer.

8 Q If I said it, would it jog your memory?

9 A Take a shot. I don't know.

10 Q 404-308-0449.

11 A Could be. Could be. I'm not sure.

12 Q Okay. Did you use a phone at that time that was
13 registered to somebody else?

14 MR. VERNER: Your Honor, this --

15 A At what time--

16 THE COURT: Now, wait a minute. Wait a minute.

17 MR. VERNER: My understanding is that this was a
18 pretrial motion on whether his statement should be
19 admitted and not the contents of it, and he's just trying
20 to set up information --

21 THE COURT: Sustained. Move on to something else,
22 Solicitor.

23 Q All right. I guess that, essentially, your testimony
24 is that when you were over here they bullied you, when you
25 were at the annex, right? Because you said Robert

1 Dennis--

2 A Yeah.

3 Q -- got down by you and sat, they were both sitting on
4 either side of you?

5 A Not they. Just Robert Dennis mostly.

6 Q He intimidated you?

7 A Yeah. He tried to. He was aggressive. Not the
8 other guy. He pretty much quiet.

9 Q Who's the other guy, David Simmons?

10 A No, not David Simmons.

11 Q Who is the other guy?

12 A I want to say it was Lominack. I want to say, I
13 don't know, another investigator. You can't ask, you
14 can't ask Robert Dennis who he was with?

15 Q This is the first time hearing about it. I didn't
16 know to ask him that.

17 A Oh.

18 Q Who is the other guy?

19 A It's an investigator. I'm not sure.

20 Q But he intimidated you, too, or just --

21 A They got, they got cameras up if we can get the audio
22 and the video of that. I'm pretty sure they got cameras
23 there at that place, whoever was there with Mr. Robert
24 Dennis.

25 Q Okay.

1 A I'm not sure.

2 Q And tell me the threats again that they made against
3 you?

4 A Not really threats. They're just basically saying
5 that I'm guilty and trying to make it seem like I did
6 something as far as the old lady, Ms. Wicker, and trying
7 to say that the incident that happened as far as like the
8 kidnapping. And, basically, trying to say if you did it,
9 if you did it go ahead and say it. We have got evidence
10 that, you know, it could be you, things of that nature.

11 Q All right. And then what happened, they arrested
12 you, right?

13 A No, they didn't.

14 Q They intimidated like that and they didn't arrest
15 you?

16 A Yeah. They didn't arrest me.

17 Q They just let you walk out the door?

18 A No, they didn't let me. They lingered around for a
19 little bit. I went to go to talk to, I was taking the
20 drug test. I was talking to Mr., my probation officer,
21 Mr. Simmons.

22 Q David Simmons.

23 A Simmons, they lingered, they lingered around, you
24 know, and we was talking and stuff. And that's when they
25 asked could they see the phone, you know, they took my

1 phone and scrolled through it and gave it back.

2 Q And then you went home, right?

3 A Yeah, I went home.

4 Q All right. And did you, what did you tell him? Did
5 you say I didn't do it?

6 A Of course, I told them I didn't do it.

7 Q Okay. And so then, I guess the next day, that was
8 when they picked you up over here again?

9 A Yes. I was going to go to see Mr. Simmons.

10 Q Okay. And you were not Mirandized?

11 A No. They got me in there, no, they arrested me at
12 gunpoint and put me in the, basically, Mr. Robert Dennis
13 was doing a whole lot of smack talk. Just a lot of, you
14 done messed up, now we got you. That pretty little woman
15 of yours, that pretty little woman of yours, too, if she
16 had anything to do with it, she can get some time, too.
17 And basically a lot of just talking a lot like, you know,
18 just being aggressive. Mr. Epps was there too, but he
19 wasn't talking too much. He said some things.

20 Q Brad Epps was there?

21 A Yes. He was in the backseat with me.

22 Q Okay. I know you don't know all the names, but Ryan
23 Dickert, he testified under oath a minute ago and you were
24 sitting right there and you heard him. Did you recognize
25 him?

1 A Yeah. He was, he was there.

2 Q He was there, too?

3 A Yeah.

4 Q All right.

5 A He was there.

6 Q And so your testimony is that you did not get
7 Mirandized and they're lying about saying you were
8 Mirandized?

9 A Yes. I did not, I did not get Mirandized.

10 Q Okay. And Brad Epps was there the whole time, that's
11 what your testimony is?

12 A I ain't never testified he was there the whole time.
13 Is you asking me was he there? I ain't never said he was
14 there the whole time, you did.

15 Q You didn't say he was in the backseat of the car?

16 A Yeah. But I thought you was talking about at the
17 office.

18 Q Okay.

19 A You wasn't clear enough with your question.

20 Q I'm sorry. He was in the backseat of the car,
21 though?

22 A Yes, sir.

23 Q So he could testify that you were never Mirandized if
24 you called him up here?

25 A Yes.

1 MR. VERNER: Your Honor, that's an improper question.

2 MR. SCOTT: Okay.

3 THE COURT: Sustained.

4 MR. SCOTT: Nothing further, Your Honor.

5 THE COURT: Okay. Mr. Verner, anything in redirect?

6 MR. VERNER: No, Your Honor. We'll rest on that.

7 THE COURT: Okay. You can step down, sir.

8 MR. SCOTT: Judge, if you're willing to hear it, I
9 would call Brad Epps to the stand. This is something that
10 I think is worth exploring.

11 THE COURT: Call whoever you feel like you need or
12 want to call.

13 MR. SCOTT: And Investigator Epps.

14 BRAD EPPS, being
15 first duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 By Mr. Scott:

18 Q Investigator Epps, are you familiar with Anthony
19 Wise?

20 A Vaguely. Just bits and pieces of this case, yes.

21 Q Okay. Bits and pieces of this case?

22 A Yes.

23 Q Do you recall that he was arrested?

24 A I do.

25 Q Okay. Were you present?

1 A I was present when he was arrested.

2 Q Okay. And where was he arrested?

3 A Just right here by the probation office, by the
4 Annex.

5 Q Tell me your recollection what happened when he was
6 arrested?

7 A I basically just remember him being arrested. I don't
8 even remember the car ride. I was asking Captain Dennis
9 was I riding with him. He said I was. I thought I was
10 riding with somebody else when he went back to the office.

11 Q Okay. Were you, so you were at the probation
12 department?

13 A No. I was there when he was arrested on the 23rd.

14 Q Okay. Where was that?

15 A Just right over here.

16 Q At probation?

17 A Well, outside the probation office, he was walking
18 down the street. He was walking down the street.

19 Q All right. Well, tell me what you recall unfolding.

20 A Just it was him and his girlfriend, they were walking
21 down the street. We got out of the car. He was arrested.
22 I don't know who his girlfriend got in the car with.
23 Captain Dennis had to tell me just a second ago that I was
24 in the vehicle with them when we went back to the office.
25 I don't remember.

1 Q Okay. The ride back to the office, what do you
2 recall, if anything?

3 A I know he was in the Captain's office. Outside of
4 that, I mean, I really can't shed any light on anything
5 else.

6 Q Okay. But the question is do you recall any
7 intimidation or anything that stands out in your mind?

8 A On the day that he was arrested?

9 Q Yes, sir.

10 A Not that I can remember now.

11 Q Okay. But would that be something that would stand
12 out to you?

13 A Yes.

14 Q All right. If you saw one of your colleagues
15 bullying or threatening or intimidating somebody
16 unconditionally, would that stand out to you?

17 A Yes.

18 Q Do you recall any such thing happening?

19 A No.

20 Q Well, who was with you? Who is the other guy he's
21 describing?

22 A To the best of my recollection, it was me,
23 Investigator Dickert, the Captain, and I want to say that
24 Matthew Womack was there also.

25 Q Okay.

1 A I want to say that all, the four of us were in the
2 Captain's vehicle, and I think Stribble came maybe a few
3 minutes after. I could be wrong.

4 Q Okay. Do you remember being in the backseat? He was
5 saying you're in the backseat?

6 A Like I said, the Captain just told me a few minutes
7 ago that I was in the vehicle.

8 Q Okay. Well, did you have any involvement in this
9 case?

10 A I was there when the car was located. I was there
11 when Anthony Wise was arrested and when we went to the
12 victim's house.

13 Q Okay. At the arrest, were you present for the
14 reading of any Miranda rights?

15 A If I was in the vehicle, I would have been.

16 Q If you're in the vehicle, what?

17 A Well, if his rights were read on the street or in the
18 vehicle; yes, I would have been present. But I don't
19 remember anything.

20 Q You can't recall. Okay. Well, I'm just trying to
21 get it clear. It's vague. I'm hard to, it's hard to
22 follow. Well, did you get out of the car when he was
23 arrested?

24 A Yes. I was out of the car when he was arrested.

25 Q Okay. Do you recall Miranda being given before he

1 was arrested?

2 A Like I said, I don't really, I don't remember.

3 Q Okay. And then when you got back to the Sheriff's
4 Department, did you go back to Captain Dennis' office?

5 A I remember walking down there, but this was maybe 35,
6 30 or 45 minutes afterwards, after they had got back to
7 the office.

8 Q Okay. So you can't testify whether Miranda was given
9 or not?

10 A No, I cannot.

11 MR. SCOTT: And it was worth a shot, Your Honor.
12 Nothing further.

13 THE COURT: Okay. Mr. Verner?

14 CROSS-EXAMINATION

15 By Mr. Verner:

16 Q Just, in fairness, this was about nine months ago,
17 and you've been investigating cases almost every day since
18 then?

19 A That is correct.

20 Q All right. And this is a case you would have only
21 had a small role in?

22 A That's correct.

23 Q Letting the other people arrest him or just kind of
24 lending--

25 A Some assistance.

1 Q -- assistance.

2 A That's correct.

3 Q But you would not have considered yourself the major
4 or lead investigator?

5 A That's correct.

6 Q Okay. But my question is when someone at, you are an
7 investigator with Newberry Sheriff's Department?

8 A That's correct.

9 Q When you've got a suspect in your car and you're
10 going to interview them, do you typically interview them
11 in the car or do you take them onto the Sheriff's
12 Department?

13 A I've seen it both ways. I've seen where they've been
14 read their rights in the vehicle. And they'll talk on the
15 way to the office. And they'll finish up once they get to
16 the office. I've seen it where nothing will be said as
17 far as anything concerning the case and once they make it
18 to the office, they'll read the rights or whatever.

19 Q But does the seriousness of the charges kind of ever
20 get weighed in that evaluation? I mean, if it was like a
21 murder charge or something really bad, I would think that
22 they're really on pins and needles to do everything --

23 A That's correct.

24 Q So that the, the more serious charges, the more
25 formal properly to follow the --

1 A Well, you want to advise them of their rights. That
2 way they know that they are covered.

3 Q Right. But a murder charge or something, well, if
4 something is very major, it is more likely to get taken to
5 the sheriff's department to an interview room whereas a
6 shoplifting, you might speak to somebody on the scene?

7 A I've talked to somebody at the sheriff's office about
8 a shoplifting charge.

9 Q Okay.

10 A I mean, it all depends.

11 Q When somebody is taken to the Sheriff's Department
12 for an interview, do you have a policy of giving them,
13 presenting them a written waiver of rights form?

14 A It's not in our policy that I'm aware of, but we do
15 have forms that has the rights on it. Yes, that's
16 correct.

17 Q And you would individually go over each of the
18 Miranda rights with the suspect prior to talking to him?

19 A That's correct.

20 Q It's not a policy to do that on any sit-down
21 interview at the Sheriff's department?

22 A Not that I'm aware of.

23 Q How do you obtain those forms, are they, do you have
24 to print them off on your own computer?

25 A Yes.

1 Q Do they have like a box of them?

2 A Yeah. We print them off from the computer.

3 Q Okay. But it's not a policy. It's just a, well, is
4 there any reason you would do that, the written form, as
5 opposed to the oral form?

6 A Yes, sir. If you're out on the streets and you pull
7 out your card and read them your rights, you don't have
8 the form available.

9 Q Right. But, I mean, if you're in the office, is
10 there any reason that you wouldn't get the written form?

11 A I mean in my opinion the card would suffice just as
12 well as the form.

13 Q Okay. But there's no written instructions on what,
14 what circumstances you should use the written waiver form?

15 A I mean, we try to use the written form.

16 Q Okay. If the written form is completed, it's a lot
17 less questionable whether the Miranda rights because you
18 would actually have them preserved?

19 A I disagree, because typically if their rights were
20 read, we would document that in our supplementals also.

21 Q All right.

22 MR. VERNER: Thank you, Investigator. Do you have
23 any follow up.

24 MR. SCOTT: That's all I have, Your Honor.

25 THE COURT: Thank you. You can step down. Anything

1 further from either side?

2 MR. SCOTT: Not from us, Your Honor.

3 THE COURT: Okay. All right. I'm going to, the
4 statement that was allegedly made on September 22nd, I
5 find that he was, the Defendant was not in custody
6 therefore Miranda not having been required, and I find
7 that whatever statement made by the Defendant was
8 voluntarily made on the 22nd. As related to whatever
9 statement was made on September 23rd, I'm going to find
10 that it was also voluntarily made and that Miranda
11 requirements were met. And I'll allow that statement in.
12 I will allow the victim's description of her attacker and
13 her recognition of the voice recording to be that of her
14 attacker, I'll allow that in. I don't think we really
15 have a per se Neil v. Biggers issue, because she's not
16 necessarily identified out-of-court the Defendant. But,
17 once again, the description of her attacker that she gave
18 the police and her recognition of the voice recording to
19 be that of the attacker, I'm going to allow that in. And
20 Mr. Verner, you're standing.

21 MR. VERNER: Yes, sir. Just my, my concern is I
22 heard the Court, the Neil v. Biggers. But my concern was
23 that she would be offered to try to identify him in court
24 without having made any out-of-court identifications of
25 him. So my objection are in limine with that she should

1 not be allowed to identify him in court.

2 THE COURT: Well, you know, if we argue, what Neil v.
3 Biggers provides is that we don't want an unduly
4 suggestive out-of-court identification to taint an
5 in-court identification. We don't have an out-of-court
6 identification to taint. If she's, and I don't know,
7 Solicitor, are you going to, I mean, are you going to ask
8 for some sort of in-court identification of the Defendant
9 by Ms. Wicker?

10 MR. SCOTT: The farthest we would get as far as that
11 not, do you recognize the person who attacked you that
12 night. I think she's recognized and she's had plenty of
13 opportunities to see him walking down the street. I think
14 it would be fair for me to ask her, do you see the person
15 who you knew to be a neighbor walking up and down the
16 street. She didn't know the guy's name at the time, so I
17 think that would be fair game. I'm not going to ask her,
18 do you recognize the person who came in your house on the
19 23rd?

20 THE COURT: So I don't think we have a true
21 identification that you're concerned about as far as
22 getting Ms. Wicker to say, you know, is the Defendant your
23 attacker. They're not going to offer that, but I think
24 they can say or have Ms. Wicker's say identify, if she
25 can, I don't know whether she can or not, but identify the

1 Defendant as walking up and down the street a week, I
2 think a week prior to the incident. I think if she's able
3 to do that, I think that would be permissible.

4 MR. SCOTT: I understand.

5 THE COURT: Okay. All right. Very good. All right.
6 Anything else pretrial we need to take up before we
7 adjourn this case for today?

8 MR. SCOTT: Oh, Your Honor, just the arraignment, I
9 guess, which we should probably get it on A and B.

10 THE COURT: Oh, okay.

11 MR. SCOTT: It was true billed and charged ABHAN.
12 Our review of the law and the facts, the lesser assault
13 and battery first is what would be the appropriate charge.
14 But we have direct indicted him on the assault and battery
15 first which you noted, wherein Your Honor knows is a
16 lesser.

17 MR. VERNER: Your Honor, we'll waive arraignment of
18 the --

19 THE COURT: Okay.

20 MR. VERNER: -- of the lesser charge. We're aware of
21 the charges and would agree.

22 THE COURT: Okay. Yeah. Just, for the record, this
23 lesser charge assault and battery first was true billed by
24 the Grand Jury on May the 11th. Okay. So arraignment has
25 been waived. Thank you. Anything further?

1 MR. SCOTT: Your Honor, it might be, or we could
2 handle it tomorrow too, but under the law and the statute.
3 I know Your Honor has done it in a couple of trials
4 before, but we would offer an affidavit in lieu of a
5 records custodian for phone records. I think it's, what
6 is the phone company.

7 MR. DANIEL: AT&T, Your Honor, and the hospital,
8 Newberry County Memorial Hospital, two affidavits.

9 MR. SCOTT: So it would be an affidavit from the
10 hospital certifying to be a business record kept by them.
11 And really just offering the medical records and the phone
12 records.

13 MR. VERNER: Okay. I don't anticipate objecting to
14 the foundation, Your Honor.

15 THE COURT: Just make sure that Mr. Verner does see
16 the affidavits before we deal with this, so then he can
17 let the Court know if there's going to be any issue there.

18 MR. SCOTT: Yes, sir. Thank you, Your Honor.
19 That'll be it.

20 THE COURT: Okay. Anything else from the defense
21 side?

22 MR. VERNER: No, sir.

23 THE COURT: All right. We'll be in recess on this
24 case until around 9:45 in the morning.
25

1 (Whereupon, Court's Exhibit 1 was marked for
2 identification only.)

3 MR. VERNER: Your Honor, I'd just ask that the
4 Sheriff's Department have him here by 9:00, if that is
5 possible.

6 THE COURT: Make sure he is here by 9:00.

7 (Whereupon, the trial will resume the next day at
8 9:45 a.m.)

9 May 16, 2017

10 THE COURT: Mr. Verner.

11 MR. VERNER: I've agreed to the State's Exhibits with
12 the exception of 7, which is the actual 911 call from a
13 third party.

14 THE COURT: Okay.

15 MR. VERNER: I think the Court's, we have had
16 motions, I would argue that it was a non-testimonial type.
17 58, I object to it. The Court has kind of ruled on that.
18 That's the audio of the interview of Mr. Wise, but I just
19 renew my Miranda.

20 THE COURT: Okay.

21 MR. VERNER: And then 59, Your Honor, is basically a
22 list of his four contact numbers through the probation
23 department. My concern is more of just I don't
24 necessarily know that it's admissible that he was on
25 probation at the time. Maybe that could be redacted and

1 just deleted from a government source.

2 THE COURT: Sure. What we'll do is we'll take these
3 up. I want to go ahead and get the jury out and we can
4 get started. And then when we take a break, then we can
5 get into the issues of these three exhibits. All right.
6 Anything else before we bring the jury out?

7 (Whereupon, State's Exhibit 59 was marked for
8 identification only.)

9 MR. SCOTT: Nothing from the State.

10 MR. VERNER: Nothing from the Defendant, Your Honor.

11 THE COURT: Thank you very much. All right. Madam
12 Bailiff, if you'll bring the jury out, please.

13 (Whereupon, the jury came into open court at
14 approximately 10:23 a.m.)

15 THE COURT: All right. Let the record reflect the
16 jury is back in the courtroom. Good morning, ladies and
17 gentlemen. I hope you had a good evening and a restful
18 evening and ready to get to work today. Okay. A couple
19 of housekeeping matters that we need to tend to. First of
20 all, we need to swear you in as the trial jurors. Madam
21 Clerk.

22 (WHEREUPON, the jury was sworn at approximately 10:25
23 a.m.)

24 THE COURT: And the second housekeeping matter we
25 need to deal with, I need to appoint a foreperson of the

1 jury. Now, if it is a man, it's a foreman. That makes
2 sense. If it is a female, it's a forelady. And let me
3 explain to you the role of the foreperson of jury. First
4 of all, that the vote of the foreperson carries no greater
5 weight than the vote of the other eleven, but I just need
6 someone to wear several hats through this proceeding.
7 One, I need to have someone serve as the spokesperson
8 between the jury and the Court. If during these
9 proceedings there is an issue that arises that needs to be
10 brought to my attention or even when your deliberations
11 begin and there needs to be some communication with the
12 Court, then I need someone to wear that hat. Second, a
13 responsibility of the foreperson is to make sure, and this
14 is really everybody's responsibility but primarily the
15 foreperson, is to make sure that all my instructions are
16 followed. For example, I have already instructed you not
17 to begin any discussion about anything related to this
18 case among yourselves. So I need all of my instructions
19 followed, and I need the foreperson to make sure those are
20 being followed. And, thirdly, when I do give you the case
21 to begin your deliberations in order to reach a unanimous
22 verdict on these charges, I need someone to organize and
23 conduct those deliberations. But, again, I emphasize with
24 you the vote of the foreperson carries no greater weight
25 than the other eleven. Now, I am confident that all

1 fourteen of you would make excellent jurors; however, I
2 can only have just one foreperson. So, Mr. Chapman, I
3 believe that's you, sir. Okay. You are the foreman of
4 this jury. Now, when you come back after a break, you
5 always maintain that very first seat right there. My
6 alternates, Mr. Chandler and Mr. Roberts, okay, when you
7 come back in, just switch with that young gentleman right
8 there. The alternates will always maintain the two end
9 seats. Okay. Everybody else, you can sit where you like.
10 That's been my experience and I typically tell juries
11 this, it's been my experience that most juries, they like
12 to sit in the same seat throughout the whole proceeding.
13 It's kind of like sitting in church, you sit in the same
14 pew every Sunday, but that's totally up to you folks where
15 you sit. I just have to have the foreman and the two
16 alternates maintain the same seat throughout this
17 proceeding. Now, let me explain to you the role of the
18 alternates. It is not unusual for someone of the twelve
19 has to be excused. Illness, maybe an emergency at home,
20 that sort of thing and ending someone who has sat through
21 the proceedings up to that point who's heard all the
22 evidence, heard all the testimony to be able to fill the
23 shoes of one of the members of the twelve. So your role
24 is very important. Whether or not I have to excuse any of
25 the twelve, that remains to be seen, but I need you here

1 if that were to happen. So your role is very important.
2 Okay. I'm just going to give you a few minutes of some
3 preliminary instructions for you to consider, keep in mind
4 as we go through this proceeding. It's very important,
5 ladies and gentlemen, to pay attention. There will be a
6 lot going on as we go through this trial, and it's very
7 important you pay strict attention to what goes on and
8 what is testified to, what is brought out during this
9 trial. You're not permitted to take notes. So,
10 therefore, you need to have a pretty good memory of what
11 has been presented to you when you do conduct your or
12 begin and conduct your deliberations. You are the sole
13 judge of the facts in this case. I can't tell you what
14 the facts are. That's up to you to make a determination
15 of and in order for you to determine the facts you have to
16 pay close attention to what is brought out. The same law
17 that makes you the sole judge of the facts makes me the
18 sole Judge of the law, and I will explain all that to you,
19 all the various legal principles to you, I'll explain the
20 charges to you. I'll do that at the conclusion of this
21 case. I'll give you just some general principles in just
22 a moment during this preliminary instruction. As I told
23 the jury panel before you were selected yesterday, the
24 fact that Mr. Wise has been indicted in this case is not
25 proof whatsoever on the issue of guilt or innocence of Mr.

1 Wise. The indictments serve one function and one function
2 only. They are the charging documents to get this case in
3 the trial where we are today, and they serve no further or
4 other purpose. Now, keep in mind as we go through this
5 trial and, again, I'll explain all this to you at the end
6 of the case, it's the State that has the burden of proof
7 to prove each and every element of the four charges to you
8 beyond a reasonable doubt standard. That's the highest
9 burden of proof that we have. So keep that in mind. It's
10 up to the State. The Defense does not have to prove
11 anything. They do not have a burden of proof in this
12 case. It's up to the State to prove to you these charges.
13 And understand and keep in mind that Mr. Wise has the
14 constitutional right, as we all do, to be presumed
15 innocent and he sits here before you today with this
16 presumption of and it's up to the State and their burden
17 of proof to take that presumption of innocence away from
18 him and that's for your determination. That's for your
19 decision to make it when you begin your deliberations.
20 Now, there may be times when one of the lawyers may say I
21 have an objection, Judge, or I have a matter of law to
22 take up with the Court, and it may require me to send you
23 to the jury room. I'll try to deal with it. We have what
24 is called a sidebar conference, and I'll try to meet with
25 the lawyers over to the side to see if we can't resolve

1 the particular issue without having to send you out. But
2 if I have to send you out, then I'll do that and we'll do
3 that just only when necessary. Understand that when you
4 are in the jury room, we are working and, certainly, we're
5 going to take a break and that sort of thing, but we
6 started later than we planned and we were working on some
7 issues then. So we'll send you out just when we have to
8 when it's absolutely necessary. Keep that in mind. And
9 as I told you yesterday, I referred to it just a moment
10 ago, don't begin any discussion about this case among
11 yourselves. Don't have any discussions with anybody you
12 come in contact with or at lunch break or in the evening.
13 Also, as I told you yesterday, don't do any independent
14 research into anything related to this case. You know, we
15 have a wealth of information out there via the Internet,
16 social media, and the like, and it may be tempting for you
17 to do some of that, but don't it. And the reason why,
18 ladies and gentlemen, is that your decision, your verdict
19 in this case has to be based one-hundred percent on what
20 is brought out in this courtroom. So if you go out and
21 you do some independent research on your own, while it may
22 be erroneous information, it's going to be information
23 that is not brought out in this courtroom. It's
24 information that the other jurors have not had the benefit
25 of seeing or hearing. So that's why we don't allow your,

1 don't succumb to your temptation and do any independent
2 research while this case is going on. And, lastly, Mr.
3 Foreman and ladies and gentlemen of the jury, it is
4 extremely important that you keep an open mind. Don't
5 make any decisions until all of the evidence is in, the
6 lawyers have made closing arguments to you, I have
7 instructed you on the law and I have given you the case to
8 begin your deliberations. So very important to keep an
9 open mind. Does the State have any objection to the
10 Court's preliminary charge?

11 MR. SCOTT: Nothing from the State, Your Honor.

12 THE COURT: Defense?

13 MR. VERNER: None at all, Your Honor.

14 THE COURT: Thank you very much. What the lawyers
15 now will do is give their opening arguments to you and
16 what they say to you, ladies and gentlemen, is not
17 evidence in this case. It's just their statement of what
18 they believe this case is about and what they believe the
19 evidence will show. The State will go first, and then the
20 Defense will go next in the opening arguments. Solicitor
21 Daniel, are you ready?

22 MR. DANIEL: Thank you, Your Honor. Yes, sir. May
23 it please the Court?

24 THE COURT: Yes, sir.

25 Mr. DANIEL: Good morning, ladies and gentlemen.

1 Thank y'all for your time and your patience in working
2 with us this week. I hope everyone had a nice Mother's
3 Day weekend with your families, and it's kind of ironic
4 that this trial is occurring so soon after Mother's Day,
5 because the reason we're here today is to what happened to
6 our victim in this case, Benzena Wicker. We can see her
7 right there in the dress, the colorful dress there. She's
8 a mother. She is a widow. Benzena's husband passed away
9 about two years ago now. Her husband, Charles Wicker, was
10 in the Army, Army veteran, served a couple of tours in
11 Vietnam. Benzena was a school teacher for a number of
12 years for different states, Virginia and Georgia. She
13 worked at the Whitten Center in Clinton working with
14 adults with disabilities, special needs. So she's
15 retired. Been living in Newberry for a number of years.
16 Her residence is [REDACTED]. It's not too
17 far from here. It's a few miles outside of the city
18 limits of Newberry and kind of, I guess, half-way between
19 the City of Newberry and Prosperity, not too far off of
20 Wilson Road, but it's a mobile home there. She lives,
21 it's kind of a big lot. She does have neighbors. But
22 she's a mother, and she's many things. She was treated in
23 such an inhumane way, such a cruel way by one man who is
24 standing before you on trial and that's Anthony Wise, the
25 Defendant. Suffered countless indignities on the night in

1 question, the evening of the night in question. That's
2 September 21st of last year. The evidence in this case is
3 going to take you back to when Benzena Wicker lived
4 through unspeakable acts. You may think I'm going to
5 describe a nightmare. You may think I'm even describing,
6 you know, a script from a Hollywood-type production. But
7 no, this was a living reality, a living hell for Benzena
8 Wicker. She's a woman of faith and, in fact, it's
9 relevant in this case because right before that fateful
10 encounter with Anthony Wise, she was headed or she was
11 going to Bible study, her Wednesday night Bible study
12 session at Saint John Baptist Church off Highway 219 near
13 Love's convenient store, or Love's Truck Stop. That's her
14 church. She's an avid church member. She had plans to go
15 there that night before she encountered this madness. So
16 she went through a test that night, a test of her faith,
17 and she survived, thank goodness. But that test that she
18 went through, momentarily, is about to be her testimonial.
19 And it's not a movie. It's not. It's her reality. It's
20 her account of what happened, and it's something that
21 she'll never forget. It's going to be a lasting imprint
22 of what happened. Assaulted, kidnapped, home burglarized,
23 and she was robbed. That's what Anthony Wise is charged
24 with doing. Assault and battery, first degree;
25 kidnapping; first degree burglary and armed robbery. And

1 we'll talk about the elements and the specifics of those
2 offenses later on. But suffice it to say, she had her
3 collarbone broken when Anthony Wise assaulted her, kicked
4 her, dragged her around her house. A fractured left
5 collar bone and some other injuries. Psychological
6 injuries notwithstanding. Physically injured, things of
7 that nature. So briefly, facts of the case, overview. On
8 September 21st, 2016, Wednesday evening, Benzena Wicker
9 had been out earlier that day at the Dollar Tree. She was
10 getting some items for her Bible study group,
11 refreshment-type items. I think tea or something to that
12 effect. They have tea on Wednesdays. Some kind of event.
13 So she picked up groceries for that. She's in her, her
14 Cadillac Sedan she has. She pulls into her house at [REDACTED]
15 [REDACTED] and it's about, we think, 5:45 based
16 on her account and some other evidence. So 5:45 p.m. on
17 September 21st. It's still daylight savings time so it's
18 still bright outside. There's still some sunlight. She
19 pulls in to the back of her house. Her husband's truck,
20 her late husband's truck that she still has was an F150,
21 and she would periodically drive this F150 so it just
22 wouldn't sit in the driveway, and she'd typically drive
23 this F150 on Wednesday nights when she would go to church,
24 when she would go to Bible study, interestingly enough.
25 So what happens when she goes to put the items she bought

1 at the Dollar Tree into the truck that she was going to
2 drive to Bible study as she customarily does. She opens
3 up the back, the rear driver's side door in the backseat
4 of the truck and, lo and behold, there is a man inside the
5 truck, Anthony Wise. He startles her, obviously, like
6 anyone would be. Completely shocked to find somebody in
7 her truck. He delivers a swift kick to Ms. Wicker in her
8 upper body area, chest area, knocks her to the ground.
9 And Ms. Wicker, she's 74 years old. Keep that in mind.
10 He knocks her to the ground. She goes to scream. Anthony
11 Wise gets out of the truck and puts his hand over her
12 mouth to try to muffle the scream, screams. At that
13 point, he drags her inside the house like a rag-doll, like
14 an inanimate object, just pulls her around after she has
15 already sustained this blow that knocks her down. He
16 takes her by the arms and makes his way into her house,
17 and then proceeds to plunder the house. He ransacks the
18 house, so to speak. A struggle continues. Benzena's
19 fighting for her life. She grabs a hammer that she had in
20 her living room, which she uses to hang up pictures. He
21 takes that hammer from her, and then uses it against her
22 as a weapon, hence, the armed robbery. He's asking for
23 money, jewelry, things like that, bank cards. Benzena
24 gives him, gives it to him willingly. Just get out of
25 here. Eventually, he gets into her purse. Gets the bank

1 card, her ATM, her debit card. He's got that hammer,
2 threatens her with the hammer demanding her PIN code so he
3 can go to the ATM. She gives it too him. It's still not
4 enough for him. So what he kind of does as an insurance
5 policy to make sure she gives him the right ATM code,
6 presumably, he takes her along for the ride to the ATM.
7 So he gets the keys to her late-husband's truck, her truck
8 and drags her back outside, and throws her in the backseat
9 of the truck in the floorboard and drives off. And
10 according to Benzena and she'll testify, they were riding
11 around for what felt like a couple of hours. She could be
12 disoriented at this time and scared, but she says she was
13 in the truck for a long time and she'll testify to. They
14 eventually, Anthony Wise is driving. They eventually go
15 to the ATM on Kindle Road. Kind of, I think it is the
16 Helena section of Newberry County. Just outside of the
17 city limits where this ATM is, off of Kindle Road where
18 the old Food Lion used to be, there's a Palmetto Citizens
19 ATM. He makes a withdrawal using Ms. Benzena's debit
20 card. It's a \$500.00 dollar withdrawal which is, I think,
21 the maximum you can get out of these ATM's, and so he
22 makes this withdrawal. She's in the backseat and we have
23 surveillance footage from that ATM which shows the truck,
24 but since the truck is so high up, we can't get a picture
25 of the driver and Anthony Wise is driving, and you

1 certainly can't see Ms. Benzena down in the truck in the
2 floorboard. But we know that transaction occurred about
3 7:30 p.m. So we got another timeline there. So they're
4 driving around. Eventually, he makes his way back to
5 Benzena's house and it continues, the plundering, the
6 ransacking of the house and keep in mind and I'm leaving
7 some stuff out, it's so much. But she is bound, tied and
8 bound, too. Let's not forget this, another important
9 aspect. He uses the phone cord, cuts up the phone cord,
10 not only to disable the landline, but uses that to tie her
11 wrists up. Takes a pillowcase that she has and puts that
12 over her head. So that's a part of it. So that's why
13 she's so disoriented in the backseat of the truck. But
14 then when she gets back, to further reinforce the phone
15 cord, gets duct tape out. And at that point, decides to
16 take the flat screen TV's, that are in the bed room, once
17 they get back to the house and eventually he leaves. He
18 leaves in Benzena's Cadillac, the sedan she has. At that
19 point, Benzena's feels like she can escape. Her cellphone
20 is in the toilet as we'll show you in the crime scene
21 photos. So he put the cellphone, her cellphone in the
22 toilet, cuts up the landline, she's tied up when he
23 leaves, duct taped phone cord, pillow case. She manages,
24 once she feels it's safe, to get loose and, lo and behold,
25 her neighbor who is a great neighbor, Kathy Tapia, who's

1 seated right beside her on the end there, she's going to
2 testify, runs over to Kathy's house directly across the
3 street and gets help for her. Kathy dials 911; Benzena is
4 there right at the stairs. That's the case. That's the
5 facts. Tied up, bound, assaulted, you name it, all the
6 above. And I'm probably leaving out some stuff, but
7 Benzena is going to tell you about it. You'll hear it
8 from her. So the bedrock, the foundation of this case
9 centers around her testimony. All right. So that's the
10 facts, right. Well, what evidence are we going to present
11 to prove that. Well, we have about six witness
12 statements, so it's a relatively brief, quick trial. It's
13 not one of these trials you hear about that gets national
14 media coverage that lasts weeks. This is going to be a
15 relatively short trial, two to three days. We have six
16 witnesses. Ms. Benzena Wicker is our first witness and
17 she's going to tell you about, she's going to give you a
18 description of Anthony Wise. At the time Anthony Wise has
19 dreadlocks. His appearance has changed, as you can see,
20 his hair is cut. But how did they identify Anthony Wise,
21 because Benzena Wicker, she is going to describe herself
22 and the perpetrator as having on a mask, she still sees
23 dreadlocks, but he's got on a white mask similar to a kind
24 of Jason, horror movie type mask, wearing gloves, wearing
25 gloves with no fingerprints. That's why we don't have

1 fingerprints, because he's wearing gloves. He's got on a
2 red shirt, a black-hoodie-style jacket, blue pants. She
3 describes him as being about five-five, five-six, 120-140
4 pounds, small in stature. She describes him, and doesn't
5 know his name. But when this happens, she knows him based
6 upon stuff he told her during this incident, this is
7 probably a neighborhood kid. And, in fact, she's right,
8 because Anthony Wise lives on the same street as her a few
9 houses down. He lives at [REDACTED]. And
10 stuff he's telling her during the course of his
11 kidnapping, assault, burglary, he's saying things that
12 only somebody who's familiar with Benzena would say. He
13 knows about Benzena's husband passing away. That's why he
14 allows her to keep her rings, because he asked for her
15 jewelry at first, but he gave them back to her, the
16 jewelry, because he knows that's her husband's engagement
17 ring, wedding band. So he's like, I want you to keep
18 that. I know your husband passed away. He also knows
19 that Benzena is the caregiver for her 101-year-old mother
20 and he also says to her while he's threatening her, you
21 need to cooperate or you need to comply. Things like
22 that, if you ever want to see your mom again. And he's
23 like, but I'm not really going to hurt you. I'm not going
24 to kill you, because I know you're the only one taking
25 care of your mother. That indicates a level of

1 familiarity that Mr. Wise had with Benzena Wicker. And
2 not to mention, she's familiar with Anthony Wise, because
3 he used to go over to their house when her husband was
4 still alive. Her husband was familiar with him, because
5 Anthony Wise as a younger kid would go over to that house
6 and pick roses from the rose bush, and she had seen him
7 walking up and down the street about a week prior to this
8 incident, and she knows he has dreadlocks. Just because
9 he's wearing a mask, you can still identify him. If I was
10 wearing a mask and if somebody who is familiar with me saw
11 me in that mask, they could still identify me as Taylor
12 Daniel. So that's kind of what's going on here, coupled
13 with the fact he's saying stuff that somebody who's
14 familiar with her routine and her background would only
15 know. So when the officers get on scene, she tells them
16 that. Officers look in their database to see anyone who
17 lives in that area fits that description. They come up
18 with Anthony Wise. They further investigate. They find
19 out the cellphone number that's associated with Anthony
20 Wise, they get the cellphone records from the cellphone
21 company and, basically, everybody's cellphone in this day
22 and age kind of acts as a tracker, essentially. Like a
23 GPS tracker. Every time you use your cellphone, you're
24 hitting off of a tower for service. And so say I went to
25 Walmart this morning and aside from me telling you I went

1 to Walmart, you could go to Verizon, my cellphone company,
2 get the records, and they could say my phone number was
3 using this tower and if it's the tower near the Walmart,
4 that's how you could place me at the Walmart. So that's
5 what we've done with Anthony Wise. We got the phone
6 records, and you're going to hear from Chris Johnson with
7 SLED. He's a telecommunications liaison with these
8 cellphone companies. He's kind of an expert in this
9 field, so to speak. He reviewed the records, plotted the
10 geographical locations and Anthony Wise is hitting off a
11 cellphone tower at about 5:45, right at the time this
12 incident takes place, that's the same time this all
13 started, he's in the area at Benzena's house. Again, he's
14 in the area a few miles away at the ATM around 7:30 at the
15 time of the ATM withdrawal. Anthony Wise's phone is
16 hitting off a tower near the ATM. Eventually, the
17 Cadillac as I stated that was taken, officers recovered
18 that not too far from Benzena's house off Ford Crossing
19 Road. They find it about 11:20 p.m. that same night and
20 they use OnStar to help them locate it. Lo and behold,
21 where do you think Anthony Wise's cellphone showed him.
22 About 10:30-10:20, Anthony Wise's cellphone who was
23 driving that abandoned Cadillac was found. Coincidental,
24 no. He's hitting off of towers right beside all the
25 relevant locations in this case at the same time, so

1 that's corroborating evidence. With his victim's
2 testimony alone, Benzana's testimony alone, would be
3 enough to convict, if y'all believe it, but in this day
4 and age, we have cellphone records that also put him at
5 the location. So that's evidence that kind of
6 corroborates what Benzana is going to tell you and these
7 phone records correspond to all these locations that are
8 relevant in this case. When they take Anthony Wise into
9 custody September 23rd, he confirms that he uses that
10 particular phone that they got the records for. He also
11 can't account for his whereabouts on September 21st. He's
12 all over the place. He can't get a coherent story of what
13 he just did two days prior. He talks about being in the
14 area of the ATM, because there's a Chinese restaurant, but
15 he didn't go into the Chinese restaurant, but he's putting
16 himself in the area. He's doing some other suspect things
17 you just can't account for him. He says he's with the
18 girlfriend at the motel, excuse me, he says he's with his
19 girlfriend at the motel from 6:00 to 10:00 p.m. at one
20 point. Not true, because we have phone records showing
21 him at the victim's house, showing him at the ATM, and
22 showing him near the abandoned Cadillac, so that's what
23 you have to consider. That's the evidence. We picked you
24 to serve on this jury because you could be fair and
25 impartial, and he has a constitutional right, Anthony Wise

1 does, to have a jury of his peers decide this case. And
2 only you guys can do that, because you're residents of
3 Newberry County. That's the only way you can serve on
4 this jury. So it's going to have be your decision and
5 your decision alone whether or not to hold him accountable
6 for this crime, and the only way he can be held
7 accountable is if you guys are firmly convinced of his
8 guilt. So one question you have to ask, are you firmly
9 convinced that he committed these four offenses. And if
10 the answer is yes, all of you agree, it has to be
11 unanimous, if you answered yes, he's guilty. If all of
12 you say no, we're not firmly convinced, it's not guilty.
13 And I submit to you there is sufficient evidence that will
14 leave you firmly convinced. Now, Mr. Verner, who is a
15 friend of mine who we work with a lot, he represents
16 Anthony Wise. He's going to point out witnesses in the
17 case, the lack of fingerprints, lack of DNA. He's wearing
18 gloves. He's going to point out some probably other
19 witnesses. He may say Benzena is an elderly lady, she's
20 confused, it's a misidentification, but I submit you will
21 hear Benzena Wicker's lucid testimony. She's very clear.
22 Are we going to reward Anthony Wise for wearing gloves.
23 The fact that there are no fingerprints, are we going to
24 reward for that. Think about that. We didn't have
25 fingerprint and DNA evidence 50 years ago, and juries were

1 still returning guilty verdicts. We'd like to have
2 fingerprint evidence/DNA, but you don't have it in every
3 case. That doesn't mean the case is compromised. So I
4 don't want to fall into that trap, so I'm going to address
5 it on the front end. I will ask you for your seal of
6 approval on this case. We'll be asking for a guilty
7 verdict. And verdict means, translated from Latin,
8 veredicto. That literally means to speak the truth. And
9 so you'll do that with your verdict. Only you guys get
10 the final say on that. And so I ask that the only verdict
11 that speaks the truth, is a guilty verdict. Thank you.

12 THE COURT: Thank you, Solicitor. Mr. Verner, you
13 ready?

14 MR. VERNER: And may it please the Court, Your Honor?

15 THE COURT: Certainly..

16 MR.VERNER: Mr. Foreman and members of the jury, I
17 think highly of Ms. Wicker. Here's the problem with the
18 case. She no more wants the wrong person to be convicted
19 in this case than I do, than Anthony does, or anybody
20 else. I promise you, she doesn't want the wrong person to
21 go to prison. This is first degree burglary, kidnapping,
22 armed robbery. And here are the problems with the case,
23 and let's make sure we understand your role. We're not a
24 lynch mob where we go together and punish somebody who's
25 done something horrible, and this lady was attacked and

1 somebody has done something horrible. Your role is
2 entirely the opposite. In our system, the State cannot
3 put somebody in prison, or take their life or liberty, and
4 it's not a life case, but it is a liberty case, unless
5 they convince a jury of your peers, twelve people who live
6 in your community, that beyond any reasonable doubt, this
7 is the guy who needs to go to prison. I mean, let's be
8 clear. The Supreme Court did not send a Judge from
9 another county to Newberry for a trivial matter. I am
10 concerned, and I hope you are, that the wrong person
11 doesn't get punished for this. And here is the evidence
12 in the case. The lady was attacked. Okay. Nobody is
13 disputing that. She has never, and she's not today, going
14 to be able to identify the man who attacked her. She says
15 it was just a young black man with dreads. It might be on
16 some details a little more than that and we'll go into it
17 but that is basically who she said attacked her. If he
18 had a mask, a full mask over his face, it was a young,
19 black man with dreads who attacked her. That is the only
20 identification she has ever made in this case. Now, she
21 did say, I think he might be the boy who lives in my
22 neighborhood. This young black man with dreads is a
23 fairly common, you can identify a lot of people on the,
24 based on that generic depiction of somebody. A young
25 black guy with dreads is the description she gave. She

1 says, I think he lives in this neighborhood. The police
2 know Anthony Wise lives in that neighborhood. They go and
3 get his girlfriend's cellphone records. So you got a
4 victim of a horrible crime who say I don't know who it
5 was, he's a young black man with dreads. I think he's the
6 guy who lives in the neighborhood. I'm not sure, but
7 that's who I think it is. The police say, well, Anthony
8 Wise lives in this neighborhood. Let's go check his phone
9 records. What they, they actually say, well, you know,
10 let's go check his girlfriend's phone records, because
11 Anthony's phone is not working. And you can do, whenever
12 you make a call or a text message, or sometimes you don't
13 even have to do that. If it's a smart phone, your phone
14 just might send off signals to towers. It sends off
15 signals to multiple phone towers, and they can, you know,
16 if it hits off of one tower, they can say, well, at some
17 point the call came from this direction. If you've got
18 multiple hits from multiple towers, they can kind of
19 circle around. These are the exhibits you're going to
20 see. You know, there are three crime zones in this crime
21 that we're talking about today. There's, at the lady's
22 home. We know that the man used her ATM machine card at
23 the old Food Lion in Helena around 7:30. She said she is
24 robbed, this attack, she was attacked about 5:30 in the
25 evening. She says that the man used her ATM machine in

1 Helena at 7:30 in the evening, and then because the car
2 has OnStar, the police are able to find a car that's been
3 abandoned, the lady's car. And so it's the location where
4 the car is recovered and it's kind of, if you go out CR
5 Koon towards Prosperity, there's the old railroad trestle
6 off to the right that runs and that's pretty much where
7 the car was found, which is also in the location as the,
8 where the lady lives. That's in the Green Acres. Well,
9 they say this lady was attacked about 5:30 in the evening.
10 And they've, you know, this blue thing and the State will
11 have, you know, they've got a big TV and they'll give you
12 a much better production of it. But if there is a
13 cellphone tower there, they'll say that Anthony Wise's
14 girlfriend, Laswan, she's the lady sitting behind me, his
15 fiancé, who lives in the neighborhood too. She lives
16 about a block away from the lady and Anthony stays with
17 her and he was with her that night. And Laswan will say
18 that she said, we were at a hotel that night, and they
19 actually produced the receipt about 9:00 o'clock where
20 they checked into the hotel, because her parents were at
21 her house. Here's the cellphone tower. This is the area
22 that they can show Anthony's phone. You know, this green
23 area. In some cases, these, it's 2500 meters, 1500 meters
24 away. So they can say at some point, and they've got
25 different measurements for different ones, but in some of

1 these matters, he's within two miles of the lady's home.
2 You know, it's about a 1600 meters in a mile. You know,
3 it's about what two miles from Newberry to the Interstate.
4 So they place him within a mile or two of where this
5 lady's house is or Helena or where the car is found which
6 is in her old neighborhood, really. It's about a block,
7 it's a long country block away. But so you've got a lady
8 who says that a young black male with dreadlocks attacked
9 me, and they say, well, his girlfriend's cell phone is at
10 different times of the day, you know, a mile away, two
11 miles away when you know he lives in her neighborhood. I
12 don't think, I am not really that amazed that if I thought
13 my neighbor had stolen my lawnmower and the police ran his
14 cellphone records and it occurred that during that day
15 that he was in the neighborhood where I lived in, I
16 wouldn't be so quick to judge that he stole it if he's my
17 neighbor and probably has a reason why he might be in the
18 neighborhood at that time. But, and so we've got a lady
19 who cannot positively identify the attacker. We've got
20 cellphone records that put him in very generalized areas,
21 but consistent with their, the three things I just talked
22 about, her house, the bank machine, the car drop. And so
23 I would just say, well, what else is there and her car was
24 recovered and there was some items stolen in the car.
25 That if you look at it, then you clearly dusted them for

1 fingerprints, and you can see that they found fingerprints
2 on the front of the TV in the back of the car. There are
3 fingerprints all through the TV. There are fingerprints
4 all over the car that were found that are not Anthony
5 Wise's. There is not going to be any evidence, any DNA
6 evidence that he was ever in the car, no fingerprint
7 evidence in the car, and only cellphone records that he
8 might have been as far as a mile away from the car in the
9 neighborhood where he lives near her. It's not a
10 situation where she knew him. We heard the prosecutor
11 talked about seeing her husband, to my knowledge, the only
12 testimony, is one time her husband years ago said when
13 Anthony was a young teenager, the husband let her pick
14 some flowers for his mom for Mother's Day, he's never
15 talked to her before. She didn't have kids his age where
16 he had ever been over to the house. His mother had never
17 been a guest at the house. She only vaguely knew him,
18 because she had seen him usually in a car driving off.
19 That is her only, and they've never spoken before, not
20 negatively, not positively. You know, I vaguely recognize
21 that kid as living near me, because I see him every once a
22 week or something like that. That is her only knowledge
23 of ever meeting him. She saw him a couple of days before
24 this happened walking through the neighborhood when she
25 was attacked by a young black man with dreads and he did.

1 He was a young black man and he had dreads before he was
2 arrested for his incident. That part is consistent. That
3 fits an awful lot of other people and I suspect in
4 Newberry if they pulled my phone records, I would be in a
5 large geographic area of Newberry. If the standard is
6 2500 meters away, 1500 meters away, on that day could have
7 been a several locations. I don't have dreads, so that
8 rules me out and that is basically the State's case.
9 There is absolutely nothing stronger to point that it was
10 Anthony Wise and it's a helluva a punishment if y'all
11 aren't sure he is guilty.

12 THE COURT: Thank you, Mr. Verner. Is the State
13 ready to call its first witness?

14 MR. SCOTT: Yes, Your Honor. The State calls Benzena
15 Wicker.

16 BENZENA WICKER, being
17 first duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 By Mr. Scott:

20 Q Ms. Wicker, I'm going to stand over here so and kind
21 of direct the testimony towards the jury. I just want to,
22 yeah, pull it a little bit closer to your face.

23 A Okay.

24 Q All right. Ms. Wicker, how old are you? If you
25 don't mind my asking, how old are you right now?

1 A I'm 74 now.

2 Q 74, and I think you mentioned that, where do you
3 live?

4 A [REDACTED].

5 Q [REDACTED].

6 A [REDACTED].

7 Q Okay. And that's in Newberry County?

8 A Yes.

9 Q How long have you lived there?

10 A Fourteen years.

11 Q Who lives there with you now?

12 A My mother.

13 Q And just speak loud and clear, because it's a big
14 courtroom, so you got to fill up the courtroom with your
15 voice.

16 A Okay.

17 Q All right. But Green Meadows Drive in Newberry
18 County. You've lived there 14 years?

19 A Yes.

20 Q Currently, it's you and your mother there?

21 A Yes.

22 Q 101 years old, right?

23 A Yes.

24 Q Were you married at one point?

25 A Before, yes.

- 1 Q Okay. And your husband, Charles?
- 2 A Is my second husband.
- 3 Q It was your second husband, but he is the one who
- 4 lived in Green Meadows with you?
- 5 A Yes.
- 6 Q Okay. And when did he pass away?
- 7 A January 31st, 2015.
- 8 Q Okay. And after he passed away, is that when your
- 9 mother moved in with you or did she already live there?
- 10 A No. She was already there.
- 11 Q Okay. Tell me about Green Meadows Drive. Tell me
- 12 about that area of Newberry County. Are you close with
- 13 your neighbors? Is that kind of a close-knit community?
- 14 A Some of the neighbors, I know; some, I don't know.
- 15 Q Okay.
- 16 A I just see them passing by.
- 17 Q All right. Kathy Tapia?
- 18 A Yes.
- 19 Q Where does she live in relation to your house?
- 20 A Directly across in front of me.
- 21 Q Okay. And how long have you known Kathy?
- 22 A Ever since I been there.
- 23 Q Okay. Tell me about y'all's relationship. Is it
- 24 kind of one where you guys look out for one another?
- 25 A We have this code. We watch out for each other and

1 like, for example, if my light not on by 9:00 o'clock at
2 night, her or her husband one would call and make sure
3 everything is all right.

4 Q And so if your light, your front porch light being on
5 is kind of a sign for her?

6 A Yes.

7 Q If it's not on, she checks on you?

8 A Yes.

9 Q Okay. I know it's hard to do, but I just want to,
10 make sure you speak up loud, because I can't repeat
11 everything you say.

12 MR. SCOTT: Walter, give me State's number 8.

13 Q Ms. Wicker, this is State's 8. Do you recognize what
14 that is?

15 A Yes, my house.

16 Q Okay. And correct me if I'm wrong, but this is your
17 house kind of closest to us on the bottom part of the
18 picture?

19 A Yes, with three cars in the yard.

20 Q Okay. And the road out in front of your home here
21 that is, what, Green Meadows?

22 A Green Meadows Drive, yes.

23 Q Okay. And you say Kathy lives directly across the
24 street?

25 A Yes.

1 Q In this picture, I guess is that her driveway you see
2 in the bottom left of the screen?

3 A Correct.

4 Q Okay. Let me see if I have a, this is State's number
5 9. Do you recognize what that is?

6 A Yes. Kathy's house is straight across from mine's.

7 Q Okay. This is your home. We're kind of looking at
8 it from the back, and then across Green Meadows, that's
9 Kathy's home?

10 A Yes.

11 Q Okay. And then you have a little carport back here
12 in the back of your home?

13 A Yes.

14 Q Okay. September 21st, 2016, you remember that day,
15 do you not?

16 A Yes, I do.

17 Q You ever going to forget that day?

18 A No, I will not.

19 Q That was a Wednesday, correct?

20 A Correct.

21 Q Okay. Tell me, is Wednesday sort of a different day
22 from the rest of the week for you?

23 A Yes. That's a, routinely, I carry my mother to
24 Clinton on Wednesday.

25 Q Okay. So Wednesdays, you take your mother up to

1 Clinton?

2 A Yeah.

3 Q Why do you take her to Clinton?

4 A My brother meet her in her own home, and then he,
5 they spend the night.

6 Q Okay. And I just want to, is this your brother here
7 seated --

8 A Yes.

9 Q -- in the front seat?

10 A Yes.

11 Q He lives in Greenville?

12 A Yes.

13 Q Okay. And, of course, you live in Newberry?

14 A Right.

15 Q And your mother lives with you Monday, Tuesday,
16 Thursday, Friday, Saturday, Sunday?

17 A Yes.

18 Q But on Wednesday, you take her up to her home in
19 Clinton?

20 A Right.

21 Q What is that for, just kind of comfort for her, is
22 that correct?

23 A Yes. Although she's 101, she's very active, and she
24 say she haven't stopped housekeeping yet, so we carry her
25 and let her stay a night in her house.

1 Q Okay. And so on the Wednesdays, you're sort of left
2 at your home --

3 A Uh-huh.

4 Q -- on your own, is that right?

5 A Yes.

6 Q So what time do you typically leave Newberry to go up
7 to Clinton to go drop your mother off?

8 A Sometime between 11:00 and 12:00 o'clock.

9 Q And then do you turn around and come back down to
10 Newberry or do you spend some time up there with her?

11 A I spend some time with her before I come home.

12 Q Okay. September 21st, last year, did you take her up
13 to Clinton on that Wednesday?

14 A Yes, I did.

15 Q And did you return to Green Meadows Drive?

16 A I returned to Green Meadows Drive.

17 Q Okay. Do you remember about what time you got back?

18 A Between 5:40-6:00, somewhere in there.

19 Q Okay. Was it still daylight?

20 A Yes, it was.

21 Q Tell me what your plans were. What were you planning
22 on doing after you got home? Well, let me ask you this.
23 I think I skipped something. After you leave Clinton --

24 A Uh-huh.

25 Q -- do you come directly back to Newberry or do you

1 make any stops anywhere?

2 A Well, I stopped this time.

3 Q Okay.

4 A I stopped at Dollar Tree --

5 Q Okay.

6 A -- to pick up purple table cloth, cups, napkins, and
7 spoon, because we were having a rainbow tea that Sunday.

8 Q And you were just explaining to me what a rainbow tea
9 was. Is it something you, it's a fundraiser with the
10 church?

11 A It's a fundraiser, each color, to see how much money
12 they can raise.

13 Q Okay. And it's something about you were assigned
14 purple as your color?

15 A That was my color, purple.

16 Q Okay. So you were picking up purple-themed party
17 favors or --

18 A Yes. Yes.

19 Q -- for the tea? And is the fundraiser for, is St.
20 Paul's Baptist?

21 A St. John Baptist Church.

22 Q St. John Baptist Church. And what were you going to
23 do with the rainbow tea items that night on Wednesday?

24 A Well, I was planning to put my, set my table up and
25 put on my purple material and everything on the table and

1 that's the napkin, cup, and the spoons.

2 Q Okay. Because the fundraiser was going to be Sunday?

3 A That Sunday, yes.

4 Q But you were just going to go ahead and set up?

5 A Yes.

6 Q What vehicle did you go up to Clinton with?

7 A In the Cadillac.

8 Q The Cadillac --

9 A Yes.

10 Q -- and you took your mother up there in the Cadillac?

11 A Yes.

12 Q Tell me why you take the Cadillac when you're with
13 your mother?

14 A Because my mother cannot climb up in the truck.

15 Q Okay. And the truck, was that Charles' vehicle? Is
16 that what he drove when he was alive?

17 A He was alive, but that's the truck I bought for him
18 for his birthday.

19 Q Okay. And you still have --

20 A I still have it.

21 Q -- the Cadillac and the truck?

22 A Yes.

23 Q And you say when you're with your mother you drive
24 the Cadillac, because it's lower to the ground?

25 A Right.

1 Q Okay. And did you pick up the stuff from the Dollar
2 Tree in the Cadillac?

3 A Yes, I did.

4 Q Okay. And so, I think, you arrived home at 5:00,
5 between 5:40 and 6:00--

6 MR. VERNER: Your Honor, that's, he's now leading a
7 little bit too much.

8 THE COURT: Try and rephrase, Solicitor.

9 Q Will you repeat what time you arrived at your home?

10 A I arrived at home between 5:40 and 6:00.

11 Q Okay. And correct me if I'm wrong, did you say it
12 was daylight?

13 A Yes, it was.

14 Q Okay. And so you had the party favors. And if we're
15 looking at your house in State's number 9, did you come
16 from, I guess, the left on Green Meadows or did you come
17 from the right?

18 A Left, and turned in --

19 Q Okay.

20 A -- and came to the back.

21 Q You turn into this, the second driveway or the first?

22 A The first.

23 Q And then you take the horseshoe around to the back?

24 A Yes.

25 Q Okay. And then you circle, where did you park the

1 Cadillac, do you --

2 A I parked the --

3 Q -- do you park up under the carport?

4 A No. I parked the Cadillac right beside the ramp.

5 Q Okay. And I think, is this the ramp we're seeing,
6 this sort of L-shaped construction --

7 A Yes.

8 Q -- in the back?

9 A Yes.

10 Q Okay. And you parked your Cadillac beside that.

11 What was in the carport, this sheet metal carport, what
12 was under there?

13 A The truck.

14 Q Okay. The truck was under that carport?

15 A Yes.

16 Q All right. Well, just after you pull in with the
17 Cadillac that has the items for the rainbow tea party,
18 what happens next?

19 A Well, I reach in the back of my car, my Cadillac to
20 get all the material and I walked over to put it in the
21 backseat of the truck. That's when a person lunge up out
22 of my, the seat of the car, hit me in the chest with a
23 white mask on, and I started screaming. He jumped out and
24 grabbed my face and started squeezing it with the glove
25 inside of my mouth. And then after we fought outside, he

1 got me under my arms and like lead, he tried to lead me up
2 the steps and he drug me up the steps commanding me to
3 open my front door, my backdoor. And I told him I don't
4 have the key. But he had, he snatched the keys out my
5 hand, bent me down, I don't know with his hand or with his
6 knee and held me down until he can unlock the door and
7 once we started in the house I broke away from him.

8 Q Okay. Well, let me back up. Let me show you a
9 couple of pictures here. This is State's 24, 25, and 26.

10 A This is where the truck was parked.

11 Q Okay. Right now, we've got State's 24. That's this
12 one. Does that depict the area under the carport that we
13 just saw from the last picture?

14 A Yes.

15 Q And is this your ramp we're looking at?

16 A Yes.

17 Q Is that where the truck was parked the night on
18 September 21st?

19 A Yes.

20 Q Okay. So the Cadillac when you pulled in would have
21 been right about where the cameraman is standing in this
22 picture, is that right?

23 A Yeah. It kind of to the side.

24 Q Okay. And so you say you walked to the pickup truck
25 to put the items inside the pickup?

1 A Yes.

2 Q Did you open the driver's side rear or the passenger
3 side rear?

4 A Driver's side rear.

5 Q Okay. So you opened this door that we see in State's
6 number 24, the rear door --

7 A Uh-huh.

8 Q -- is that the one?

9 A Yes.

10 Q And repeat what you just said. You opened the door
11 and what do you see?

12 A I opened the door and this person jumped up with a
13 mask and I started screaming, and he kicked me against the
14 ramp, because of his, when he came out.

15 Q Where did he kick you?

16 A Here.

17 Q In your chest?

18 A So I didn't, yes.

19 Q And you say you fell back against the railing of this
20 ramp?

21 A Yes.

22 Q Okay.

23 A And then when I tried to get away, I fell, he knocked
24 me down right in front of my truck and that's where all my
25 pocketbook and everything was left out there.

1 Q Okay. So he moved you to the front of the truck as
2 he was --

3 A Yeah. I was trying to get away from him.

4 Q Okay. I mean, did he chase you to the front of the
5 truck?

6 A Yeah. Because he's trying to stop me from screaming.

7 Q Okay. And you covered a lot just a minute ago, but
8 did you say he grabbed your face to make you stop
9 screaming?

10 A Yes. And his hand was like this and my face was, had
11 my mouth open.

12 Q And tell me what you remember about his hands?

13 A He had on like driving gloves, kind of
14 grayish-looking.

15 Q Grayish-looking driving gloves?

16 A Uh-huh.

17 Q He had a mask on?

18 A Uh-huh.

19 Q What kind of shirt?

20 A A red shirt with a black hood.

21 Q It had a hood on it?

22 A Yes.

23 Q Was the hood over his head?

24 A Yes.

25 Q Okay. You say he pulls you up to the backdoor. Is

1 it the backdoor that we see on the other side of the
2 pickup truck?

3 A Yes.

4 Q Okay.

5 A Let me see those.

6 Q Let's see.

7 A Right there. That's it right there.

8 Q Okay.

9 MR. SCOTT: Walter, let me see State's 26.

10 Q Okay. And then there's a little, I guess, step-up
11 ramp that goes to that backdoor?

12 A It is steps.

13 Q And you say once he got you there, what happened?
14 You were saying something about the keys?

15 A He was telling me to unlock the door --

16 Q Okay.

17 A -- and I didn't unlock, so he snatched the keys out
18 my hand, pushed me down. I do not know whether he held me
19 down with his hand or his knees. I don't know, but he
20 held me down until he found the right key to unlock the
21 door.

22 Q Okay. Did he, and he found the right key. Did he
23 open the door?

24 A He opened the door.

25 Q And did he go inside?

1 A Yes. He carried me first and kind of like pushed me
2 in. That's the way I got loose from him and he ran and
3 caught me again, but we fell between the day room and the
4 dining room and we start fighting.

5 Q Okay. And you say you dropped your keys on the, or
6 you dropped your purse in front of the truck there?

7 A Uh-huh.

8 THE COURT REPORTER: Was that a yes?

9 WITNESS: Uh-huh.

10 THE COURT REPORTER: Can you say yes or no?

11 A Yes.

12 THE COURT: You need to give a verbal response than
13 saying uh-huh or uh-uh.

14 WITNESS: Okay.

15 THE COURT: Okay. Very good.

16 WITNESS: Thank you.

17 Q These pictures were taken at night. You said it was
18 daylight. Did you have any trouble seeing him?

19 A I didn't have no trouble seeing him, but I could not
20 see his face, but then I recognized he had, he was a black
21 person, because of his skin.

22 Q Okay. You could see his hands, I guess?

23 A His arm.

24 Q Could you see his hair?

25 A I saw dreadlocks hanging on his shoulder.

1 Q Dreadlocks.

2 A Uh-huh.

3 Q Could you describe the dreadlocks in any way or are
4 they just regular dreadlocks?

5 A They were dreadlocks and it was some kind of color,
6 but I don't know. I don't remember.

7 Q But there was coloring on them you say?

8 A There was coloring on them, but I don't remember the
9 coloring.

10 Q Okay. All right. Let me show you State's 27 and 31.
11 That's 27.

12 MR. SCOTT: Leave 27 up, Walter.

13 Q Okay. What are we looking at there? Are we looking
14 towards the back of your house or are we looking towards
15 the front?

16 A No. It towards the back.

17 Q Okay.

18 A This is the day room with purchased flowers there. I
19 was going to carry them in.

20 Q Okay.

21 A And this is the living room with the green chair with
22 the scarf on it.

23 Q Okay. So the room we're kind of taking the picture
24 from is the living room --

25 A Uh-huh.

1 Q -- and the day room is toward the back?

2 A Where you see the couch. Yes.

3 Q And I just want to kind of move along. If we take a
4 left through the day room, is that where the door is that
5 y'all came in through?

6 A Yes.

7 Q Okay.

8 A Yes.

9 Q Okay. So after he brings you inside, after he gets
10 the key that unlocks the door and brings you inside, tell
11 us what happened.

12 A Well, he didn't, well, he turned me a loose for a few
13 minutes and like he thought about it, and he grabbed my
14 shirt and I kept running and right here in front of the
15 flowers, between the chair and the flowers, this is where
16 I fell.

17 Q Okay. Between the chair and the flowers --

18 A Yes.

19 Q -- this is where you fell?

20 A Yeah, and we started fighting there.

21 Q Okay.

22 MR. VERNER: Your Honor, I do object to the repeating
23 every answer for the witness. It's constant and improper.

24 MR. SCOTT: Your Honor, if it's inaccurate, but we're
25 having some difficulties understanding a lot of things. I

1 think we'd all agree with that. If I misquote, I would
2 certainly --

3 MR. VERNER: It is still improper for him to repeat.

4 THE COURT: Try not to repeat unless it is for
5 purposes of leading into another question.

6 MR. SCOTT: All right. It might be the best way that
7 we can do this, based on the objection, if you take the --

8 MR. VERNER: Your Honor, I'd object to the statement.
9 That's not a question.

10 THE COURT: Well, it's not a, I'm going to, it's not
11 a problem.

12 MR. SCOTT: Can you step down, Ms. Wicker? I'm going
13 to get you, you got to speak up really loud.

14 THE COURT: And you're away from the microphone, Ms.
15 Wicker, so you're going to need to really speak loud so we
16 can all hear you. Okay?

17 THE WITNESS: I'll try.

18 THE COURT: Well, do your best.

19 THE WITNESS: Okay. Thank you.

20 MR. SCOTT: The most important is she hears you and
21 they hear you. So, and if you could, Ms. Wicker, stand on
22 this side so they can see you.

23 Q All right. Now, show the jury when he brought you in
24 and dragged you in your own home, where did he begin
25 fighting with you?

1 A Well, he brought me in here. We came around the
2 flowers and right in here is where he tripped me and we
3 fought there, and there was a hammer laying right here. I
4 grabbed the hammer and he kicked it out of my hand or not,
5 but I don't know. But I had grabbed him in a
6 inappropriate place. He picked the hammer up and
7 threatened me. He said, if you don't turn me loose, you
8 won't see your mother in the morning. And he held the
9 hammer back.

10 Q All right. I can't repeat what you say.

11 A Yeah.

12 Q You got to say it louder. All right. You grabbed
13 him where? You can say it.

14 A I grab him in his crotch.

15 Q Okay. Why did you grab him on his crotch?

16 A Because that was the only defense I had at that time.

17 Q Okay. And then you said you grabbed what?

18 A The hammer.

19 Q A hammer?

20 A Uh-huh. And I attempted to hit him with the hammer,
21 but he knocked it out of my hand. But he was able to pick
22 it up when I was holding him in his crotch. He were able
23 to bend down to get the hammer and he stood back up and
24 said, I will kill you, and you won't see your mother in
25 the morning unless you turn me a loose.

1 Q You won't see your mother in the morning?

2 A That's right.

3 Q And was your mother there at that time?

4 A No.

5 Q Okay.

6 A She was in Clinton.

7 Q So he mentioned your mother?

8 A Yes.

9 Q All right. Well, after that happened, what did you
10 do next?

11 A I turned loose and he got the telephone cord right
12 there beside the, you might not could see. It's inside
13 here is the telephone sitting on that side. He snatched
14 the telephone cord out, tied my hands up and my feet.

15 Q All right. Let's see.

16 MR. SCOTT: And, Walter, let's see State's 31,
17 please.

18 Q Do you see the telephone?

19 A That's the telephone right there.

20 Q Okay.

21 MR. SCOTT: And then, Walter, if we could, State's
22 36, please.

23 Q Okay. And he did what with the telephone?

24 A He took the cord from that telephone, tied my legs
25 and hand. He cut them and this is, but you see the table.

1 Some of the tape where it was on the outside of it. The
2 tape, you see, it's some of the tape that he tied me up
3 with, taped me up with.

4 Q Okay. So he took the phone cord and he did what with
5 the phone cord?

6 A Tied them around my hands and around my feet.

7 Q Okay. And then what did he do with the tape?

8 A That's the tape on the, I don't know whether he was
9 planning to use it then, but he did not use it right then.
10 He carried me to the couch and put me on the couch.

11 Q Okay.

12 MR. SCOTT: Go back to 31, Walter.

13 Q All right.

14 A Okay. He put me on the couch. My hands tied and my
15 feet. He asked me for money. I told him I didn't have
16 any money. My pocketbook was outdoors. He went outside
17 and got my pocketbook and brought it back inside and shook
18 everything out. And when he shook everything out, he got
19 all the money, put it in his pocket. He got my ATM card.
20 I gave him the number then. He started out the door and
21 he said, no. You might be telling me something wrong. So
22 he carried me, jerkily out, back out the door.

23 Q How did he carry you?

24 A Like under my arm right --

25 Q From behind? He grabbed you under your arms from

1 behind?

2 A Yes, and dragged me, you know, pushed me like that,
3 and I couldn't walk, because he had my legs tied. After
4 he did that, he opened the door. Put me in the back of
5 the truck on the seat, I mean, on the floor, but he used
6 his knee to push me in.

7 Q Of what vehicle?

8 A The Ford, the truck.

9 Q The pickup?.

10 A Uh-huh.

11 Q And I'm just looking --

12 MR. SCOTT: Walter, can you zoom in.

13 Q So that, this is the couch you say he put you on?

14 A Yes.

15 Q And what is this we're looking at down at the bottom,
16 in the middle of the screen, the white thing on the floor?

17 A I don't remember.

18 Q All right.

19 A I don't remember.

20 MR. SCOTT: How about State's 32, Walter?

21 Q Do you remember now?

22 A That was the plug from the telephone --

23 Q Okay. And now --

24 A -- and that's the pillowcase that was over my head.

25 Q Okay. Have you talked about the pillowcase yet or

1 have, have you, have we gotten to that part?

2 A Uh-huh.

3 Q All right. So that's the cut phone cord?

4 A Uh-huh.

5 Q Yes, yes or no. Was that the cut phone cord?

6 A Yes.

7 Q Okay. All right. So when he dumped out the purse
8 what did he, what was in your purse that day?

9 A My billfold, a little black book, a small bag, and my
10 checkbook.

11 Q Okay. Did you have any jewelry in your purse?

12 A No. The jewelry around my neck.

13 Q Okay. Did you still have the jewelry at this time?

14 A I still had my diamond.

15 Q Okay.

16 A And my chain, I don't have.

17 Q Okay. What happened to your jewelry?

18 A He pulled the rings off of my fingers, and he said he
19 was a man of his word, he will put the rings back after he
20 get what he want, he needs. He need \$500.00 dollars to
21 feed his children. So he took all my rings off.

22 Q Then what did he do with the rings?

23 A He put them back on the TV stand. Right in front of
24 the TV like this here, he put it back.

25 Q Okay.

1 MR. SCOTT: Walter, let me see State's 35.

2 Q What are those?

3 A Those are my rings, but my band, I did not receive.

4 Q Okay.

5 MR. SCOTT: Give me State's 33, Walter, please.

6 Q What is that, do you --

7 A My husband's band.

8 Q Okay. Well, how did that get on the floor?

9 A Apparently, when he was putting the cord around my
10 neck, the extension cord around my neck, because I found
11 that later with it stuck to the extension cord and on my,
12 the tape and the chain.

13 Q Okay. And are you saying that you wore your
14 husband's wedding band around your neck?

15 A All the time.

16 Q Okay. And it was ripped off during this?

17 A Yes.

18 Q Okay. What, if anything, did he say about that? Did
19 he say about that? Did he say--

20 A He just told me that he know the rings were like
21 sentimental, because my husband had just passed, and so he
22 was going to put them back on the TV stand.

23 Q Okay. So the person with the mask said what about
24 your husband?

25 A He was dead.

1 Q He knew your husband was dead?

2 A Uh-huh.

3 Q And so he said he wasn't going to take his wedding
4 band?

5 A He wasn't going to take my jewelry.

6 Q Okay. Okay. All right. So did you give him your
7 ATM PIN number?

8 A Yes, I did.

9 Q All right. Ms. Wicker, I think at this point you can
10 sit back down if that's more comfortable. I appreciate
11 it.

12 A Thank you.

13 Q Okay. So after you gave him the ATM number, did he
14 leave?

15 A He started out, but he turn around and came back and
16 got me off the couch, because he said if I gave him the
17 wrong number, it would be tough.

18 Q Can you repeat that, please?

19 A If I do not give him the right PIN number something
20 wrong will happen.

21 Q Okay. What did he do after he said that?

22 A Well, that's when he picked me up and carried me out
23 the door and put me in the truck --

24 Q Okay.

25 A -- on the floor.

1 Q All right. You talked about a pillowcase we saw in
2 one of the pictures earlier?

3 A Uh-huh.

4 Q Tell us about the pillowcase?

5 A The pillowcase case off of my bed and he put it over
6 my head and I told him I couldn't breathe. So he cut a
7 hole so that I could breathe.

8 Q He cut a hole in it?

9 A Uh-huh.

10 Q How was it --

11 THE COURT REPORTER: Is that a yes or a no.

12 MS. WICKER: I'm sorry.

13 Q How was it attached to your head?

14 A I really don't know, because when he put it over, I
15 remember he tied it, but later in December, I put two and
16 three together. He must have had the cord, because the
17 chain and the tape was on the cord, extension cord.

18 Q All right. Explain that?

19 A I was getting ready to decorate for Christmas and I
20 pulled the extension cord down off of the rack in the
21 laundry room. And when I did, I saw the gold chain that I
22 was wearing and tape, so I called the deputy immediately
23 for evidence.

24 Q Okay. So a couple of months after this, you were
25 still finding stuff in your home --

1 A Yes.

2 Q -- from this incident?

3 A Yes.

4 Q Okay. And so you did find the chain that was ripped
5 off your neck?

6 A Yes.

7 Q And that was the chain that held your husband's
8 wedding band on it?

9 A Yes.

10 Q All right. And do you remember riding in the
11 floorboard in the back of your pickup truck?

12 A Yes.

13 Q Okay. Tell us what happened during the ride?

14 A During the ride, he first just rode around. Then he
15 crossed a railroad track. Where, I don't know. Then he
16 crossed back, the railroad track. Then he stopped and
17 asked me for my ATM number again.

18 Q Okay.

19 A I gave him the number. He got out and went to the
20 ATM. Then, he came back. He got in the truck and started
21 driving again. He went down the Interstate, and he was
22 riding down the Interstate because he hit the ridge of the
23 Interstate.

24 Q What you talking about, the rumble strips on the
25 side?

1 A You know, the rumble strips on the side.

2 Q You felt those?

3 A Yes.

4 Q What other ways, I mean, and was there any other way
5 you can tell you're on the Interstate?

6 A Yeah. By the sounds of the cars and by me laying
7 down, I could tell whether it was a 18-wheeler or a car,
8 because I have been trained to listen with my ears for
9 different things in my program. And so he went up the
10 ramp. I can tell when he went up the ramp. Then, he went
11 down a gravel road. When we get, went down this gravel
12 road, I can tell it's on gravel the way it sound. Then we
13 slowed down and turned left and went down a slope.

14 Q Okay.

15 A I don't know where I was or nothing, but then I heard
16 a lady's voice apparently stop or held his hand or
17 whatever, and they turned the radio up and they was
18 talking. Then that's when he got ready to bring me back
19 to my home. He brought me back and he taped my hands
20 together and he taped my feet and when he did that, I
21 heard he went through my house and got every TV out of the
22 bedrooms and carried them to my car, my Cadillac and put
23 them in. I thought he was gone, but he came back in. At
24 that time, I had managed to get the pillowcase off of my
25 head.

1 Q Well, that's what I was going to ask you. While you
2 are riding in the back of the truck, could you see
3 anything?

4 A No.

5 Q Okay. The woman's voice, did you recognize the
6 woman's voice?

7 A No.

8 Q Could you hear what she was saying?

9 A No. I just hear her voice.

10 Q Do you know if she got inside the truck or not?

11 A No.

12 Q Do you --

13 A No. She did not get inside the truck.

14 Q Do you know if she saw you?

15 A I don't know.

16 Q Okay. Do you have a cellphone?

17 A Yes.

18 Q Do you know, where was your cellphone?

19 A Later, I found out it was in the toilet.

20 Q Okay. Did you put it in the toilet?

21 A No, I didn't.

22 MR. SCOTT: Walter, can I see State's 51?

23 Q Do you recognize that?

24 A Yes.

25 Q Well, did your phone work after you got it out of the

1 commode?

2 A No.

3 Q Do you know how long you were riding around in that
4 truck?

5 A I lost the track of time. All I been doing focused
6 on was trying to stay alive.

7 Q Was he saying anything?

8 A No.

9 Q When you were fighting with him in the house, did you
10 ask him why he was doing this or did he tell you why he
11 was doing it?

12 A I asked him how would he feel if someone doing his
13 mother like this. He didn't respond right then. And when
14 I told him, God love him and already had forgave him for
15 his sins and I love him and I forgive him too. That's
16 when he shouted, shut up, shut up. My mama throwed me
17 away.

18 Q Okay. Ms. Wicker, this is State's 39. What is that
19 a picture of?

20 A My pocketbook and my medicine.

21 Q Okay. What room is that?

22 A My bedroom.

23 Q Okay.. State's 40, what is this?

24 A That's my billfold.

25 Q Okay. Was anything missing out of your billfold?

1 A Nothing but the ATM.

2 Q The ATM card?

3 A That's all.

4 Q Okay. I don't know. This is State's 41, but what's,
5 what do we see in that picture?

6 A It's in the side of my closet.

7 Q Okay. Was anything taken from there?

8 A No.

9 Q State's 43?

10 A That is a cassette that's in my back bedroom.

11 Q Okay. Was that one of the, where one of the TV's
12 was?

13 A Yeah. The TV was sitting on the black, (phonetic).

14 Q It was sitting on the black, (phonetic).

15 A Uh-huh.

16 Q Okay. So what bedroom is this in?

17 A That's the bedroom in the back.

18 Q Okay. And there was a TV in there that was taken?

19 A Yes.

20 Q State's 44?

21 A That is in the bedroom coming up the hallway. One of
22 the bedrooms --

23 Q Okay.

24 A -- and a TV was taken from there.

25 Q There was a TV on top of that one, too?

- 1 A Yes.
- 2 Q State's 38?
- 3 A No. The TV in my bedroom was taken.
- 4 Q Okay. Where was that?
- 5 A It was on that shelf right where the jewelry was.
- 6 Q Okay. I thought that was, it's not in that picture
- 7 there?
- 8 A No. This is my bedroom, part of my bedroom.
- 9 Q How many TV's did you have in the house?
- 10 A Five.
- 11 Q How many were taken?
- 12 A All except one. I take it back. Four was taken.
- 13 Q Tell me, well, I think you told me. Why did you have
- 14 so many TV's in the house?
- 15 A Because when our grandchildren come home, they always
- 16 be arguing about different stations, so their granddaddy
- 17 went out and bought a television for each room in the
- 18 house, so they wouldn't be having to argue over TV's.
- 19 Q Okay. So Charles would spoil the grandkids is what
- 20 you're saying?
- 21 A Yes.
- 22 Q That's State's 37. Can you see where the TV was
- 23 taken from that picture?
- 24 A No.
- 25 Q So four TV's were taken is kind of the gist of it. I

1 don't want to leave anything out. You said that you could
2 hear him going from room to room; is that what you said?

3 A Yes.

4 Q Okay. And where are you, all right. You've already
5 been to the ATM and come back?

6 A Right.

7 Q And y'all were in the Ford pickup during that time?

8 A Yes.

9 Q How did you get back in the house once he arrived
10 back at the house?

11 A He drug me in the house.

12 Q He drug you?

13 A Uh-huh.

14 Q The same way with under the arms?

15 A Yes.

16 Q And did you say, I can't remember if I asked you.
17 Did you say how long you think y'all were driving around
18 or do you know?

19 A I really, I lost track of time.

20 Q Okay. Once you, once he drug you back inside the
21 house, where did you, where did he put you?

22 A On the couch.

23 Q On the couch again?

24 A Yes.

25 Q Did you still have the pillowcase in your hand?

1 A Yes.

2 Q And is this where the tape comes in, the duct tape?

3 A Yes. Because I had taken the pillowcase off my head
4 when I thought he was gone.

5 Q All right. Well, tell me where was the tape put on
6 you?

7 A It was my hands, my arms like this, and my ankles and
8 across like that.

9 Q Did you still have the phone cords around your wrists
10 and ankles?

11 A Yes.

12 Q He just put duct tape over the top?

13 A Yes.

14 Q You could hear him going through the house. How long
15 do you think that lasted?

16 A It didn't take him about estimated, about 30 minutes
17 and was, after that, I lost completely time.

18 Q Okay. Was he talking during the time he was going
19 through the house?

20 A No.

21 Q All right. Now, you lost track of time. Well, tell
22 me what was the next thing you remember?

23 A The next thing I remember, he came back in. Pushed
24 my head back down and tries to put a pillow on top and he
25 continued, he had brought someone back in the house. He

1 said, I want you to sit in this chair. You watch her. Do
2 not touch her. Please do not touch her. And he turned
3 around and left. I laid there. I heard the car when it
4 went down the driveway and it went up the road. I just
5 laid there to hear did I feel or hear anybody breathing.
6 I just didn't hear nobody breathing. So I took the
7 pillowcase, turned it around where I could see out. I
8 didn't see nobody in the chair.

9 Q Okay. So I can't repeat what you say --

10 A Right.

11 Q -- so could you just, I want to make sure I'm clear.
12 Tell me, he was talking to who?

13 A He pretend he was talking to somebody.

14 Q He pretended?

15 A He pretended, yes.

16 Q You couldn't see, though?

17 A No.

18 Q Okay. Did you believe at the time there was somebody
19 else in there?

20 A No. I did not believe, because I didn't hear but one
21 set of steps.

22 Q Okay. And he told the imaginary person what?

23 A To sit down and watch me. Do not touch me. Just
24 watch her --

25 Q Okay.

- 1 A -- until I get back.
- 2 Q Okay. And so what effect did that have on you? Did
- 3 that make you lay there a little bit longer?
- 4 A It made me lay there a little bit longer to make sure
- 5 he was gone, and then I didn't hear nobody breathing or
- 6 nobody, any signs is when I took the pillowcase off of my
- 7 head. And with the grace of God, I was able to pull my
- 8 right hand out of the tape. I went outside, sit on the
- 9 steps hollering help and taking the tape off of my legs.
- 10 Q Okay. Let me show you State's number 22.
- 11 A That's where I was sitting down on the step.
- 12 Q Is that your front porch?
- 13 A That's my front porch.
- 14 Q And you said you pulled the tape off your ankles?
- 15 A Legs. It was wrapped around my ankles and halfway my
- 16 leg.
- 17 Q Okay. And once you got it off your ankles, what did
- 18 you do?
- 19 A I ran across to Kathy's house.
- 20 Q Kathy Tapia?
- 21 A Yes.
- 22 Q Okay. Tell me what, what were you feeling at that
- 23 point when you were running across the road?
- 24 A I was scared. I don't know what I'm thinking. All I
- 25 was focused on trying to get to Kathy for help. I didn't

1 have no imagination.

2 Q Okay. What happened when you got to Kathy's house?

3 A When I knocked and she asked, who is it. I had to
4 repeat my name and once I repeated my name, she opened the
5 door, and I fell in her arms.

6 Q Okay. And I want to show you, this is State's 17. I
7 know you don't like to see those, but what is that?

8 A That is me laying on Kathy's couch.

9 Q Okay. And what is that around your left wrist?

10 A That's the tape that he had put on me. They
11 couldn't, I just could get my hand out of it.

12 Q Okay. So you pulled your right arm out?

13 A Right.

14 Q And this is just 18. What is that?

15 A I really don't recall. This is where I'm still
16 laying on Kathy's couch.

17 Q Okay. And this is State's 20. Can you tell what the
18 police are taking pictures of there?

19 A That's of my legs where the tape was, and I was able
20 to take the tape off my legs.

21 Q Okay. Did it leave any marks?

22 A Yes. You can see some of the ridges more on my left
23 leg.

24 Q Okay. Ms. Wicker, would you mind just pointing to
25 the jury where the marks are on there?

- 1 A These are the marks here and here.
- 2 Q Okay. So it was the lower ankle is kind of where he
- 3 had it tied together?
- 4 A Yes. But with your ankle, bone was together..
- 5 Q Okay.
- 6 A And then he wrapped my legs up.
- 7 Q Do you remember the police getting there?
- 8 A Yes. I remember them getting there and the EMS, but
- 9 I was like going in and out.
- 10 Q Okay. You mean, why were you going in and out?
- 11 A I guess, I was just so scared, so frightened until
- 12 when I got to a place where I could be halfway
- 13 comfortable, I was safe then. So I was like, okay, Lord,
- 14 here I am. And I'll answer the questions they asked me.
- 15 Q Tell me more about the kick, when he kicked you in
- 16 the chest. Tell me about that?
- 17 A Well, when he lunged up, he stretched his legs out
- 18 and that kicked me up against the rail.
- 19 Q And how did, what happened with that injury?
- 20 A Well, later I found out, I was in such pain. When
- 21 the EMS carry me to the emergency room, I found out that
- 22 my collarbone was broken.
- 23 Q Okay. You broke your collarbone?
- 24 A Yeah.
- 25 Q And, well, how was that feeling while you were in the

1 floorboard of that pickup?

2 A Oh, it was hurt. It was hurting so bad.

3 Q Did you tell the guy, the suspect?

4 A No. I was scared to tell him.

5 Q You were too scared to tell him?

6 A All I wanted to do is be safe.

7 THE COURT: Solicitor, when you get to a good
8 stopping point, let's take a little break. Just whenever
9 you feel like you are at a good stopping point.

10 MR. SCOTT: Okay. We can take one now, Your Honor.
11 I don't have a lot left.

12 THE COURT: That's fine. Let's go ahead, ladies and
13 gentlemen, let's take about a ten-minute break, and I
14 remind you once again, don't begin any discussions about
15 this case and we'll get you back out shortly.

16 MR. VERNER: Your Honor, I'd just ask if you'd
17 admonish the witness.

18 THE COURT: Right. I will. Ladies and gentlemen,
19 you can go back to the jury room.

20 (Whereupon, the jury was excused from open court for
21 a break.)

22 THE COURT: Ms. Wicker, I remind you, don't talk to
23 anybody about your testimony, you can certainly talk about
24 the weather or anything else. But just don't talk about
25 your testimony in the case. Okay.

1 MS. WICKER: Yes, sir.

2 THE COURT: Thank you. We will be in recess for
3 about ten minutes.

4 (Whereupon, a short break was taken.)

5 THE COURT: Dale, y'all have agreed on the exhibits
6 except for three, all other exhibits are agreed to go into
7 evidence.

8 MR. SCOTT: Yes, sir. I know it is 7, 58 and 59.

9 THE COURT: 1 through 60 except those three.

10 MR. SCOTT: That's right.

11 MR. DANIEL: 1 through 60 are premarked and
12 everything except 7, 58 and 59 are agreed to.

13 (Whereupon, State's Exhibits 1 through 6; 8 through
14 57 and 60 were admitted into evidence.)

15 THE COURT: Ms. Wicker, come back up to the witness
16 stand, please. Let's bring the jury out, Madam Bailiff.

17 (Whereupon, the jury came into open court at
18 approximately 12:00 p.m.)

19 THE COURT: Let the record reflect the jury is back
20 in the courtroom. Solicitor, you may proceed.

21 CONTINUE DIRECT EXAMINATION

22 By Mr. Scott:

23 Q Ms. Wicker, let me show you State's number 6. Do you
24 recognize the vehicle in this picture?

25 A Yes.

1 Q Which vehicle is that?

2 A Mine's.

3 Q Okay. Is that the F150?

4 A Yes.

5 MR. SCOTT: Do you have two pages on there, Walter?

6 Q Okay. So the vehicle in the picture on State's 6 at
7 Palmetto Citizens is the F150 you've been describing?

8 A Yes.

9 Q All right. Now, you've talked about your broken, did
10 you have any other injuries? You had a fractured
11 collarbone. Any other injuries?

12 A Oh, I had redness on my neck and the fingerprint of
13 the glove on my face --

14 Q Okay.

15 A -- and everything was sore.

16 Q Okay. Did they take you by ambulance that night to
17 the doctor?

18 A Yes.

19 Q Okay. From Kathy's house?

20 A Yes.

21 Q All right. Did you go speak with the Sheriff's
22 Department that night?

23 A No, the next day.

24 Q Okay. Did you go to the Sheriff's Department or did
25 they come to you?

1 A After the incident, the next morning, I went to the
2 Sheriff's Department.

3 Q Okay. And what did you do, just tell them what
4 happened to you that night?

5 A We talked, you know, generally mentions like what
6 happened to me and how I was getting along. And they were
7 able to get me my ring, one, two of my rings back.

8 Q Okay. Were you able to describe the person who
9 attacked you?

10 A I told him that he was around about five feet, you
11 know, five-two inches. I wasn't sure, but he was
12 brown-skinned, I could tell by his forearms, and he had
13 dreadlocks.

14 Q Okay. And did you tell the officers what, some of
15 the things he said to you while he was in your house?

16 A Well, when he in my house, he told me, number one
17 was, if I wanted to live, to see my mother the next
18 morning, he will hurt me, if I didn't turn him loose.
19 Even two, he even told me his mother didn't want him,
20 throwed away. And, number three, he told me that, I am a
21 man of my word. So when he told me he put his, my rings
22 back, he said, I am a man of my word. And that's when I
23 told him about God and he told me to shut up, shut up,
24 shut up.

25 Q All right. Tell me why was, why do those comments

1 stand out to you? Why was it interesting to you?

2 A They stand out to me because of the fact yeah, they
3 were other young men's in the neighborhood and they knew
4 my husband had passed, but they was too young or either
5 they were too old. So that left this person in their
6 twenties or twenty-five or thirty, so I know it had to be
7 a young person.

8 Q Okay. Wait a minute. So why did you think it was
9 somebody from your neighborhood?

10 A Because nobody else would know the details about my
11 mother's living there and she's a hundred years old and my
12 husband had died two years before that and year before
13 that.

14 Q Okay..

15 A Nobody on the outside would know all of that.

16 Q Okay. So what you're saying, you thought it was
17 somebody from the neighborhood just because they knew
18 about your husband --

19 A Uh-huh.

20 Q -- passing recently --

21 A Uh-huh.

22 Q -- and your mother?

23 A Yes.

24 Q Okay. And did you tell the police officers about
25 that?

1 A Yes.

2 Q Okay. Did you know, did you know Anthony Wise's name
3 at the time?

4 A No.

5 Q Okay. But did you, were you familiar with him?

6 A I was familiar with him. A week before this
7 happened, he was walking down the road.

8 Q The week before this happened?

9 A Yes.

10 Q Okay. Where was, and where were you standing when he
11 was walking down the road?

12 A I was in my yard and Kathy is in her yard. We was
13 talking to each other.

14 Q Okay. All right. Again, we're talking about Kathy
15 Tapia?

16 A Yes.

17 Q She was in her yard; you were in yours?

18 A Yes. Our general thing is hollering at each other
19 across the road.

20 Q Okay. So what you're saying, were you standing out
21 by the road?

22 A Yes, sir. I was standing on the edge of the road.

23 Q On the edge of the road in your yard?

24 A On my yard and she was standing in her yard on the
25 edge.

1 Q Okay. So y'all, she's in her yard across the street
2 or beside the road and you're in your yard --

3 A Yes.

4 Q -- by the road and y'all are just talking back and
5 forth?

6 A Talking back and forth.

7 Q And what, did he walk in between you guys?

8 A Yes.

9 Q Well, how did he look? Describe him on that day, the
10 week before this happened?

11 A Well, that day his dreads, as far as I can remember,
12 the dreadlocks were loose, hanging down with a tint on the
13 ends of the tips.

14 Q A tint on the ends?

15 A You know, a color.

16 Q Okay.

17 A And now I'm trying to remember the color, because I
18 know it was a different color, this is just on his tips.

19 Q Did he talk with you guys when he walked by?

20 A No. No.

21 Q Okay. Did you get a good look at him and his hair
22 when he walked by?

23 A Yes.

24 Q Okay.

25 A Yes.

1 Q Well, do you recognize Anthony Wise in this courtroom
2 today?

3 MR. VERNER: Your Honor, I'd object.

4 THE COURT: Okay. Let me see the lawyers for just a
5 second.

6 (Whereupon, a bench conference was held in the
7 presence of the jury but out of the hearing of the
8 jury.)

9 Q Okay. I'm going to rephrase the question, Ms.
10 Wicker. The day in question, we're talking about Kathy's
11 in her yard, you're in your yard --

12 A Uh-huh.

13 Q -- and the male with the dreadlocks with tips walks
14 by.

15 A Uh-huh.

16 Q You didn't know that boy's name, young man's name at
17 the time, did you?

18 A No, I didn't.

19 Q Okay. But had you seen him around before?

20 A Yes.

21 Q Okay. That person who walked by with the dreadlocks
22 with the tips --

23 A Uh-huh.

24 Q -- do you recognize him in this courtroom today?

25 A Yes, I do.

1 Q Where is he?

2 A He's sitting to, over there.

3 Q Can you point to him, please, if you don't mind?

4 A (Witness complies.)

5 MR. VERNER: Stand up.

6 THE COURT: All right. Let the record reflect she
7 has pointed at the Defendant.

8 Q Now, and, Mrs. Wicker, he's changed his look a little
9 bit from that day?

10 A Oh, yes.

11 Q Okay. How does he look different from the day he
12 walked in between you and Kathy?

13 A Today, he is dressed well. His hair is cut. But the
14 day he walked between Kathy and myself, his dreads are
15 long. Now, they cut. Matter of fact, the back was
16 extra-long like almost to his waist.

17 Q Okay. Do you remember or know Investigator Dickert?

18 A Yes.

19 Q Do you remember the day that he came to your house
20 after this happened at some point?

21 A Yes.

22 Q Okay. And what was he there to talk about that day?

23 A They came by to tell me that he was in custody, they
24 got a man or a person of interest, and also they played
25 this tape to let me hear --

1 Q Okay.

2 A -- and from the tape, it was his voice. I could
3 remember his voice.

4 Q He played a tape --

5 A Yes.

6 Q -- of interviewing somebody?

7 A Pardon me?

8 Q He played a tape of an interview he had with
9 somebody?

10 A Yes.

11 Q And tell me you recognized what?

12 A The voice.

13 Q Of the person he was talking to?

14 A Of the person, yeah.

15 Q You recognized that voice as what?

16 A As the person of interest.

17 Q Okay. All right. So, I guess, I am not, the voice
18 on that recording he played for you --

19 A Is the same voice that I heard yesterday when he was
20 in the court.

21 Q Okay. Well, what about do you remember, do you
22 remember what the voice sounded like of the man wearing
23 the mask?

24 A Yes. Yes.

25 Q Okay. Tell me how that compared to the voice he

1 played on the cassette?

2 A The voice that he played on cassette and the way he
3 was answering the questions, I knew then it was him --

4 Q All right.

5 A -- and by his voice, the sound of his voice.

6 Q How certain were you?

7 A I was one-hundred percent.

8 Q One-hundred percent?

9 A Yes.

10 Q And tell, I'm about to be done, but tell me, I've
11 visited your home --

12 A Uh-huh.

13 Q -- with you, haven't I?

14 A Yes.

15 Q Tell me what, what's on your front porch now?

16 A The chairs.

17 Q Chairs?

18 A Yes, sir. Chairs.

19 Q Well, you got a certain, you got a camera on your
20 front porch now, don't you?

21 A Yes. I have cameras all the way around my house now.

22 Q Do you have one in the back, too?

23 A I have one in the back, too.

24 Q All right.

25 A Matter of fact, I have four.

1 Q Four cameras?

2 A Yes.

3 Q And how much did that, well, you did that after this
4 occurred?

5 A Yes, I did.

6 Q Okay. And you were kind of talking about Kathy and
7 y'all have a signal.

8 A Uh-huh.

9 Q Tell us how that works again. When your lights on,
10 tell me about your lights?

11 A When the lights on after 9:00 o'clock, she know I'm
12 doing well. If my lights is off after 9:00 o'clock,
13 she'll call and ask is everything all right.

14 Q And your signal to Kathy that everything is okay is
15 9:00 o'clock comes, you flip on the light?

16 A Yes.

17 Q And you leave it burning all night?

18 A Yes, I do.

19 Q Okay. These are things you've done since this
20 incident?

21 A Yes. I have four cameras and now, I keep my lights
22 on all the time on the outside. I have not been able,
23 comfortable to go in my backyard yet.

24 Q You don't go to the backdoor anymore?

25 A The only time I go to the backdoor when I drive my

1 car around to put my mother in it and come back and get in
2 the car.

3 Q Okay. Because the ramp is the way she gets in the
4 house?

5 A Yes.

6 Q But other than that, you just use the front door?

7 A I use the front door when my car is parked and walk
8 in the front door.

9 Q Okay. Well, tell me, you mentioned grandchildren.
10 How many children do you have?

11 A I have three children, seven grands, and one
12 great-grand.

13 Q Okay. But the children live in different states,
14 though?

15 A Yes. And my son and his family is in New Mexico. My
16 oldest daughter and her family is in Charlotte, and the
17 baby girl, her and her family in Raleigh.

18 Q Okay. All right. This is State's 13. Ms. Wicker,
19 do you recognize that?

20 A Yes. This is my Cadillac.

21 Q Okay. That is the Cadillac that was taken that
22 night?

23 A Pardon me?

24 Q Is that the Cadillac that was taken from your home?

25 A Yes.

1 Q Can you tell where it is in that picture?

2 A I couldn't, no.

3 Q You don't know?

4 A Uh-uh.

5 Q State's 14, can you tell what that is in the back?

6 A My TV's.

7 Q Okay. And State's 15?

8 A My TV.

9 Q Okay. Here's State's 16.

10 A TV.

11 MR. SCOTT: All right. Thank you, Ms. Wicker.

12 Please answer any questions Mr. Verner has.

13 THE COURT: Okay. Mr. Verner, you have any
14 cross-examination?

15 CROSS-EXAMINATION

16 By Mr. Verner:

17 Q Ms. Wicker, if you don't mind I am going to ask you
18 questions from over, on the side of the jury to make sure
19 we can all hear you clearly.

20 A Okay.

21 Q I understand that have you, has anything like this
22 ever happened to you before?

23 A No.

24 Q Once in a lifetime?

25 A Once in a lifetime.

1 Q And it's very traumatic event.

2 A Yes.

3 Q And when the, the following day when the Sheriff's
4 Department said that they had somebody in jail for this, I
5 assume, I would and I assume you felt relieved that both
6 of these--

7 A They did not tell me the next day.

8 Q Okay.

9 A It was on Friday when they told me.

10 Q Okay. So two days later?

11 A Two days later.

12 Q But, however later it was, I will feel relieved that
13 the person who did this was in jail --

14 A Yes.

15 Q -- both for myself and for the community.

16 A For the community, yes.

17 Q And I would assume that law enforcement expressed to
18 you they felt that they had the proper, the right person
19 charged with it?

20 A Yes.

21 Q Okay. And you agree with that?

22 A Yes.

23 Q Okay. You wouldn't want the wrong person to be
24 implicated --

25 A No.

- 1 Q -- for this?
- 2 A No.
- 3 Q And I just want to make sure I've got a clear
4 understanding. When you came home from Clinton --
- 5 A Yes.
- 6 Q -- you kind of parked not in the driveway but in the
7 backyard near your truck?
- 8 A In the backyard near the truck, yes.
- 9 Q And then when, did the man open the truck door when
10 you got near it or you opened the door?
- 11 A I opened the truck door.
- 12 Q Okay. And it doesn't really matter, but I'm just
13 kind of curious. Do you think he struck you out of, did
14 you startle him and he struck you or did you, do you think
15 that it was more of a kind of jumping-type situation?
- 16 A He was jumping out, and I was startled.
- 17 Q Okay. But it wasn't a situation where somebody was
18 just in the back of your truck and you startled him, and
19 then he lashed out at you?
- 20 A No.
- 21 Q Okay. And it was still daylight when you came home?
- 22 A Yes.
- 23 Q Okay. Which door did the man come out of the truck
24 of the drive --
- 25 A The backdoor on the driver's side.

1 Q Okay. So these are pickup trucks that have two --

2 A Yes.

3 Q -- doors?

4 A Yes.

5 Q Okay. Now, tell me again, and he came, as soon as he
6 kicked you, he came immediately out of the truck towards
7 you?

8 A Yes.

9 Q Okay. How tall are you, ma'am?

10 A I'm five-three.

11 Q Five-three?

12 A Yes.

13 Q Okay. And you testified that you thought the man was
14 about five foot, five-two, is that right?

15 A Yes.

16 Q So he would have been about your same height?

17 A Yes.

18 Q Okay. And can you remember, testify how much you
19 remember him wearing?

20 A I remember seeing him near his back and--

21 Q No. I'm asking about the day that you were attacked
22 by the man --

23 A Oh.

24 Q -- what was he wearing?

25 A Oh, he was wearing a black hoodie, red shirt, and

- 1 black pants.
- 2 Q Okay. A black hoodie?
- 3 A A black hoodie.
- 4 Q Okay. Was that, I assume that's like an oversized
- 5 sweatshirt with the hood that goes over your neck?
- 6 A Yes.
- 7 Q Was it long-sleeve or short-sleeve?
- 8 A I really couldn't tell, but I did see the forearms.
- 9 I don't know if he pushed them up or if it was short.
- 10 Q Do you remember if the man had tattoos?
- 11 A No.
- 12 Q You don't remember or he did not have tattoos?
- 13 A I don't remember about no tattoos.
- 14 Q Okay. But it was clear enough looking at his arms
- 15 where you could tell he was a black man?
- 16 A Yes.
- 17 Q A dark-skinned black man or light-skinned, or do you
- 18 remember?
- 19 A Brown-skinned.
- 20 Q Okay. Did he have the hood over his head?
- 21 A Over his head.
- 22 Q Okay. Well, where were, were the dreads coming out?
- 23 A Coming out from under the hood.
- 24 Q On the sides?
- 25 A On the sides. Yes.

1 Q So they were loose?

2 A They were loose.

3 Q The whole time that you saw the man, did he ever have
4 the hoodie where he pulled the hoodie back or while he was
5 fighting with you?

6 A No.

7 Q So the whole time you were dealing with the man, the
8 hoodie's pulled over the head?

9 A Yes.

10 Q But there are dreadlocks?

11 A Yes.

12 Q Okay. My concern is has the State shown you a
13 photograph of Anthony Wise after he was arrested?

14 A I don't remember.

15 Q But they never show you after he got arrested a
16 booking photograph or what, when do you, do you recall
17 ever meeting with the prosecutors or the, you remember
18 Investigator Dickert came to your house?

19 A Yes.

20 Q And do you remember him showing you pictures of the
21 man they had arrested?

22 A I don't remember.

23 Q Okay. But prior to this, your testimony in this
24 trial, did the State kind of at least familiarize yourself
25 with generally asking you what happened and preparing for

1 this trial?

2 A Yes.

3 Q Did they show you some of the photographs and
4 exhibits and kind of let you walk through it with them,
5 what was what in the photographs. And did they share the
6 photographs with you prior to your testimony today?

7 A One. I can remember one.

8 Q Was it a picture of Anthony Wise?

9 A Yes.

10 Q Okay. Was it his booking picture?

11 A I don't know whether it was his booking picture or
12 not. I just know I was showed a picture.

13 Q Okay.

14 MR. VERNER: May I approach, Your Honor?

15 THE COURT: You sure can.

16 Q Ms. Wise, I mean, I'm sorry. Ms. Wicker, is this the
17 photograph that they shared with you?

18 A No. It's one like his whole body.

19 Q Here?

20 A Okay. Yeah. That one up there.

21 Q You've never seen this photograph prior to me --

22 A No.

23 Q -- showing it to you?

24 A No.

25 Q Okay.

1 MR. SCOTT: What photograph was that you just
2 referred to, Mr. Verner?

3 MR. VERNER: Number 5.

4 MR. SCOTT: Number 5. Okay.

5 MR. VERNER: Which would be the booking photograph.
6 I beg the Court's indulgence.

7 THE COURT: Sure. Take your time.

8 MR. VERNER: Okay. I'm going to approach, Your
9 Honor, with 52 and 53.

10 Q Ms. Wicker, are these, are you familiar with these
11 photographs?

12 A I agree with this one.

13 Q Okay. Have you seen any of these other photographs?

14 A I don't remember seeing nothing but that one and that
15 one.

16 Q It's fair to say that at the time that you gave your
17 description of the man who attacked you up until possibly
18 this week, you never told anybody that the man had
19 highlighted dreadlocks, did you?

20 A Repeat that again, please.

21 Q It wasn't until after you were shown the photographs
22 of Anthony Wise, at the time these officers on September
23 the 21st of 2016, you never told anybody that the man had
24 highlights in his dreadlocks, did you?

25 A No.

1 Q Okay. And, in fact, you've been shown photographs of
2 Anthony Wise recently?

3 A Yes.

4 Q And it's not until that time that you indicated that
5 the man who attacked you had highlights in his dreadlocks?

6 A No, earlier. Everything was, like I told them, I
7 remembered seeing dreadlocks, but I couldn't tell, but I
8 remember the color.

9 Q I understand. And I think you testified when you saw
10 the man, when you saw Anthony Wise walking in your
11 neighborhood, you indicated that he had the highlights in
12 his dreadlocks?

13 A Right.

14 Q But when you were describing the man that attacked
15 you, you've never told anybody until today or this week
16 that the man who attacked you had highlights in his
17 dreadlocks?

18 A All I told them was dreadlocks.

19 Q Right. And is it possible, my concern is that they,
20 if you've seen photographs of Anthony Wise and he has
21 highlights, that might affect your memory of what the man
22 looked like who attacked you on September the 21st?

23 A I know that I saw him a week before after the attack

24 --

25 Q Right.

1 A -- and he had dreadlocks and they was--

2 Q -- but it's fair to say that until this, until your
3 testimony and trial that you've never told anybody you
4 remember the man having highlights and dreadlocks?

5 A As far as I know.

6 Q Okay. But it's possible you may have, but you don't
7 remember?

8 A I don't remember.

9 Q And I thought you testified when Anthony Wise, you
10 saw him a week before?

11 A Uh-huh.

12 THE COURT: You need to verbally respond, ma'am.

13 THE COURT REPORTER: Is that a yes?

14 A Oh, yes. I'm sorry.

15 Q That's okay. They're not being, it's hard for her to
16 write down.

17 A Oh, yeah. I'm sorry.

18 Q That the man had, that Anthony had dreadlocks that
19 went down to his waist?

20 A I said almost. I said almost.

21 Q Okay. Is that consistent with your recollection of
22 how long his --

23 A A little bit longer.

24 Q Okay. So these will be shorter than you remember?

25 A I don't know.

- 1 Q Okay. How long have you lived on Green Meadows Road?
- 2 A Fourteen years.
- 3 Q Fourteen years. So, I guess, you're not from
- 4 Newberry originally, are you?
- 5 A No.
- 6 Q Okay. Did you, how long have you known Anthony
- 7 Wise's mama?
- 8 A I don't. I do not know his mother.
- 9 Q You don't know his mother?
- 10 A No.
- 11 Q For those thirteen years, were you kind of the whole
- 12 time was with Mr. Charlie?
- 13 A Yes.
- 14 Q And I'll call him, and maybe I'll just call, but Mr.
- 15 Wicker the whole time?
- 16 A Yes.
- 17 Q And when you moved here, you weren't familiar with
- 18 the neighbors in the area?
- 19 A Pardon me?
- 20 Q You were not familiar, you're not moving back to --
- 21 A Oh, no.
- 22 Q -- a neighborhood you're familiar with?
- 23 A No.
- 24 Q Did you work during those thirteen years?
- 25 A I worked the first two years.

1 Q Okay. And then were you a stay-at-home wife?

2 A Yes.

3 Q Okay. Did you have children about Anthony Wise's
4 age?

5 A No.

6 Q Okay. So he never would have been coming into your
7 yard --

8 A No.

9 Q -- growing up or playing?

10 A No.

11 Q Okay. So if Anthony, assuming he grew up in that
12 neighborhood, if he's twenty-four now, he would have been
13 about ten, give or take, when you moved into the
14 neighborhood?

15 A Probably. I don't know.

16 Q Assuming he's twenty-four now --

17 A Okay.

18 Q -- and you've lived there fourteen years?

19 A Sir, I don't know, really.

20 Q Okay. If he was in the neighborhood at the time you
21 moved in, he would have been about ten?

22 A Okay.

23 Q Right? Did you have regular contact with him as he
24 was growing up?

25 A No.

1 Q Do you know how far down the road he lived?

2 A No.

3 Q Okay. I believe you testified yesterday at kind of a
4 pretrial that most of the neighbors you recognize usually
5 are, you see them in their cars as they pass by?

6 A Yes.

7 Q Okay. And that's, a lot of them you might not know
8 well, but you kind of, you see their faces now and then
9 driving by and you kind of assume they must live in the
10 neighborhood, because I see them on a pretty regular
11 basis?

12 A Yes.

13 Q Is that kind of how you recognized Anthony?

14 A Yes.

15 Q You would see him now and then in the neighborhood
16 enough where he'd--

17 A -- yes.

18 Q So that's how you knew that Anthony or believed that
19 he lived in your neighborhood?

20 A Yes.

21 Q Okay. Do you recall him ever coming to visit you
22 socially at your home?

23 A No.

24 Q And, I believe, just to clarify. At one point, you
25 remember your husband talking about the kid who lives down

1 the street came over and picked some flowers for his mama?

2 A Yes.

3 Q And you believe that that was Anthony growing up?

4 A Yes.

5 Q Okay. But were you there?

6 A No.

7 Q Was that a regular occurrence or was that just kind
8 of a one-time thing that sticks in your mind?

9 A All of, one time.

10 Q Okay. So just, in fairness, did you know him by name
11 or his mama by name?

12 A No.

13 Q Have you ever visited their home?

14 A No.

15 Q Okay. Does he have any siblings or other family
16 members that you would have been acquainted with?

17 A No.

18 Q Had you ever had any kind of, walking by or riding
19 by, have you ever had any kind of conversation where you

20 --

21 A No.

22 Q Well, what about where you've seen him at a store or
23 any other place?

24 A No.

25 Q Okay. And I think you testified that you work at the

1 Whitten Center now?

2 A I used to.

3 Q Used to.

4 A I'm retired.

5 Q Were you working at the Whitten Center last year,
6 last September?

7 A No.

8 Q So you've been retired prior to this?

9 A Twelve years now.

10 Q Okay. You've got kind of a bigger yard? Is it a
11 fairly large yard?

12 A Yes.

13 Q Okay. Is it fair to say that you wouldn't be sitting
14 out in the front yard too often or would you be out a lot
15 working on your garden and stuff like that?

16 A No.

17 Q Okay. Okay. Do you know where Fox Briar Street is?

18 A No.

19 Q Okay. You're not aware of whether that's like a
20 block away from your or a short distance away from your
21 home?

22 A No.

23 Q Okay. So prior to this incident of you being
24 attacked by this man, you kind of remember Anthony Wise
25 walking by your house about a week prior?

1 A Yes.

2 Q Okay. Now, the man who attacked you, he had a black
3 hoodie sweatshirt with either short-sleeves or at least
4 sleeves pulled up?

5 A To correct you, that hood, black hood was a jacket.

6 Q Oh, it was a --

7 A It was more like a jacket. Not zip-up but--

8 Q -- okay. And that's how you were able to see the,
9 because that's kind of my question. If it was a hoodie,
10 they kind of come up to the neck. So as you remember it
11 now, it was a zip-up?

12 A Hoodies are made different ways.

13 Q Right.

14 A And this hoodie and all of his hair.

15 Q Okay. I'm just kind, when you said that the man had
16 a red shirt, I'm just curious whether when y'all are
17 struggling you kind of saw it underneath the shirt or you
18 saw it at the neck?

19 A No. The jacket came up one time.

20 Q Okay. And also my question was the red shirt part of
21 the jacket or that was definitely another shirt?

22 A Another shirt.

23 Q A shirt?

24 A Uh-huh.

25 Q Okay.

1 THE COURT REPORTER: Is that a yes?

2 A Yes.

3 Q All right. Do you remember the pants he had on?

4 A They a, whatever kind of pants he had on were loose
5 and they were kind of loose like that.

6 Q By loose you mean kind of like baggy pants?

7 A Yes.

8 Q Do you remember whether they're like sweatpants or
9 blue jeans or shorts or long pants?

10 A I would say they was more like sweatpants.

11 Q Do you remember anything distinct about the man's
12 shoes? Did he have brown shoes or tennis shoes or?

13 A I did not look down at his shoes.

14 Q Okay. And then you remember the man had gloves?

15 A Yes.

16 Q And then a white, are you sure it was like a hockey
17 mask or a ski-mask?

18 A No. It's a white hard mask, and it was smooth.

19 Q Smooth?

20 A Yes.

21 Q Was it kind of like a heavy plastic or was it kind of
22 like the Halloween masks like you --

23 A No, it's heavy plastic.

24 Q Okay. Could you see the man's mouth when he was
25 talking to you? Could you see his mouth moving behind the

1 slit?

2 A I was too busy fighting for my life --

3 Q Okay.

4 A -- to collect details.

5 Q And I think you told me earlier that most of the
6 conversation you had with the man was kind of in the
7 middle of the physical confrontation.

8 A Most of it.

9 Q Well, was it a conversational tone giving you
10 commands?

11 A No. It was a commanding.

12 Q It was kind of in a commanding voice?

13 A Yes.

14 Q And it was like, lady, stop it. Or you better stop,
15 type?

16 A It was very commanding like, you turn me loose or
17 else, I'll hurt you. And he had the hand, the hammer
18 drawn back.

19 Q Okay. The voice the man was using when you were
20 getting attacked, was in the middle of a struggle with you
21 and it was kind of in the, it was given in a way to give
22 you orders of what to do, stop it or you better do this.

23 A Yes.

24 Q It wasn't conversational?

25 A No.

1 Q Okay. And you had never spoken to Anthony Wise prior
2 to that day?

3 A No.

4 Q Okay. All right. At some point, I think you said
5 either he fell, I'm just clarifying. Either he fell
6 between the chairs or you fell between the chairs?

7 A I fell.

8 Q You fell?

9 A Yes.

10 Q And then you grabbed a hammer?

11 A Yes.

12 Q He took it from you?

13 A Yes.

14 Q And he said, and at that time, you had grabbed him in
15 his privates or his crotch area --

16 A Yes.

17 Q -- and he took the hammer and he said, you better let
18 go of me.

19 A Yes.

20 Q And then after that, you said he tied you up?

21 A Yes.

22 Q What did he do with the hammer?

23 A I don't remember what he did with the hammer.

24 Q I know you remember him threatening you with, you
25 with the hammer.

1 A Yes.

2 Q And tried to get him out of your house?

3 A Yes.

4 Q But, at any point after that, do you remember him
5 holding the hammer or threatening you with the hammer?

6 A No.

7 Q So the only time the man who attacked had the hammer
8 in his hand was when you tried to free yourself and get
9 away?

10 A Yes.

11 Q And you had grabbed him and tried to hit him with it
12 and he took it from you and said, you better let go.

13 A Yes.

14 Q And then I think you said he might have said
15 something like, I'll kill you or something like that. But
16 that's the only time he threatened you with the hammer?

17 A That's the only time he threatened me.

18 Q Okay. When you were in the car, did he threaten you
19 with the hammer?

20 A No.

21 Q Okay. When the man attacked you, the only thing he
22 threatened you with while he had the hammer was you better
23 let go of me or?

24 A Yes.

25 Q Okay. Did you ever find the hammer after this

1 attack?

2 A The deputies, they found the hammer.

3 Q Okay. It was at the house?

4 A Yes.

5 Q Okay. Okay. I believe the Solicitor testified there
6 were four TV's taken, but do you recall what TV's were
7 actually taken?

8 A There were four.

9 Q Okay. But you had five total?

10 A Yes.

11 Q Okay. When is the last time that the grandkids had
12 been over to watch those TV's?

13 A About two years ago now.

14 Q Okay. So did anybody else watch them on a regular
15 basis over those two years?

16 A No. No.

17 Q Okay. I'm assuming most of them were fairly small
18 portable TV's like you put on the chest of drawers in the
19 bedroom or?

20 A And one was very small. The other ones were medium.

21 Q Okay. Would anybody have been handling those TV's in
22 the last two years that you know of?

23 A Oh, my oldest granddaughter and maybe my daughter,
24 and my daughter.

25 Q So the regular visitors you would have is your oldest

1 daughter would still come?

2 A Yes.

3 Q Now, how often would she come?

4 A Whenever she want to. I can't tell you when. It's
5 different.

6 Q Was that more than one time a week or was it little
7 less time?

8 A It was more or less than that, several times a month
9 or something.

10 Q Okay. And she lives where?

11 A In Charlotte, North Carolina.

12 Q Okay. And when she lived in Charlotte to visit?

13 A Yeah.

14 Q Okay. But she would be the one who would come see
15 you the most often?

16 A Yes.

17 Q And it is possible that she may have, I assume when
18 she came over, occasionally, she would spend the night?

19 A Yes.

20 Q And so if anybody was watching those TV's it would be
21 your daughter?

22 A And my brother and his wife.

23 Q I assume your brother is the gentleman right here --

24 A Yes.

25 Q -- that would be keeping your mom every Wednesday

1 evening?

2 A He keep her on Wednesday. But right now, he have
3 just had surgery on his leg, so I have my mother all the
4 time.

5 Q Okay. But how often would he, and what's your
6 brother's first name just so we know?

7 A Lewis.

8 Q Okay. So Mr. Lewis would come see you about how
9 often?

10 A Every week.

11 Q Okay. So about once a week, he would come see you?

12 A Yes.

13 Q Was that on a Wednesday when you would take your mom
14 to him?

15 A And majority were Wednesdays, but he also come on the
16 weekends, too.

17 Q Okay.

18 A Him and his wife.

19 Q So it wouldn't be that uncommon to see him maybe once
20 a week to come visit you?

21 A Right.

22 Q Okay. And would he spend the night at your house?

23 A Yes.

24 Q Okay. Would he have used the same general bedroom?

25 A Yes.

1 Q Do you know what the, that during the course of the
2 investigation, do you remember if any of the investigators
3 ever took your fingerprints to try to eliminate your --

4 A No.

5 Q -- possible prints?

6 A No.

7 Q Okay. So if they found fingerprints and they wanted
8 to find out if they were yours or somebody else's, you
9 don't recall them ever taking yours as part of that
10 investigation?

11 A No.

12 Q Is it true that you told the investigators that you
13 were in the car you estimated about three hours?

14 A Estimated, I don't know the exact time, but I would
15 estimate two or three hours, in between there.

16 Q Okay. I want to, after the man ties you up and gets
17 you on the couch --

18 A Yes.

19 Q -- he puts the pillowcase over your head while you're
20 still on the couch?

21 A Yes.

22 Q And while you're still on the couch, that's when you
23 told him, I can't breathe --

24 A Okay.

25 Q -- and he cut open a --

- 1 A Hole.
- 2 Q -- mouth slit?
- 3 A Yes.
- 4 Q Okay. Could you see out of that slit?
- 5 A No.
- 6 Q And then I think you testified that y'all went, at
7 some point after that, he went to put you in the car?
- 8 A No. He put me in the back of the truck.
- 9 Q In the truck?
- 10 A Yes.
- 11 Q Okay. How long after the man first attacked you do
12 you think he was in the house until y'all got to the point
13 where he put you in the back of the pickup truck?
- 14 A I really couldn't tell exactly, I just, I was just
15 confused.
- 16 Q Right.
- 17 A But I know he did, I mean, long enough for him to go
18 outside, pick up my pocketbook and ran back in the house,
19 empty everything out on the table and took my cash money
20 and my ATM card.
- 21 Q Okay. Do you recall if it was before y'all left in
22 the pickup truck where the man ransacked your house or do
23 you?
- 24 A Well, he did it both times.
- 25 Q Okay. But both before you left the first time, and

1 then when you came back to the house?

2 A Yeah. Because he went down the hallway. I heard him
3 when he walked down the hallway and how I know what he
4 did, because he hit the TV against the wall. So he
5 brought one of the TV's up the hall.

6 Q This is the first time?

7 A It's the first time.

8 Q Okay.

9 A And so when he brought the TV up, that's when he
10 decide, he was going to go and go to ATM. He got into the
11 kitchen and he said, no, I better take you with me in case
12 you give me the wrong number.

13 Q Okay. But he had, there was enough time that had
14 passed that he had attacked you, tied you up --

15 A Yes.

16 Q -- begun to struggle with you, and then --

17 A Yes.

18 Q -- ransacked the house --

19 A Yes.

20 Q -- and then gone outside and got the purse and
21 brought it back up to?

22 A Yes.

23 Q Could that have been as long as about thirty minutes?

24 A Thirty minutes or longer. I really don't know.

25 Q It could have been an hour?

- 1 A It could have been. I don't know.
- 2 Q And you're pretty sure that you came home sometime
- 3 before 6 p.m.?
- 4 A Yes.
- 5 Q But not too much, if it was before 6 p.m., it would
- 6 have been no more than about fifteen minutes?
- 7 A No more than about fifteen minutes.
- 8 Q Okay. So in this case, the clock of the crime starts
- 9 at no earlier than about 5:45 that evening and,
- 10 realistically, about 6 p.m.?
- 11 A Between forty-five and six.
- 12 Q Okay. When he put you in the back of the truck --
- 13 A Uh-huh.
- 14 Q -- you had the, I don't have a pickup truck, but I
- 15 would assume there would be like a long bench seat in the
- 16 back of a truck like that or is that --
- 17 A He put me on the floor.
- 18 Q On the floorboard.
- 19 A Yeah.
- 20 Q Okay.
- 21 A Yes.
- 22 Q Wouldn't there have been a bench seat or would it
- 23 have been like two individual seats in the back with a
- 24 truck like that?
- 25 A No. It's a bench seat in the back.

1 Q Okay. But you were laying --

2 A On the floor.

3 Q -- on the floor. Was the radio on while he's driving
4 you?

5 A Yes.

6 Q Okay. Were you guys talking?

7 A No.

8 Q And I don't want to call you guys. The man who
9 attacked you rather.

10 A I said, I asked him one time to turn the radio down.

11 Q Well, do you remember what kind of music the man was
12 playing?

13 A It was the awfulest rap music I ever heard.

14 Q Okay. I assume you didn't have CD's in there, so it
15 was a radio station that he'd put on?

16 A It was a regular station he was using.

17 Q Okay. And when he put you in the car, his intent,
18 the man's intent was to go to ATM machine?

19 A That was his intent.

20 Q Okay. And did y'all go straight to an ATM machine
21 or?

22 A No.

23 Q Okay. How long did you drive in the back of the car
24 while the, before the man goes, I understand you're in the
25 back of the car and can't see, but do you remember just

1 the car stopping or hearing the sounds of the man driving
2 through an ATM?

3 A We didn't go to the ATM first.

4 Q But do you remember when the man did go to the ATM?

5 A Yes. And he stopped the truck and asked me again for
6 the ATM number --

7 Q Okay.

8 A -- PIN number, and he left from the truck. I thought
9 he walked, or what he did, walk away from the truck and he
10 came back and got in the truck and started driving again.

11 Q Okay. But you remember the man arriving at the ATM
12 --

13 A Yes.

14 Q -- because he said, you know, give me that number
15 again?

16 A Yes.

17 Q And, I believe, you answered me that you had been
18 riding around for some period of time before that even
19 happened?

20 A Yes.

21 Q Did you make any stops or was it just kind of --

22 A The first time he's just riding. I know we crossed a
23 railroad track twice, and we rode again. And then he
24 stopped. Then, I remember him driving, going down the
25 ramp of the Interstate and he was driving. Sometimes,

1 he'd pull to the side. Then, I could tell we were going
2 back up another ramp. And from there, he rode around
3 again and finally, he took me home.

4 Q Now, did you tell him which ATM machine to go to or
5 did he just find that out on his own?

6 A He found that out on his own.

7 Q He could look at the car, I guess, and see?

8 A Yes.

9 Q But you didn't have to say I usually go to this ATM
10 or?

11 A No.

12 Q Okay. So he made the choice on where --

13 A Yes.

14 Q -- to go? I assume your bank and your financial
15 institution information is on the credit card/the debit
16 card that he could look at it and see?

17 A Yes.

18 Q Okay. And do you recall, I understand that you're in
19 a lot of pain and you're, there's a lot going on. But do
20 you remember, did you ever lose consciousness while you
21 were in the back of the car?

22 A One time, I did.

23 Q Okay. Were you passed out or fainted?

24 A No. I was just numb.

25 Q Okay. So there was a period of time where you, when

1 you're numb in the back of the car?

2 A Yeah. I just blanked everything out.

3 Q Right. But were you still kind of semi-conscience?

4 A I was, because of the fact I could still hear where I
5 was going.

6 Q You zoned out for a period of time, but you could
7 still hear the radio, you can still hear driving and --

8 A Yes.

9 Q But my question is did you ever completely lose
10 consciousness?

11 A No.

12 Q Okay. Are you pretty sure of that?

13 A I'm positive.

14 Q And I understand time doesn't run at the same speed
15 when people are going through stress, but you could hear a
16 lot of the songs in the background playing, and you could
17 get at least some extent on how long you were in the car?

18 A No. I just know that he was playing rap music.

19 Q Okay. Now, tell me again when this man who attacked
20 you and put you in the pickup truck --

21 A Yes.

22 Q -- the first time.

23 A Yes.

24 Q And, I guess, and the only time, I guess. How long
25 do you think you were driving around with him before you

1 went to the ATM?

2 A I really don't know, because I had a pillowcase over
3 my head and I could not tell the time.

4 Q Could it have, could it have been as long as thirty
5 minutes?

6 A It could have been, but I'm not for sure.

7 Q All right. Could it have been as long as an hour?

8 A I don't know.

9 Q How far is your, to go to the Helena old Food Lion,
10 that's just straight down, right, from your house?

11 A It's straight.

12 Q Okay.

13 A But it's hard paved, it's a highway.

14 Q Okay. And if you were going, was that the ATM that
15 you usually use, is that --

16 A No.

17 Q Okay. Did you know that you had an ATM?

18 A I didn't know nothing about a ATM.

19 Q Okay. Was that ATM the same one that your bank was
20 or was that --

21 A No.

22 Q -- okay. So the ATM that you've seen photographs of
23 the man with you, that wasn't even the same --

24 A No.

25 Q -- but to get to that Food Lion, you would pretty

1 much be on 395 from your house and go straight to it?

2 A According to where he left. I can't be sure he went
3 to the Food Lion.

4 Q Well, I'm just asking if you were going to drive to
5 that ATM machine from your house on a normal day, is it
6 pretty much just a straight drive from 395?

7 A Yes.

8 Q Would it take much more than five or ten minutes to
9 get there?

10 A I don't know.

11 Q Okay. Do you know as the crow flies how many miles
12 away your house is from --

13 A No.

14 Q -- okay. If I was going to leave from this
15 courthouse to get to your home --

16 A Yes.

17 Q Yes, ma'am. Like how would you tell me? What would
18 be the best directions for me to get to your house. Would
19 I go down 395 on Nance Street or would I get on Wilson
20 Road?

21 A You would get, leaving here, leaving here you go to
22 Nance Street.

23 Q Okay.

24 A Got up to the light and you can turn to your left and
25 go down and turn back right on Glenn Street --

1 Q Okay.

2 A -- and I live on Glenn Street Extension.

3 Q Is that Mollohon, it's that part of town?

4 A I don't know.

5 Q In the Glenn Street Extension?

6 A Yes.

7 Q Okay. I believe when Investigator Dickert played you
8 the tape at your house --

9 A Yes.

10 Q -- that day or two later --

11 A Yes.

12 Q -- he didn't indicate to you that that's the man that
13 they had arrested?

14 A No. They just asked me if I hear the voice, would I
15 recognize it.

16 Q But you would assume that it was the one that they
17 were interviewing connected to this investigation. Did he
18 tell you it was Anthony Wise's voice?

19 A Not at first. Not then.

20 Q And it's fair to say that other than the time that
21 you were attacked by this man, you had never spoken to
22 Anthony Wise before?

23 A Never.

24 Q And you were hoping that the police would make an
25 arrest soon in this case, weren't you?

1 A I was praying.

2 Q It was important to you and it was important--

3 A -- right. More important to my mother.

4 Q Okay. And, I believe, you testified for Mr. Scott
5 that you thought that it might be Anthony Wise, because
6 the other men in your neighborhood were either too old or
7 too young --

8 A Yes.

9 Q -- and he was closest in age to the man who attacked
10 you?

11 A Yes.

12 Q Okay. Are you sure you were in the car for several
13 hours with the man when he put you into the truck?

14 A I can't say sure, but I know I was in there, I know I
15 was in there more than a hour.

16 Q Okay. And do you recall a day or two after this
17 incident happened speaking to Investigator Dickert that
18 you felt like you were in the car about three hours is
19 your estimate?

20 A I estimated about that, yes.

21 Q Is that still consistent with your best memory?

22 A To the best of my memory.

23 Q And then he brought you home?

24 A Yes.

25 Q And he brought you back inside and he put you back on

1 the couch?

2 A Yes.

3 Q And then how long was he in your house after he
4 brought you home?

5 A He was long enough to go through the other bedrooms
6 and take the TVs out and carry them out, put them in the
7 car. My bedroom was already, he had already kicked the
8 door, so he went and got the TV out and then put all the
9 TVs in the car.

10 Q Your bedroom, is it locked?

11 A It was locked --

12 Q Okay.

13 A -- but he kicked it open.

14 Q And so he re-ransacked the house?

15 A Yes.

16 Q He removed all the electric TVs?

17 A Yes.

18 Q Did he take any other electronic devices?

19 A No. He just cut the telephone cords.

20 Q Okay. To tie you up with?

21 A Yes.

22 Q What else do you recall the man stealing from you?

23 A Well, he stole the money out of my pocketbook.

24 Q Okay. And?

25 A And he also stole my character and invaded my

1 privacy.

2 Q Yes, ma'am. But, I mean, I understand this is a very
3 traumatic time for you, but just factually, what else was
4 taken from you?

5 A The only thing he took is the TVs --

6 Q Okay.

7 A -- and the car.

8 Q And the car --

9 A Yes.

10 Q -- and the cash?

11 A Yes.

12 Q And then he re-tied you up?

13 A Tape.

14 Q Well, he put tape on top of the --

15 A Yes.

16 Q Okay. And then he, what you believe was the ruse
17 where he had somebody else or pretended to have somebody
18 watch you while he --

19 A -- when he left the first time and the door chimed, I
20 thought he was gone. So I sit up and started taking the
21 pillowcase off my head, and he came back in and he said, I
22 know you didn't. And he pushed my head down and put the
23 pillow back on top of it and that's when he pretend that
24 he had someone else in the house with him.

25 Q Because he had seen you start trying to get up and --

1 A Yes.

2 Q -- I guess panic?

3 A Yes.

4 Q All right. How long do you think he was, after you
5 came back from the, when he put you in the pickup truck
6 the first time, you were in that truck the whole time
7 until he brought you home?

8 A Yes.

9 Q And you remember specifically when we went to the ATM
10 machine?

11 A Yes.

12 Q Do you remember making any, was it just a lot of
13 riding around?

14 A He went down a dirt road with gravel and when he got
15 to a certain point he made a left turn and that's when I
16 heard a lady's voice. And, I guess, he must have told her
17 to hush or something, give her a signal, because he
18 reached back and turned the radio up loud and whoever the
19 person was, then he got back in the truck, backed up and
20 turned around, and then he brought me home.

21 Q And, I believe, you testified that was after he
22 pulled off the Interstate. He'd been on the Interstate
23 for a little bit of time?

24 A Yes.

25 Q When he was talking to the woman, and I want to be

1 clear, did you listen to the conversation?

2 A I could not hear the, I heard her voice.

3 Q All right.

4 A It was a lady voice. But then they stopped and he
5 turned the radio up so I couldn't hear.

6 Q Okay. My question is are you confident saying it was
7 somebody he knew or could it have been somebody at like a
8 gas station, parking lot?

9 A I don't know. I don't know. All I know I went down
10 a dirt, gravel road.

11 Q Okay. It was somebody was parked to him that he was
12 speaking to or something --

13 A I don't know.

14 Q -- or a mom, a girlfriend?

15 A I don't know.

16 Q Okay. Or just somebody who --

17 A I don't know.

18 Q Okay. But that was after he got on the Interstate;
19 you're sure about that?

20 A After he got on, after he got the money, he went to
21 the Interstate, came back up the Interstate, then he went
22 down this gravel road.

23 Q Okay. I think you've answered. But that, that's my
24 point. When he met the woman either whether he knew her
25 or not --

1 A Right.

2 Q -- that was after y'all had been on the Interstate
3 for some --

4 A Yes.

5 Q Okay. Do you know how long you were roughly on the
6 Interstate?

7 A I don't. All I know is it had to be Interstate close
8 together, you know, like say 34 and 219. I'm just using
9 as an estimation of time that I was on the Interstate.

10 Q But could it have been as long as to go towards
11 Columbia?

12 A Yes.

13 Q Okay. I mean, it could have been about thirty
14 minutes and --

15 A I don't know the time. I lost track of time.

16 Q Yes, ma'am. Even if I was in the backseat, I could
17 still kind of hear the fast travel and tell I'm on the
18 Interstate.

19 A Yes.

20 Q And when you were on the Interstate, in your best
21 guess, and I understand you're estimating now, but it
22 could have been as long as the time, the time it would
23 take to get to Columbia?

24 A Not that far.

25 Q Okay. All right. Did the man go towards, do you

1 believe it was 26 that you were on?

2 A Yes.

3 Q That's probably the only Interstate --

4 A Yes.

5 Q -- that you could have been on?

6 A Yes.

7 Q And on 26, he's going towards Columbia or Laurens,
8 right?

9 A I don't know.

10 Q Okay. You're very confident you were on the
11 Interstate?

12 A Yes.

13 Q Whether you were heading towards Columbia or heading
14 towards Laurens County, you don't know?

15 A Yes.

16 Q But you, I think you testified you were on the
17 Interstate about thirty minutes?

18 A Possibly.

19 Q Okay. But not quite long enough where it would have
20 gone all the way to Columbia?

21 A No.

22 Q Or Laurens?

23 A No.

24 Q Okay. If somebody was on the Interstate coming from
25 Columbia, what exit would they use to get to your house?

1 A 219.

2 Q Okay. Exit 76 up there where--

3 A -- yes. Yes.

4 Q Okay. Now, I believe, when the Solicitor was asking
5 you questions, you testified, I remember you had some kind
6 of coloring, but I don't recall the color of the tints in
7 his hair?

8 A No. I was busy concentrating on how to get away from
9 him.

10 Q Okay. And how often, so after you fell on the, in
11 between the chairs and the man took the hammer out of your
12 hand and put you on the couch and tied you up--

13 A Uh-huh.

14 THE COURT: Verbally answer.

15 A Yes.

16 Q That's when he put the mask or the pillowcase over
17 your head?

18 A Yes.

19 Q Okay. Did y'all have any more conversations after he
20 had put the pillowcase over your head?

21 A I don't remember.

22 Q But it's possible he may have said something to you
23 short and sweet, but you weren't having a dialogue with
24 him as he was in your house?

25 A Oh, no. No dialogue.

1 Q Okay. And this, and I'm going to come to the end of
2 this. After the man brought you back to the house --

3 A Uh-huh.

4 Q -- how long before did he leave or go, did that, I
5 think you indicated he left briefly and came back in?

6 A Well, the last time he left, I would say I laid their
7 approximately twenty or twenty-five minutes to make sure
8 nobody was in the house.

9 Q Okay. So even after he left, you waited about twenty
10 minutes or more --

11 A Yes.

12 Q -- till, that he was completely gone?

13 A Yes.

14 Q But my question is when y'all got back from the
15 pickup truck from wherever he had taken you and you had
16 never left the back of the truck, how long was he in your
17 home before he left for good?

18 A Well, after he brought me back in the house.

19 Q Yes, ma'am; after you two came back.

20 A And put it on the, put me on the couch, he was there
21 long enough to get all TVs. I heard drawers, like he was
22 checking out drawers.

23 Q So he's ransacking your house?

24 A Yes. And after that, he left and, like I said, I
25 heard the chime on the door, I thought he had left, but he

1 was standing inside. When I pulled the pillowcase to
2 start pulling it off of my head, that's when he ran over
3 and pushed my head down. And then he told whoever, well,
4 he pretended to tell somebody to sit here in his chair, it
5 was a rocking chair. And don't say nothing, don't touch
6 her. I mean, don't touch her. I'll be back.

7 Q And that, he said that to intimidate you?

8 A Yes.

9 Q So when you're brought back, he could have been in
10 your house as long and was probably at least thirty
11 minutes in your home?

12 A Yes.

13 Q Could it have been more like an hour?

14 A No.

15 Q Okay. But sometime around thirty minutes or --

16 A Sometime close to it; yes.

17 Q -- before he left? And he's not talking with you or
18 apologizing, he's just ransacking your home?

19 A Right.

20 Q And then after he left, you waited probably another
21 twenty minutes?

22 A Twenty or twenty-five minutes. I'm not sure.

23 Q Okay. Because you didn't believe that there was
24 really somebody else with him, but you, at the same time,
25 didn't want to make a mistake?

- 1 A Yeah. I did hear one set of steps.
- 2 Q Okay.
- 3 A Then, I listened for someone breathing and after he
- 4 left.
- 5 Q And then at that point, Mrs. Wicker, you managed to
- 6 get your hand free?
- 7 A Yes.
- 8 Q And then you used that to get the rest of you free
- 9 or?
- 10 A Yes. But I went out on the doorsteps first.
- 11 Q Okay. How much of the ties had you gotten off of you
- 12 went you went out and sat on the porch?
- 13 A I couldn't get it off the left arm.
- 14 Q Okay.
- 15 A I crawled.
- 16 Q But your left arm was free from your right arm,
- 17 though?
- 18 A Right.
- 19 Q But it still had tape and stuff on it?
- 20 A Yes.
- 21 Q Okay.
- 22 A And I crawled to the front door and I scooted down to
- 23 the step.
- 24 Q All right. Because your legs were still bound at
- 25 that point?

1 A Yes. Yes.

2 Q Okay. And then you kind of shimmied down to the
3 bottom step?

4 A Yes.

5 Q Okay. So, at this point, you're still pretty much
6 bound? Your hands are free, but your legs are still
7 bound?

8 A Yes.

9 Q But you've got the mask off of your face, too,
10 correct?

11 A Yes.

12 Q And I believe you testified or you indicated that you
13 called for help for some period of time?

14 A I did and nobody heard me.

15 Q And so you made your way to your neighbor's house?

16 A Yes.

17 Q And you would have had to do that, I guess, with your
18 hand, legs still bound?

19 A No. I sit down and took all the tape off my legs.

20 Q Okay. So you had managed to get all the duct tape
21 and the ties off your legs at that point?

22 A Off my legs.

23 Q How long will you think you're sitting on the porch?
24 I assume you're working pretty diligently to get free?

25 A I felt like it was forever, but I didn't know the

1 time.

2 Q My guessing is if you were taking, while you were
3 calling for help, you were probably also pulling the
4 bandages off at about the same time?

5 A At the same, yes.

6 Q Okay. And it would have taken not very long to get
7 across the street and to your neighbor's house?

8 A No. I don't know where I ran, but I did run to my
9 neighbor's house.

10 Q But just long enough for you to get across the
11 street?

12 A Yes.

13 Q And she immediately called the police?

14 A Yes.

15 Q And that was about 10:30 at night?

16 A And really, I don't know the time.

17 Q But she is the one, and the police arrive very
18 quickly?

19 A Yes.

20 Q Okay. So the time frame, assuming the police logged
21 the call in at 10:34 p.m. --

22 A Uh-huh.

23 Q -- I understand you're not --

24 THE COURT REPORTER: Is that a yes?

25 A Yes.

1 Q Okay. I understand that you're having to rely on
2 their, but assuming the police clocked the call in at
3 10:34, how long had you been free do you think and outside
4 of the house after the man left before anyone called the
5 police?

6 A I don't know.

7 Q About thirty minutes or more?

8 A It's possible.

9 Q But is it possible it wasn't quite fifteen?

10 A Not thirty or more.

11 Q I'm sorry?

12 A It's not thirty or more, because it took me a good
13 while to get the tape off of my legs.

14 Q Do you think it took you as long as thirty minutes?

15 A No. It didn't take no thirty minutes, but it was
16 more than ten.

17 Q It certainly took you several minutes --

18 A Yes.

19 Q -- to get free?

20 A Yes.

21 Q And you would have had to get the extension cords off
22 of your legs, too, right?

23 A I got, yes.

24 Q All right. But it wouldn't have taken like more than
25 fifteen or twenty minutes to --

1 A I don't know.

2 MR. VERNER: Just one second, Your Honor. I think
3 I'm through.

4 THE COURT: That's fine. Take your time.

5 Q And, Ms. Wicker, do you have any knowledge of anybody
6 else being assaulted in your neighborhood recently?

7 A No.

8 Q Okay. And I know you've got some good neighbors who
9 live near you but it will be fair to say you don't know a
10 whole lot of the neighbors beyond just those one or two
11 who live next to you?

12 A Just the ones I see every day.

13 Q Okay. I've got a good friend who lives directly
14 across from me --

15 A Uh-huh.

16 Q -- and I might know the one or two neighbors. But
17 for the most part, you recognize a lot of people and kind
18 of familiar with the faces. But you don't, you're not
19 really involved in that neighborhood where you know a lot
20 of families?

21 A I have a relationship with Kathy and Lorenzo Brown.

22 MR. VERNER: I appreciate you answering my questions,
23 Ms. Wicker. Mr. Scott might have some follow-up.

24 THE COURT: Redirect, Solicitor?

25 REDIRECT EXAMINATION

1 By Mr. Scott:

2 Q And you might not have known everybody up and down
3 Green Meadows, but were you familiar with the other young
4 men who lived nearby, other young men who lived near your
5 house?

6 A No. And I see, there's teenagers above me and down
7 the road there is the other men that go down that way.
8 It's a man named Tracy Count.

9 Q Okay. Well, I guess, my question is have you seen
10 other young men riding up and down your street?

11 A I see young like teenagers riding their golf cart or
12 their four-wheeler.

13 Q Okay. When you were trying to explain this suspect
14 to law enforcement, did you think about any of those other
15 people?

16 A No.

17 Q Okay. Who was it that you kind of explained to them?

18 A I didn't know right at the time. I was just, giving
19 the description.

20 Q Okay.

21 A But I did think later on it's a possibility.

22 Q Okay. He was the one you thought of?

23 A Yes.

24 Q You didn't think about those other boys that ride
25 around in the golf cart?

1 A No.

2 Q And Mr. Verner was asking you about, you know, he was
3 using a commanding voice at times?

4 A Yes.

5 Q Certainly, when he was threatening you with a hammer?

6 A Yes.

7 Q And then when he tells you to shut up when you say
8 God will forgive him --

9 A Yes.

10 Q -- that was commanding?

11 A Yes.

12 Q What about was it a commanding voice when he was
13 telling you he wasn't going to take your husband's
14 belongings?

15 A No. It was just calm.

16 Q That was calm.

17 A That was a calm. He said he would just leave, was
18 going to put them back. He need \$500 to feed his
19 children.

20 Q Okay. He showed a little bit of sympathy --

21 A Yes, sir.

22 Q -- and during those times, he's not being as
23 commanding?

24 A No.

25 Q That's more of a conversational tone, I would say,

1 would you agree?

2 A I don't know, because I feel like, you know, you
3 taking my stuff and you telling me what you going to do
4 with it. I don't feel like that's a conversation.

5 Q Well, the point is were you able to compare the voice
6 of the person in your home that night to the voice on the
7 recorder?

8 A Yes.

9 Q Because it wasn't that he was yelling at you the
10 entire time --

11 A No.

12 Q -- and so you're trying to compare a yelling voice to
13 a conversational voice.

14 A Okay. It will be a conversational voice then,
15 because on the --

16 Q Okay.

17 A -- when he told me that he knew my husband had passed
18 and he knew my mother --

19 Q Okay.

20 A -- was in the house with me.

21 Q And so, I guess, the question is you weren't just
22 trying to pick somebody, I understand you were afraid that
23 somebody was on the loose, but you didn't want them just
24 to arrest any old person, did you?

25 A No, I didn't.

1 Q Did you listen to that cassette very carefully and
2 very thoughtfully?

3 A Yes, I did.

4 Q And when you described the description of, for the
5 officers, were you very thoughtful with that or you just
6 really never--

7 A -- no. I was thoughtful.

8 Q Okay.

9 A I took my time.

10 Q And then I just want to ask one last question. It's
11 about --

12 A Uh-huh.

13 Q -- with the hammer. When he raised it over his head
14 and threatened you with it --

15 A Uh-huh.

16 Q -- was that before he took your Cadillac?

17 A Yes.

18 Q Was that before he took the money out of your ATM?

19 A Yes.

20 Q Was that before he took all those TVs out of your
21 house?

22 A Yes.

23 Q And what effect did that have when he threatened you
24 with that hammer? What effect did that have on you?

25 A It had a bad effect, because the first thing I

1 thought about was my mother and my children.

2 Q Okay.

3 A How would they feel I'm in the house dead or be
4 unconscious for a long time.

5 Q Okay. Did it make you want to fight him for taking
6 that money? Did it make you want to fight back?

7 A No. After he threatened me, I just laid back.

8 Q You just said take it, take whatever you want?

9 A Take what you want.

10 MR. SCOTT: Thank you, Ms. Wicker.

11 THE COURT: Any re-cross, Mr. Verner?

12 MR. VERNER: No, Your Honor.

13 THE COURT: Okay. Thank you, ma'am. You can step
14 down. Okay. Ladies and gentlemen, it looks like it'll be
15 a good time to break for lunch and it's 1:15 now. Let's
16 be back at 2:45. A couple of things: One, if you plan to
17 go eat lunch at a local restaurant, be sure to keep your
18 juror sticker on. The reason for that is that there may
19 be, maybe some lawyers, maybe some of the family members
20 that might be at that same restaurant that may be talking
21 about this case. We don't want you to overhear anything
22 that they may say so, and they may not recognize you being
23 on the jury. So but if you have that sticker on, then
24 they'll know to not speak in a manner that you can
25 possibly overhear. Secondly, since you're getting an hour

1 and a half, if you feel like you need to take a little
2 nap, do that. I've noticed some of you are having a
3 little difficulty in staying alert. I realize it's
4 difficult just sitting here trying to focus and listen to
5 what's going on. But, as I told you at the beginning,
6 it's very, very important that you be clear-minded,
7 clear-headed, and attentive at all times. So if you feel
8 like you need a little nap, then, hopefully, I've given
9 you enough time to, to take that. Okay. I'm not making
10 any threats to you, but if I continue to see some of this
11 behavior of not being alert, closing your eyes and that
12 sort of thing, then I'll have to deal with it. Okay. All
13 right. Again, no discussion among yourselves or anybody
14 that you come into contact with about this case, and we'll
15 see you back at 2:45. Have a good lunch.

16 (Whereupon, the jury was excused from open court for
17 a lunch break.)

18 (Whereupon, a lunch break was taken.)

19 THE COURT: All right. Are we ready to bring the
20 jury out?

21 MR. SCOTT: Yes, sir.

22 MR. VERNER: Yes, sir.

23 THE COURT: Madam Bailiff, if you'll bring the jury
24 out, please?

25 (Whereupon, the jury came into open court at

1 approximately 2:55 p.m.)

2 THE COURT: All right. Let the record reflect the
3 jury is back in the courtroom. Solicitor, are you ready
4 to call your next witness?

5 MR. SCOTT: We are, Your Honor. The State calls
6 Kathy Tapia.

7 THE COURT: Okay.

8 KATHY TIPIA, being
9 first duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 By Mr. Daniel:

12 Q Ms. Tapia, are you married?

13 A Sir?

14 Q Are you married?

15 A Yes, sir.

16 Q Where do you live, Ms. Tapia?

17 A [REDACTED] in Newberry.

18 Q Okay. And you are friends of the victim, Benzena
19 Wicker?

20 A Yes ma'am, yes, sir.

21 Q And also next door neighbors?

22 A Yes, sir.

23 Q Actually, across the street?

24 A Yes, sir.

25 Q And, I guess, aside from being neighbors and friends,

1 do you know her really well? How long have you known her?

2 A I've known her since she moved in over there. We was
3 over there and, Mr. Charles, before she moved in, but as
4 soon as she moved in, we met. Me and Mr. Charles used to
5 sit on the porch crossed the road from each other and
6 holler back and forth. And I know Ms. Benzena very well.

7 Q And, Mr. Charles, Charles Wicker, her late husband?

8 A Yes, sir.

9 Q About when did they, did you, who moved in first,
10 first?

11 A We did.

12 Q You did?

13 A Yes, sir. We've been there almost 18 years now.

14 Q And, approximately, when did Benzena and Charles move
15 there?

16 A I think they've been there, they probably moved in
17 about three years after us, I think so, Mr. Charles moved
18 in. Yes, sir.

19 Q So you've known Benzena for about fifteen years?

20 A Yes, sir.

21 Q Are you familiar with Benzena's routine; what she
22 does?

23 A Yes, sir. Very much so. We both go to church on
24 Wednesday nights. I belong to First Baptist. I do teen
25 kids on Wednesdays. And so I leave at 5:30 every

1 Wednesday so I know her routine too. Yes, sir.

2 Q And who lives with, who currently lives with Benzena?

3 A Her mother, Ms. Zena.

4 Q She's elderly?

5 A Yes, sir.

6 Q All right. Well, the reason we're here, September
7 21st, 2016, do you recall that date?

8 A Yes, sir.

9 Q And tell us in relationship to what happened to
10 Benzena Wicker, why that date is significant?

11 A Because I had gotten home from church, I usually get
12 in about 7:30, and I keep an eye on her. And I just
13 assumed she was still at church that night because I
14 didn't see her truck pulled around the back. But I got
15 in. My husband was going to work at 2 o'clock in the
16 morning. He went to bed, and about 9:30-10:00 someone was
17 beating on my front door. Not hitting on it; beating on
18 it. I didn't have a clue of who it would be, and so I
19 hollered the second time and she hollered, Benzena. And I
20 snatched the door open and screamed for my husband,
21 because she was whiter than white when she come over there
22 and she was to pieces. She still had duct tape, still had
23 some electric tape on her. I mean electric cord on her
24 and duct tape, and you could tell she wasn't herself at
25 all.

1 Q So about 10:30 p.m. September 21st, you get a knock
2 at your front door?

3 A Yes, sir.

4 Q Or a pounding?

5 A A pounding on my front door.

6 Q Okay. And it was Benzena Wicker?

7 A Yes.

8 Q And you said you saw duct tape on her body?

9 A Yes. On her legs was still some on the telephone
10 cord. I call it electric cord, but telephone cord, and
11 she had some on her hands, because I told the lady on 911
12 I had not touched it.. I didn't try to remove it.

13 Q And what is Benzena saying at this point?

14 A That she had been kidnapped and drove around Newberry
15 for quite a while and they had took her TVs and ATM card
16 and went and got money out of her account and that he had
17 really pulled on her. She went for a struggle with him.
18 I mean, even some of her hair was missing in her head.

19 Q Did she identify this perpetrator to you?

20 A Well, me and her did sit there and talk, because I
21 tried to calm her down. And I asked her did she know him
22 and she said, it seemed like the young fellow that was
23 walking the street. Because, I'm outside all the time.
24 So I see people walking the street. I mean, I'm cutting
25 grass. I have a small dog. So I take my dog on walks. I

1 go outside. I see the kids on the street. I know a lot
2 of the people on our road. I know the kids on our road,
3 because my youngest son is 32. And so I told her, I asked
4 her, I said, do you know who did this. And she said, I
5 think it was the young boy that me and you just seen the
6 other day with the dreadlocks. He had long dreadlocks and
7 about this far going down those dreadlocks all around his
8 head is like a blonde, but it's not a blonde like would be
9 in my hair. It's just a light darker blonde like. And I
10 said, do you think it's the young fellow then. And she
11 said, yes. She said but I can't swear to it. I can't
12 swear to it. And I'm like, okay. That's all I'm asking.
13 I'm not going to keep on, because she wasn't herself. She
14 couldn't tell me from one minute to the next really. I
15 mean, she was to pieces.

16 Q Okay.

17 A She was to pieces.

18 Q And so she was describing this neighborhood boy --

19 A Yes, sir.

20 Q -- that y'all had seen just prior to this incident?

21 A Yes, sir.

22 Q When in relation to this incident had y'all--

23 A -- about a week, but I'm seeing him more often than
24 that. I've seen him quite often going down that road. I
25 know his grandmother that he lives with. Because my

1 neighbor that's a house, the lot next to us is empty, but
2 the next house is Cynthia. I know all of them quite well,
3 because I work with Cynthia. I know his grandmother. I
4 know the neighbors next to them. I know, you know, most
5 of the neighbors on that road, I do know.

6 Q And is, when Benzema, you let her into the house, is
7 she talking about any physical injuries she sustained?

8 A Yes. Yes, sir. Her shoulders all hurt, her chest
9 was hurting her bad. And so when the officers come in, I
10 asked him, will you please get 911. I told them on the
11 line, but I also told the officers she needed 911, because
12 she was, keep telling me she was having chest pains.

13 Q Okay. So you dialed 911?

14 A Yes.

15 Q Why did you have to?

16 A Because she wasn't in no shape to do anything. She
17 couldn't have any told you that we were actually on Green
18 Meadows Drive. She was in no condition to tell you that.

19 Q And who all was in the house with you?

20 A Me, her, and my husband, and our little dog.

21 Q Okay. And about what time did you place this 911
22 call?

23 A 9:30-9:40, somewhere along in there, I think. Maybe
24 a little bit later, but as soon as she walked in the door
25 and I got what was going on, I called. I picked up my

1 phone and called 911.

2 Q Well, if I'm not mistaken, did you say earlier that
3 10:30 is when you heard the pounding on the door?

4 A Yes, sir; around 10:30. Because I got home from
5 church, I usually get out over here at First Baptist. I
6 go in at 5:30 and get out at 7:30. And when I get in,
7 usually, I could see her truck pulled around the back,
8 because she don't pull, she didn't, at that time, pull
9 both vehicles all the way around. But I could see some of
10 it, but I couldn't see none of the truck. I couldn't even
11 see the car when I come back in. It wasn't there.

12 Q Okay. But so the pounding on the door by Benzena
13 occurred at 10:30?

14 A Yes, sir.

15 Q Would you have placed the 911--

16 A Yes, sir.

17 Q -- you said 9:30 earlier and I just --

18 A Yes, sir.

19 Q So it was 10:30 --

20 A Yes, sir.

21 Q -- when you made the 911 call?

22 A Yes, sir.

23 Q Have you had a chance to listen to the 911 call?

24 A Yes, sir.

25 Q Okay. Actually, about two weeks ago, now, with me?

1 A Yes, sir.

2 MR. DANIEL: Your Honor, I'd offer at this time
3 State's number 7, the 911, for admission into evidence.

4 THE COURT: Okay.

5 MR. VERNER: I object for a couple of reasons, Your
6 Honor.

7 THE COURT: Well, let's deal with that. Ladies and
8 gentlemen of the jury, we have a legal issue that I need
9 to discuss with the lawyers, so if you'd go back to the
10 jury room. Hopefully, it won't take too long, and I'll
11 get you back out shortly.

12 (Whereupon, the jury was excused from open court.)

13 THE COURT: Okay. Mr. Verner.

14 MR. VERNER: And, Your Honor, this is for the second
15 or third case in a row. These are not the victim 911
16 calls. These are third-party calls, but I don't know that
17 the excited utterance that they used truly applies. And
18 just my, I don't see really a, the point of it. What's
19 the probative value if the lady is here to testify that
20 she made the call and what she saw, and I don't know what
21 more probative value. She hasn't been challenged in her
22 testimony. I just don't, what's the point of playing the
23 911 call when the lady is here to testify to what she saw
24 and what she said and what she did. I will put 403 in
25 there, too, but just I don't see probative value. I don't

1 see relevance. It's not a victim under stress of events.
2 It's a third-party relaying information into the Sheriff's
3 Department. So I do object.

4 THE COURT: Okay. All right. Solicitor, do you want
5 to respond?

6 MR. DANIEL: Yes, Your Honor. A present sense
7 impression. It's non-testimonial, so it doesn't violate
8 any of the restrictions of the Crawford case. I believe
9 it startled Kathy Tapia to see her neighbor pounding on
10 her door so late at night. So it would be an excited
11 utterance from Kathy's perspective, as well, not to
12 mention Benzena Wicker is right there. But it's just,
13 it's good for the jury to hear a firsthand account when
14 something actually happened. And that's always why a 911
15 call is relevant in this case.

16 THE COURT: Okay, of course, I have not listened to
17 the 911 call. Does it vary from her testimony as far as
18 the contents insofar as what she relayed to the 911
19 operator?

20 MR. DANIEL: No, sir. I don't think there's any kind
21 of deviation from what she's testified to, but it's just,
22 it's more accurate. It kind of captures the overall
23 emotional distress of the situation.

24 THE COURT: Okay. All right.

25 MR. VERNER: And that's the whole point they're

1 playing is to try to drum some emotion into their case,
2 Your Honor. They just, they're trying to entertain or
3 generate more emotion.

4 THE COURT: Okay. Let me ask you this, Solicitor.
5 About how long is the call?

6 MR. DANIEL: I want to say, Walter might be able to
7 answer this, but I want to say roughly five minutes.

8 THE COURT: Okay.

9 MR. DANIEL: Give or take.

10 THE COURT: All right. Mr. Bentley, could we play
11 that outside the presence of the jury where they can't
12 hear it, but I can hear it. Let me just listen to it.

13 MR. BENTLEY: Just let you have my computer and
14 listen to it up there.

15 THE COURT: However, it'll be. I just don't want the
16 sound to be heard by the jury.

17 MR. VERNER: And I'm not, it's not from my
18 recollection something that's going to shake them up. But
19 I don't have the exact abilities to turn the sound up on
20 that TV and let the sound come from yours.

21 THE COURT: Well, he's pretty good, but he might not
22 be that good.

23 MR. VERNER: I know. I'm not so much, because I
24 don't think it's overly dramatic. Your Honor, I don't
25 want to direct the Court, but I need to turn down the

1 volume and the Court might need to step over a step or
2 two. From my recollection, Your Honor, it's not an overly
3 dramatic loud call.

4 THE COURT: Well, if it's easier just to play it on
5 his laptop, then that would probably be the way to go.

6 MR. DANIEL: And, Judge, I think I can play it from
7 my cellphone.

8 MR. BENTLEY: I got it.

9 MR. DANIEL: Oh, you got it.

10 (Whereupon, a 911 audio was published to the Court.)

11 THE COURT: Okay. Let the record reflect that I
12 listened to the 911 call in-camera. I don't necessarily
13 think we have a Crawford confrontation issue because this
14 witness is here subject to cross-examination. However,
15 I'm just wondering, you know, the probative value. You
16 know, I don't really find any probative value, but I don't
17 find any prejudice to the Defendant. I don't really find
18 either one to be quite honest with you, and I know that
19 doesn't help in me making a ruling. I mean, you've got,
20 Ms. Wicker has already testified, she's testifying as to
21 what she observed. I just think the 911 call just seems
22 to be cumulative to what has already been testified to.
23 Certainly if, I guess, if she said something on the call
24 that contradicts her testimony, but I think she'd be
25 cross-examined about that and that may open up the door.

1 But I'm kind of inclined to rule in favor of the Defense
2 at this stage and not allow it in. Solicitor Scott,
3 you're standing, so you want to chime in.

4 MR. SCOTT: And I think we, what we do is we're
5 looking at this element or evidence, anything that's
6 relevant. Certainly, a 911 tape is relevant for this
7 reason. We're always getting asked, well, why didn't you
8 record this interview. Why didn't you videotape this.
9 Why don't you, what better way to put a jury in the
10 situation and to fully understand the situation and all
11 the dynamics of the situation than to hear the recordings
12 that happened right then and there. Now, you heard Ms.
13 Benzema and Kathy to some extent trying to look back at
14 what was going on to September 21st of 2016. We've got
15 their recorded voices and we've got everything they're
16 relaying to dispatch at the time in realtime rather than,
17 you know, happens right at the time Ms. Benzema comes
18 over. Certainly, the emotions are still there. It's not
19 being offered for any prejudicial purposes. But certainly
20 we've already talked about the 911 tape to them. It's not
21 hearsay. It's non-testimonial. Crawford specifically
22 mentions 911 tapes as being non-testimonial. If for no
23 other reason, just that the jury is entitled to it. I
24 mean, they want to understand this case, and they want to
25 put in their mind, you know, what was going on there at

1 the time. If this helps them do that, I say let them have
2 it, because it's not prejudicial. I think it's probative,
3 because as I said, when they get to hear recordings of
4 something that happened that night from people who've
5 witnessed at least some of the evidence from the case.
6 That would be my argument, Your Honor. So if it's a wash,
7 you know, if it's probative and prejudicial, I think it
8 certainly moves the ball in that they get to hear evidence
9 that happened that night. It's non-testimonial,
10 non-hearsay. I think it, that would be my argument,
11 rather.

12 THE COURT: Okay. All right. Mr. Verner, do you
13 want to add anything further?

14 MR. VERNER: No, Your Honor. You know, it's
15 certainly prejudicial or they wouldn't offer it. It's
16 whether it's unfairly prejudicial.

17 THE COURT: Well, it's got to be unfairly
18 prejudicial.

19 MR. VERNER: Yes, sir.

20 THE COURT: That's right. And I really don't find an
21 unfair prejudice. And I don't know why I'm kind of really
22 more hung up on the cumulative effect of this. You know,
23 the last two most recent cases in South Carolina, the
24 Bratschi, that's B-r-a-t-s-c-h-i. That was a 2015 case.
25 The victim in that case made the call. They allowed it

1 in. But Hendricks, a 2014 case, that was a third-party
2 that made the call and they didn't allow it.

3 MR. SCOTT: Didn't the third-party testify in the,
4 were they subject to cross-examination?

5 THE COURT: I'd have to look at the case again,
6 Solicitor.

7 MR. VERNER: I certainly don't want to, I still stand
8 by your, I see it the same way as the Court does, is it
9 beating the horse. That's argumentative, but the, I'd
10 probably normally ask some questions about what she told
11 you or didn't tell you. So, I mean, I do think that the
12 State has had a better chance of bringing it up in
13 cross-examination or re-cross or redirect, because I'll
14 probably in candor ask her, well, why didn't she tell the
15 911 dispatcher about the--

16 THE COURT: Well, and that kind of goes back to my
17 comment I made a moment ago. I think if you, let's say I
18 rule at this juncture to not allow the call in and then
19 cross-examination of this witness, you were to question
20 her about what she said or did not say on the 911 call.
21 It almost opens up the door for the call to come in. So
22 if that's your plan, and I think if I were in your shoes,
23 I think I probably would want to examine her concerning
24 that. So why not go ahead and allow it in now.

25 MR. VERNER: Thank you, Your Honor.

1 THE COURT: So I think with that that you just kind
2 of made it a little bit easier for me, and I'm going to
3 allow it in at this stage. And, certainly, you have every
4 right to cross-examine her.

5 MR. VERNER: I'm not sure if the two volumes will
6 play at the same time, so I don't know if the Court wants
7 to leave the volume on on your TV.

8 THE COURT: Oh, when it's being played?

9 MR. VERNER: Yes, sir. It may or may not play at the
10 same time.

11 MR. BENTLEY: I've already cut it off.

12 MR. VERNER: Oh, that's already been handled for the
13 Court.

14 THE COURT: Okay. Just for information, the
15 Hendricks case, what it really dealt with more, and it was
16 a third-party, and it doesn't really address whether or
17 not the third-party testified at trial. But it is more of
18 the hearsay issue, present sense impression, excited
19 utterance. And they basically found that, because it was
20 the third-party who made the call was really, that would
21 fit in that. And found it was hearsay and didn't allow it
22 in more so than getting into confrontation testimonial.
23 But in light of the fact that Mr. Verner candidly and
24 honestly with the Court, and I appreciate that, has
25 indicated that's what he plans to do on cross with this

1 witness concerning the call, I think that answers our
2 question. And I'm going to allow it in. Okay.

3 MR. SCOTT: Just curious Bratschi, was that the other
4 one?

5 THE COURT: Yeah, 413-97.

6 MR. SCOTT: S.C.?

7 THE COURT: S.C. And let's go ahead, while the jury
8 is out, let's go ahead and put it on the record that
9 except for three exhibits, all other State's exhibits have
10 been stipulated that they will come into evidence. The
11 three that are not stipulated is 7, which is this 911 call
12 which we've already resolved; 58 which is the audio of the
13 defendant; and 59, which is a probation list of four
14 contact numbers for the Defense and 58, 59, I guess we can
15 address at the appropriate time?

16 MR. VERNER: Yes, sir, Your Honor. The Court kind of
17 tentatively admitted, I think, found the rule on the
18 Miranda issues is not whether the actual audio is being
19 played.

20 THE COURT: Right. So, basically, with respect to
21 58, you're just pretty much renewing --

22 MR. VERNER: The Miranda.

23 THE COURT: Right, your motion to suppress the
24 Defendant's statement or statements.

25 MR. VERNER: Yes, sir.

1 THE COURT: Okay. So I think 58's pretty much a
2 given on that, that that would come, so we'll just wait on
3 59 when that comes up.

4 MR. VERNER: And I'll just also add on 58, Your
5 Honor, the, although it's an admission or confession type
6 situation, it wouldn't come in as a prior inconsistent,
7 statement itself can come in as a prior consistent
8 statement or a prior inconsistent. And he denies making
9 it, but we're not at that point yet where --

10 THE COURT: Right. Okay. And, yeah, if you've got
11 some potential further objections as it relates to 58,
12 then certainly when it, when it comes up, you have every
13 right to make that.

14 (Whereupon, State's Exhibit 58 was admitted into
15 evidence.)

16 MR. VERNER: Thank you.

17 THE COURT: Do you need a minute, Solicitor Scott?

18 MR. SCOTT: Oh, no sir.

19 THE COURT: Okay.

20 MR. SCOTT: Just out of my own curiosity, I was
21 looking at the case.

22 THE COURT: Okay. Did I quote the case correctly or?

23 MR. SCOTT: You did. You got the right cite. I was
24 just sort of perusing it.

25 THE COURT: Well, the contents of it. I'm not saying

1 did I correctly cite the case. I'm saying did I correctly
2 quote what I believe the case stood for.

3 MR. SCOTT: They have got a confrontation clause
4 issue in this one as well. And it's sort of it, this is
5 the one that did allow 911 in it.

6 THE COURT: It did, it did.

7 MR. SCOTT: But, anyway, just for future reference, I
8 was curious, I'm ready for the jury.

9 THE COURT: All right. Let's bring the, Madam
10 Bailiff, bring the jury back out.

11 (Whereupon, the jury came into open court at
12 approximately 3:27 p.m.)

13 THE COURT: Okay. Let the record reflect, the jury
14 is back in the courtroom. Solicitor, you may proceed.

15 MR. DANIEL: Thank you, Your Honor.

16 CONTINUE DIRECT EXAMINATION

17 By Mr. Daniel:

18 Q Ms. Tapia, when we left off, we were discussing the
19 911 tape?

20 A Yes, sir.

21 Q You made the 911 call that night?

22 A Yes, sir.

23 Q And you've had a chance to listen to it?

24 A Yes, sir.

25 MR. DANIEL: Your Honor, I'd offer State's number 7,

1 and I'll offer it for admission into evidence.

2 THE COURT: All right. Subject to previous
3 objection, it will be, number 7 will be into evidence on
4 behalf of the State.

5 (Whereupon, State's Exhibit 7 was admitted into
6 evidence.)

7 MR. DANIEL: Permission to publish, Your Honor.

8 THE COURT: Sure.

9 (Whereupon, 911 audio was published to the jury
10 starting at 3:29 p.m, ended at 3:33 p.m.)

11 Q Ms. Tapia, does that 911 tape kind of capture the
12 mood that night?

13 A Yes, sir.

14 Q Okay. While you're talking to the 911 operator,
15 where is Ms. Benzena?

16 A She's laying across my couch. She's laid back on my
17 couch.

18 Q Okay. State's 17 and 18, you recognize these?

19 A Yes, sir. Yes, sir.

20 Q And is that the condition that Ms. Benzena was in --

21 A Yes, sir.

22 Q -- Ms. Benzena was in at the time you made the 911
23 call?

24 A Yes, sir.

25 Q And that's duct tape around her left wrist?

1 A Yes, sir.

2 Q And why did you feel the need to ask for an
3 ambulance?

4 A Because she kept saying her chest was hurting and her
5 arm was hurting and, literally, all across her was hurting
6 at the top. And I was scared, terrified she was going to
7 have a heart attack.

8 Q And did Ms. Benzena indicate she was in a great
9 amount of pain?

10 A Yes, sir.

11 Q And State's number 9, you live directly across the
12 street from Ms. Benzena?

13 A Yes, sir.

14 Q Okay. So where is your house in this picture?

15 A It's across. You see her as, mine is on the other
16 side of the road.

17 Q Okay. About how, what kind of distance from front,
18 from Benzena's front door to your front door; how many
19 feet?

20 A I don't know exactly. Not a whole bunch. I mean, we
21 can literally, at night I, she can see in my house, my TV
22 and all. Really, really close. It wouldn't take you five
23 seconds to walk across.

24 Q Did Ms. Benzena indicate her legs were shackled, as
25 well?

1 A Yes, sir. Only she come to my house, I said, she had
2 no shoes on. I said, you walked across the yard like
3 that. And she said, no. She said, Kathy, there was a car
4 coming back down the road and I was terrified it was him.
5 I say him or them. I always say more than one. I never
6 reflect one person. She come through where my driveway.
7 She come down my gravel driveway and when she heard the
8 car, she hid under those trees in my driveway. So she
9 didn't walk directly across in the grass. She walked
10 barefooted down that driveway, and then circled across and
11 come running to my porch.

12 Q And Ms. Benzena, she always indicated it was just one
13 person that did this?

14 A Yes, sir. It was just one person in there. I always
15 say them, because I'm so Southern that it ain't funny.
16 Everybody says and that's just the way I talk, but it was,
17 she said it was only one gentleman. And for me and her
18 talking, she so much as, she thought she knew who it was.

19 Q And the physical description we heard in the 911
20 call?

21 A Yes, sir. It was a young black fellow with
22 dreadlocks. You know, and she couldn't remember no, much
23 other description but that, but he was black and he was
24 not real, real dark, a lighter skin, and he did have
25 dreadlocks all the way around.

1 Q That 911 call lasts about eight minutes. Did
2 deputies arrive shortly thereafter?

3 A Yes, sir.

4 MR. DANIEL: No further questions. Please answer any
5 Mr. Verner has for you.

6 THE WITNESS: Yes, sir.

7 THE COURT: Cross-examination?

8 CROSS-EXAMINATION

9 By Mr. Verner:

10 Q Good afternoon, Mrs. Kathy. I saw you, you're still
11 a little bit emotional. This brings back bad memories?

12 A Yes, sir.

13 Q Would you like just a little cup of water?

14 A No, sir.

15 Q Okay. And you've lived on Green Meadows about
16 eighteen years?

17 A Yes, sir.

18 Q Relatively crime-free neighborhood?

19 A Yes, sir.

20 Q Okay. No recent robberies or anything?

21 A No, sir. We had some trouble at the end of the road
22 a while back. Someone had broken in a house but, they
23 caught him. And, no sir, it is always, sir very friendly,
24 good neighbors.

25 Q All right. How long, I heard on the 911 tape you

1 were kind of apologizing to Ms. Wicker that I didn't
2 immediately open the door for you and you --

3 A Yes, sir.

4 Q -- kind of caught me off-guard.

5 A Yes, sir.

6 Q How long was she banging on your door?

7 A She banged one time. And then the second time I
8 said, who is it. And I said real loud. And she screamed,
9 Benzema. And I just, I have two locks on my main door,
10 and then I have another glass door that had the lock on
11 it, and I snatched the front door open.

12 Q So we're talking just a minute or two?

13 A Yes, sir. It wasn't long at all.

14 Q You wish it was sooner, but it really --

15 A Yes, sir.

16 Q -- and in the grand scheme of things --

17 A No, sir.

18 Q -- wasn't really that long? When you spoke to her,
19 did she indicate to you how long ago the man had left?

20 A Yes, sir. She said it was around thirty minutes or
21 so, because she said that she thought the way he talked
22 there was someone else in the house with him even though
23 she never heard but one person.

24 Q Well, if there was a guy who broke into my neighbor's
25 house, it would be reasonable for you to have concern that

1 he might still be around, right?

2 A My husband actually wanted to go over there --

3 Q Right.

4 A -- and I kept telling him no, no, because we don't
5 know if he's coming back or if he, someone's still over
6 there.

7 Q Right. But that would be a concern of yours then and
8 --

9 A Yes, sir.

10 Q -- a reasonable concern is he still around --

11 A Yes, sir.

12 Q -- how long ago did he leave?

13 A Yes, sir.

14 Q And you remember her saying that he left about thirty
15 minutes ago?

16 A He said, she said that he left a little while ago and
17 said that he would be back.

18 Q Okay. How long after Ms. Benzena Wicker knocked on
19 your door did you call 911?

20 A Immediately.

21 Q All right.

22 A As soon as she got in and she, I got her to sit on
23 the couch, I picked up the phone and called 911.

24 Q Okay. So within a minute or two from when she first
25 knocked on the door, then the first thing I did was go to

1 911 --

2 A Yes, sir.

3 Q -- and said there was an emergency?

4 A Yes, sir.

5 Q Okay. And I know you don't, you wouldn't have been
6 keeping records on it, but if the, assuming the police had
7 your call marked at 10:34 in the evening --

8 A Yes, sir.

9 Q -- you wouldn't dispute that time that you called?

10 A No, sir.

11 Q That's consistent, 10:34 p.m.?

12 A Yes, sir.

13 Q And it sounds like the police arrived even while you
14 were still on the call?

15 A Yes, sir.

16 Q So they got there very quickly, within three to four
17 minutes of the --

18 A Yes, sir.

19 Q Okay. And then that's when you hung up and you dealt
20 with the police officers?

21 A Yes, sir.

22 Q Did you give any kind of written statement to the
23 police? Did they ask you, you know, tell us what you saw
24 and would you write down any kind of statement for us?

25 A No. They just asked me about Benzema, if I can

1 remember right..

2 Q And who is they?

3 A The gentleman that was in there. The deputies, the
4 sheriffs and all that was in the house; yes, sir.

5 Q So the police did speak to you that night?

6 A Yes, sir. They just asked me about her.

7 Q Okay. Well, what kind of condition?

8 A Yes.

9 Q But, I guess, when you said, I didn't see anything.
10 You know, you would have told them, you know, I didn't see
11 what happened --

12 A No, sir.

13 Q -- they wouldn't have had a whole lot of interest in
14 --

15 A Yes, sir.

16 Q And I think you indicated to us that you had been out
17 that night yourself at the church?

18 A Yes, sir. We have church. We both go to church on
19 Wednesday nights. I have the teen kids over here, so I'm
20 usually back home about 7:30.

21 Q Okay. You would have been home about 7:30 p.m. from
22 the church?

23 A Yes, sir.

24 Q Does your husband go to the church on Wednesday
25 nights?

1 A No, sir. He usually goes to work at 2:00 a.m.

2 Q Okay.

3 A And so he's in, he usually goes to bed about 7:00 or
4 a little after. He was already in the bed when I came in
5 from church.

6 Q So he would have been sleeping during this?

7 A Yes, sir.

8 Q And then he works a night shift so he --

9 A Well, he works first shift, but he has to go in a lot
10 at night.

11 Q Okay. But do you remember coming home that evening
12 around 7:30?

13 A Yes, sir.

14 Q Okay. And you remember it was still light hours at
15 7:30?

16 A Yes, sir.

17 Q And I doubt you initially paid a whole lot of
18 attention to Ms. Wicker's house --

19 A Well, I always pay attention to it, but I did not see
20 her Cadillac, I mean, her truck in the front, because
21 usually on Wednesdays, she drives that truck to church.
22 She leaves the Cadillac. She usually only drives it if
23 she's taking her mom somewhere.

24 Q Okay. Now, you're, so you're crystal clear to your
25 memory that the truck was gone by 7:30 p.m.?

1 A I'm not going to say I would swear to that, but I
2 don't remember/recall that truck sitting there when I came
3 back; no, sir.

4 Q Did you see the vehicle come back or, or did you see
5 the --

6 A No, sir. I did not.

7 Q Okay. You didn't see the truck arrive in her yard or
8 any people in her yard that evening?

9 A No, sir.

10 Q Okay. So you would not have seen her until 10:30
11 that evening --

12 A Right. Yes, sir.

13 Q -- when she came knocking at the door? And she
14 indicated to you that the man had put her in the car for
15 about three hours?

16 A Yes, sir.

17 Q Okay. Do you remember her telling you that?

18 A Yes, sir. I remember her telling me that she was
19 going to get her truck and someone was already in there
20 hiding and said he kicked her when she opened the door up.
21 Yes, sir.

22 Q And I heard you tell the 911 operator that she
23 described the man who attacked her as a black, young
24 black, man?

25 A Yes, sir.

1 Q And I heard you say that at one point, he was a
2 skinny young black man?

3 A Yes, sir.

4 Q And I heard you indicate twice that he had
5 dreadlocks?

6 A Yes, sir.

7 Q You did not indicate that, so you talked about his
8 description at least twice. And you did not indicate that
9 he was wearing yellow dreadlocks or had yellow highlights,
10 did you?

11 A No, sir. We just said, I just said dreadlocks.

12 Q Okay. And he had a mask on --

13 A Yes.

14 Q -- and a hoodie on?

15 A Yes, sir.

16 Q Did you still see Ms. Wicker on a pretty regular
17 basis since September of last year?

18 A Yes, sir.

19 Q And have y'all talked about this incident since that
20 date?

21 A We try not to. Occasionally, things will come up.
22 If she's having a bad day or something, because we talk
23 every single day. I'm going to make sure her and her
24 mama's okay, but we try not to focus on this, because it
25 does get her down so bad.

1 Q All right. I would think more often lately if you've
2 been talking to her about it, it's more kind of keep your
3 spirits up and --

4 A Yes.

5 Q -- but I would guess and you correct me if I'm wrong,
6 that in the beginning, you were the, when she came home
7 the next day or that evening from the hospital?

8 A Yes, sir.

9 Q Did you ever go over there or she came over to your
10 house and you said tell me what happened and you would
11 have talked about it. You would have had some interest in
12 the details, wouldn't you?

13 A Yes, sir.

14 Q Okay. And so y'all did talk and she told you what
15 had happened?

16 A Well, when she come home that night, I had went to
17 the hospital with her, and when she come back home, her
18 brother came down with her and stayed the night. Well,
19 he, I think she went back up to his house that night. But
20 when she come back, yes, I went over there to check on
21 her.

22 Q Okay.

23 A And to make sure she was okay and see if I could do
24 anything.

25 Q Now, you also did not tell the 911 operator that she

1 said anything about she thought it was somebody who lived
2 in the neighborhood?

3 A No, sir; I didn't. I just said that --

4 Q Is it possible that is something that she didn't tell
5 to you until the following day or several days or some of
6 these talks over times since this has happened?

7 A No, sir. She told me that that night sitting in my
8 living room.

9 Q Why would you have not told that to the police or the
10 911 that he was somebody who lived local, nearby?

11 A Honestly, all I thought about was exactly what she
12 said was the black guy with dreadlocks. And I didn't go
13 any further.

14 Q Okay. Well, she didn't say the black guy with
15 dreadlocks, she said a black guy with dreadlocks, right?

16 A Yes.

17 Q Okay. Now, did you know Anthony Wise prior to
18 September?

19 A I did not know his name, but I've seen him quite
20 often walking the road.

21 Q So he was familiar enough that you believed he lived
22 in the neighborhood?

23 A Yes, sir.

24 Q Okay.

25 A I knew he lived down there.

- 1 Q Okay.
- 2 A He lived with his grandmother, his mom.
- 3 Q Do you know his grandmother's name?
- 4 A No, sir.
- 5 Q Okay.
- 6 A She set with my friend beside me, Ms. Cynthia, she
7 set over there with her a good bit.
- 8 Q So is it fair to say that by knowing his grandmother,
9 you would recognize his grandmother but not really be an
10 acquaintance or a friend?
- 11 A Right. Yes, sir.
- 12 Q Okay. And, I believe, you told the 911 operator
13 while she was sitting in there that she was really in no
14 condition to talk while she was on the couch?
- 15 A Yes, sir.
- 16 Q So Ms. Benzena was not actually having a normal
17 descriptive conversation with you?
- 18 A No, sir. Not like we would sit down and have a girl
19 talk one-on-one.
- 20 Q Is it fair to say that for the most part she was
21 quiet and probably hand on her heart or trying to catch
22 her breath or close her eyes?
- 23 A Well, no. She was still sitting there talking to me
24 telling me what all he had did to her --
- 25 Q Okay.

1 A -- and what was going on at that moment and how
2 terrified she was.

3 Q Now, we could hear her kind of talking to you while
4 you're talking to the 911 operator.

5 A Yes, sir.

6 Q Could she kind of hear and when the 911 operator
7 asked a question, she would tell you the answer and you
8 kind of repeated it?

9 A Yes, sir.

10 Q Okay. So she was kind of participating indirectly in
11 the 911 call about giving descriptions?

12 A Yes, sir.

13 Q Okay. I know you recognize him from walking or
14 driving in the neighborhood, but have you ever had any
15 kind of conversations with Mr. Wise?

16 A No, sir.

17 Q Okay. Do you also remember seeing him walking by the
18 house about a week?

19 A Yes, sir.

20 Q Why would that stand out in your memory?

21 A Because me and her was talking and he walked through
22 and that's not the first time I've seen him out there
23 walking. Yes, sir.

24 Q And is it possible that, are there other young men in
25 the neighborhood, black men with dreadlocks?

1 A No, sir.

2 Q Okay. Is it possible that Anthony looks like the man
3 who attacked her? Young, have you seen other young black
4 men in Newberry with dreadlocks?

5 A Yes, sir.

6 Q Okay. And it might not be everybody, but it's not
7 that uncommon to see a young black man in Newberry with
8 dreadlocks?

9 A No, sir. But it's not very often you see a young
10 man, I mean, she didn't say anything. But you don't see a
11 young man with dreadlocks that's got the blonde tip around
12 the bottom of his hair.

13 Q And did you ever tell anybody prior to your testimony
14 today about seeing yellow dreadlocks?

15 A Well, it wasn't like a blonde like I've got a blonde.
16 It was a darker color.

17 Q Now, let me clarify. Now, you didn't see the man who
18 attacked her at all?

19 A No, sir. No, sir. I'm just talking about --

20 Q Okay.

21 A -- when I seen him. No, sir.

22 Q But you had seen Anthony before --

23 A Yes, sir.

24 Q -- and he had some kind of vaguely blonde?

25 A Yes, sir.

1 Q Have you seen these photographs that the police had
2 in this case?

3 A No, sir.

4 Q Okay. Have you discussed your testimony prior to
5 today with anybody telling, you know, what your questions
6 would be or just?

7 A No, sir.

8 Q Do you recognize Anthony from that photograph?

9 A Yes, sir.

10 Q Okay. Is that what he looked like when you saw him
11 about a week before then?

12 A Yes, sir.

13 Q All right. Is it fair to say that those are fairly
14 distinctive coloring?

15 A Yes, sir.

16 Q Is it fair to say that if I had brown hair or blonde
17 hair or whatever hair color I had, that wouldn't
18 necessarily be something you would remember, would it?

19 A Say that again. I'm sorry.

20 Q If you saw me in the past and I had really
21 distinctive colors in my hair, you would probably remember
22 the guy with the red streaks in his hair as opposed to the
23 guy with the brown hair?

24 A Well, I might would. But also, I would just remember
25 that you had a different hair color, honestly. People do

1 it all the time now.

2 Q And if somebody asked if I did something bad in
3 traffic and you were describing me to the police and I had
4 distinctively-color hair and that was probably one of the
5 first things you would mention?

6 A Well, I would try to remember that. I would just
7 mainly focus on your face. I wouldn't even worry about
8 your hair was. I probably wouldn't even be able to tell
9 if you were bald or red-headed. I mean, honestly.

10 Q If I had a mask on, you'd be even more inclined to --

11 A Yes, sir.

12 Q -- look at my--

13 A And then if you had a hood on, I don't know.

14 Q But it's fair to say that you, yourself, did not see
15 anything about the attacker, and didn't see anybody
16 involved at all --

17 A No, sir.

18 Q -- with this attack? All you saw is Ms. Wicker
19 afterwards?

20 A Yes, sir.

21 Q And she indicated to you that she had, that he had,
22 the man had left about thirty minutes before you made the
23 call?

24 A Yes, sir.

25 Q Okay.

1 MR. VERNER: Okay. Ms. Tapia, I appreciate your, the
2 prosecutor might have a follow-up question.

3 THE COURT: Redirect?

4 MR. DANIEL: No, Your Honor.

5 THE COURT: Thank you, ma'am. You can step down.
6 The next witness, Solicitor?

7 MR. DANIEL: Your Honor, State calls Deputy Michael
8 Claytor.

9 MICHAEL CLAYTOR, being
10 first duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 By Mr. Daniel:

13 Q All right. You're a lieutenant with the Newberry
14 County Sheriff's Office, correct?

15 A Yes, sir; that's correct.

16 Q How long you been with Newberry Sheriff's Office?

17 A About eight years now.

18 Q Okay. You're a patrol officer?

19 A Yes, sir.

20 Q Okay. So you just respond to calls?

21 A I do. I'm the shift lieutenant on night shift, so I
22 kind of direct people to calls/respond myself. Whoever is
23 closest, that's how we handle it.

24 Q Okay. September 21st of last year, were you on duty
25 that night?

1 A Yes, sir; I was.

2 Q Okay. Did you have an occasion to respond to a call
3 coming from [REDACTED] in Newberry?

4 A I actually responded to [REDACTED],
5 which would be the house that the Complainant was at where
6 Ms. Wicker ran over across the road to.

7 Q Okay. So you responded to the house where the 911
8 call originated?

9 A Yes, sir.

10 Q Okay. About what time did that 911 call come in?

11 A According to my records, 22:34, which would be about
12 10:34.

13 Q 10:34 p.m. at night?

14 A Yes, sir.

15 Q All right. And what time did you actually pull into
16 that location?

17 A 22:40, would be 10:40.

18 Q So it took you, once you received the call, it took
19 you approximately six minutes to get there?

20 A Yes, sir; that's correct.

21 Q Okay. When you respond on scene, where is this
22 location; is it a residence?

23 A It is. It is a residence.

24 Q All right. What do you observe when you arrive?

25 A When I pull up there, like I said, I was the first

1 officer there, I go up to the porch and I see Ms. Wicker
2 sitting, well, actually, I speak with the Complainant
3 first, and I walk inside. She kind of gives me a rundown
4 of what's going on. I walk inside and I see Ms. Wicker
5 kind of laid back on the couch. She's got some, she's got
6 some tape on her arm and she phone cord there. I can also
7 tell she's in a pretty good amount of pain, as well,
8 because she's not able to sit up straight like a normal
9 person would that was relaxed and not in pain.

10 Q All right. If you could, Deputy Claytor, I want to
11 show you 17 and 18, State's 17 and 18 on the computer
12 screen. And what is that a picture of?

13 A I'm going to step down if that's okay?

14 Q Sure.

15 A That's Ms. Wicker on the couch there as I walked in.

16 Q So that's the condition Ms. Wicker was in when you
17 arrived?

18 A Yes, sir.

19 Q Okay. And 18 is just a closer-up picture?

20 A Right. Yes, sir.

21 Q Did you see any other duct tape or any other kind of
22 a bondage on her body?

23 A Not that I recall. I remember there was some there,
24 but I could see, I could see some red marks where stuff
25 had been on her. She had some red marks around her neck,

1 and we found some more later on across the yard where she
2 had ran.

3 Q Now, you discovered more duct tape in Ms. Wicker's
4 front yard?

5 A Yes, that's correct.

6 Q Okay. And is Ms. Wicker describing her injuries when
7 you arrived?

8 A Yes, she is. She's kind of really upset. It took me
9 a second to get her calmed down a little bit to let her
10 know everything is okay. And, you know, I asked her
11 what's wrong. Of course, we already had EMS in route, but
12 we're not allowed to let them come in until we make sure
13 everything is okay.

14 Q Okay. You can have a seat back there in the box.

15 A Thank you.

16 Q All right. So EMS had not treated Ms. Benzena Wicker
17 at this point?

18 A No, sir.

19 Q Okay. So you're, essentially, conducting an
20 interview of Ms. Wicker?

21 A Yes, sir; a quick one.

22 Q All right. What information, if any, did Ms. Wicker
23 provide about the perpetrator?

24 A She was able to tell me it was a, he was a black
25 male, younger. He had dreadlocks. There was a couple of

1 things, you know, while I'm speaking with her there is a
2 lot going on. There was a couple of things she threw out
3 to me. She told me that, you know, that she thought he
4 lived down the street. You know, she kind of knew who he
5 was when I asked her that. She said that she thought he
6 lived down the street. She also said another that kind of
7 made her believe that it was Mr. Wise here --

8 MR. VERNER: And, Your Honor, before we, can we have
9 a sidebar?

10 THE COURT: Sure.

11 (Whereupon, a bench conference was held in the
12 presence of the jury but out of the hearing of the
13 jury.)

14 THE COURT: All right. Mr. Foreman, ladies and
15 gentlemen of the jury, it'd probably be a good time to
16 take an afternoon break. I need to deal with a legal
17 issue with the lawyers. So if you'll go back to the jury
18 room, about a ten or fifteen minute break, and we'll get
19 you back out and continue forward. Again, I remind you no
20 discussion among yourselves about this case. Okay.

21 (Whereupon, the jury was excused from open court.)

22 THE COURT: Okay. Let's put on the record what we
23 discussed at sidebar, Mr. Verner.

24 MR. VERNER: Your Honor, it's kind of anticipatory
25 objection, but my understanding is that the officer was

1 likely to testify that she may have said something like he
2 had just gotten out of jail recently. And that's the
3 basis of his character.

4 THE COURT: Right.

5 MR. VERNER: But I see the officer was shaking his
6 head that that's not where he was going, but that's where
7 the Solicitor seemed to indicate he was going.

8 THE COURT: Right. Well, and Solicitor Daniel
9 indicated that he had already discussed with Deputy
10 Claytor that, you know, not to mention that. I'm not
11 going to allow him to mention that. And so if he
12 understands not to discuss that in his testimony, then I
13 think we'll be in good shape. Now, I know Solicitor Scott
14 raised the issue about Law Track and that's just something
15 we just going to have to deal with at the appropriate
16 time. But insofar as any statements about Mr. Wise
17 recently getting out of jail, I'm not going to allow
18 Deputy Claytor to mention that. Okay. Let's take about a
19 ten-minute break.

20 (Whereupon, a short break was taken.)

21 THE COURT: Okay. Are we ready?

22 MR. DANIEL: Yes, Your Honor.

23 THE COURT: Okay. All right. Madam Bailiff.

24 (Whereupon, the jury came into open court at
25 approximately 4:16 p.m.)

1 THE COURT: Let the record reflect the jury is back
2 in court. Solicitor, you may proceed.

3 CONTINUE DIRECT EXAMINATION

4 By Mr. Daniel:

5 Q All right. Deputy Claytor, when we left off, we were
6 describing or you were telling the jury about what, if
7 anything, that Benzena Wicker told you about the
8 perpetrator's identity?

9 A Right. Yes, sir.

10 Q What physical description did you get from Benzena?

11 A The actual physical description was she told me he
12 was about five-six or shorter with dreadlocks, a black
13 male with a white plastic mask over his face is what she
14 told me. During the interview, she also gave me a couple
15 of other indicators of ways that we may could find the
16 identity of him. She told me that she, I asked her who
17 he, who he was and if she knew him. She actually said,
18 you know, I think he lives right down the street. And I
19 said, okay, but what makes you think this. And he said,
20 she says, well, he knew my routine. You know, he knew
21 that I was going to go to that truck, get in that truck to
22 go to church on Wednesday, because I do every Wednesday
23 about the same time. She also said another thing that
24 made her think that, you know, he was from the
25 neighborhood and that she knew him, was he told her that

1 he was not going to hurt her. I'll actually read her
2 exact words as I, as I quoted them in the report. He
3 says, I'm not going to hurt you, because I know your
4 mother is a hundred years old and you have to take care of
5 her. And then he stated to her that his mother gave him
6 away. While I was there at the house, I also learned that
7 the guy that they were thinking who it was, which ended up
8 being Mr. Wise, was possibly adopted. I learned that
9 while I was there at the house as well.

10 Q Okay. So part of his identity was she thought he was
11 somebody that lived in the neighborhood --

12 A Yes, sir.

13 Q -- and also made statements. The perpetrator made
14 statements to Benzema that indicated a familiarity with
15 her?

16 A Yes, sir.

17 Q Okay. Did you, as law enforcement, you have access
18 to certain databases?

19 A I do; yes, sir.

20 Q Was there anybody in your database who fit that
21 description who lived in that area?

22 A There was. Mr. Wise was in that, the way we, the way
23 we came across his name is we look in Law Track and you
24 can put in several indicators such as height, weight, skin
25 color, eye color, hair color, age, addresses and do an

1 overall search of our whole system. And it'll pop those
2 things up, and we put in a couple of indicators, and Mr.
3 Wise's name popped up from being there from Green Meadows.
4 It fit the description pretty much one-hundred percent of
5 what she had told us that night.

6 Q What address did you have on file for Anthony Wise?

7 A Let me look back. [REDACTED] Drive is what I
8 had for him at the time.

9 Q Okay. And that's just a couple of houses over from
10 Benzena Wicker's residence?

11 A Yes, sir. Less than two-tenths of a mile.

12 Q So since Benzena Wicker didn't know the perpetrator
13 by name, you had developed his identity through databases
14 and so forth?

15 A Yes, sir; that's correct.

16 Q What else was your involvement in this investigator?

17 A Well, as I said I was the arriving officer on scene,
18 the first on scene. My primary concern was being sure
19 that Ms. Benzena was okay and get her medical attention
20 down to her. Then, of course, to preserve the crime scene
21 and be sure that the suspect had already left and then, of
22 course, attempt to locate him. I had other deputies to go
23 around and take up perimeter around the house until we
24 could go in and clear Ms. Wicker's house, until we could
25 clear it. Once I get everything squared away over with

1 Ms. Wicker with EMS and everything, I go back over. We
2 cleared the house to be sure that he's already left and
3 after that, of course, Captain Dennis is notified.
4 Sergeant Dickert, an investigator, they're notified to
5 come help me out and process the scene. Then, of course,
6 it brings up the Cadillac, the vehicle. We were able to
7 find out that the vehicle had OnStar navigation on it, and
8 we were able to contact OnStar and get them to send us the
9 coordinates where that vehicle was actually located at at
10 this time.

11 Q So the stolen Cadillac vehicle is what you're
12 referring to?

13 A Yes, sir.

14 Q Okay. Did Ms. Benzene Wicker give you information on
15 that Cadillac?

16 A Yes, sir; she did. Let me reflect back on my record
17 here, on my report. It was actually a 2007 Cadillac, if
18 I'm correct, bearing a S.C., South Carolina tag 8731HN.

19 Q So from the tag number, you're able to get the VIN
20 number or Vehicle Identification Number?

21 A That's correct; yes, sir.

22 Q And you call OnStar and you give them that VIN?

23 A Yes, sir; that's correct.

24 Q And OnStar is kind of like, I guess, it's kind of
25 like where you have roadside assistance and things like

1 that?

2 A Yes, sir.

3 Q And they can use a GPS to locate the car?

4 A That's correct.

5 Q So you called them for assistant to find the vehicle?

6 A Yes, sir.

7 Q And the vehicle was recovered where?

8 A It was the old lumberyard. I don't know how familiar
9 you are with Newberry. Boyd Crossing and Haltiwanger
10 Drive there, the old lumberyard there. We actually
11 located it. You could tell that it appeared that they
12 kind of knew where they wanted to take the car to get rid
13 of it, because it was kind of a tight fit that it would
14 have took some time to get it in there. We located it in,
15 they had drove through a building, and then parked it
16 behind the building out of sight of anybody.

17 Q All right.

18 MR. DANIEL: State's number 12, Walter, if you could
19 put that on the TV.

20 Q And, Mr. Claytor, if you would look on the
21 television. What are we talking about there?

22 A This is at the old lumberyard. This is the building
23 itself here, and then this is the car that's parked back
24 behind the building. Actually, where he went in was over
25 here between this and drove the car back this way.

1 Q Okay. And that's well off the beaten path pretty
2 much?

3 A Yes, sir. Absolutely.

4 Q How far from Ms. Benzena Wicker's house is that old
5 lumberyard, approximately?

6 A I can't give you an exact estimate. I'd say maybe
7 three, four miles, maybe.

8 Q Does it take long to get there?

9 A You can get there relatively quick.

10 Q Is it fair to say that without OnStar y'all wouldn't
11 have been able to locate that car so quickly?

12 A No, sir. We wouldn't have been able to locate it
13 that night.

14 Q At about what time was that car actually located by
15 law enforcement?

16 A I'm not a hundred percent sure. Let me see if I
17 noted it in the report here.

18 Q But it was located that same night, September 21st?

19 A Yes. Yes. Before we cleared, it was located.

20 Q Would 11:20, if our records indicate to you, is that
21 11:20 p.m. when the car was located, would that sound
22 roughly--

23 A Yes, sir. That sounds correct.

24 Q All right. And, again, that case was handed off to
25 investigators?

1 A Yes, it was.

2 Q Was the lead investigator Sergeant Ryan Dickert?

3 A Yes, sir.

4 Q Okay. Any other involvement on this investigation?

5 A No, sir. Not really too much. I did go up to the
6 hospital to check on Ms. Wicker and stood around and
7 escorted her back to the house to be sure she was okay
8 there, because she was very shaken up and in fear, of
9 course, as you can imagine.

10 Q Newberry County Memorial Hospital?

11 A Yes, sir. Newberry County.

12 Q Emergency room?

13 A Yes, sir.

14 Q Okay. So you take her back to the house?

15 A I didn't take her, but we followed her. Myself and
16 Sergeant Dickert did.

17 Q Okay.

18 MR. DANIEL: Beg the Court's indulgence. Please
19 answer any questions Mr. Verner has.

20 THE COURT: Mr. Verner?

21 CROSS-EXAMINATION

22 By Mr. Verner:

23 Q Captain, is it fair to say that Ms. Wicker had told
24 you that night or at any time that the attacker had yellow
25 hair that you would have made some notes of that?

1 A If she would have told me that night; yes, sir, I
2 would have.

3 Q Okay. And you've had a chance to review your notes?

4 A I've got my report here; yes, sir.

5 Q And it's clear she said that the man who attacked
6 her, he had dreadlocks?

7 A That's correct.

8 Q But at least to you, she did not indicate that he had
9 yellow tips or highlights or anything like that?

10 A No, sir; not at the time of the report.

11 Q And, reasonably, if somebody had said something,
12 that's not something that you would have left off the
13 report?

14 A No, sir.

15 Q It would have been in there if you recalled it?

16 A Yes, sir.

17 Q Okay. And the car was recovered about 11:20 p.m.
18 that night?

19 A Yes, sir. Somewhere around that time.

20 Q Okay.

21 MR. VERNER: Okay. Thank you, Lieutenant.

22 THE COURT: Anything in redirect?

23 MR. DANIEL: No, sir, Your Honor.

24 THE COURT: You can step down, sir. Thank you.

25 THE WITNESS: Thank you, sir.

1 THE COURT: Next witness.

2 MR. DANIEL: May I approach, Your Honor?

3 THE COURT: Sure.

4 (Whereupon, a bench conference was held in the
5 presence of the jury but out of the hearing of the
6 jury.)

7 THE COURT: Okay. Mr. Foreman and ladies and
8 gentlemen of the jury, the State still plans to call
9 several more witnesses, but for scheduling purposes and
10 anticipated length of one of the witnesses, we probably
11 need to go ahead and break for this afternoon. And so
12 we'll start back at 9:30 in the morning. I'll remind you
13 once again not to have any discussions about anything
14 related to this case which you've heard today with
15 anybody, among yourselves or anybody that you come into
16 contact with. Again, no research on your own, and we'll
17 see you bright and early at 9:30 in the morning. Get you
18 a good night's rest. We'll work hard tomorrow. Okay..
19 Have a good evening.

20 (Whereupon, the jury was excused from open court for
21 the day.)

22 THE COURT: Is every, everybody's out of the jury
23 room? Okay. Solicitor, you had indicated when we had our
24 sidebar that there is an issue related to something when
25 Investigator Dickert testifies?

1 MR. SCOTT: Well, I think that's one of the exhibits
2 that Charles was unable to stipulate to in the beginning.
3 Potentially, I guess, prejudicial information. It's a
4 recorded interview, what I'd call the second interview
5 that they do over at the Sheriff's Department.

6 THE COURT: Right. That's Exhibit 58 --

7 MR. SCOTT: Yes, sir.

8 THE COURT: -- on the 23rd.

9 MR. SCOTT: And just to clear things up. And I'm
10 just kind of predicting the gist of the objection that
11 there might be some, well, what is your objection,
12 Charles?

13 MR. VERNER: And the Court ruled on it. Just that
14 the statement was involuntarily given. What is the
15 Court's ruling on that?

16 THE COURT: I had found that the statements, well,
17 the statement on the 22nd, he was not in custody, Miranda
18 was not given nor was it required because there was no
19 custodial interrogation.

20 MR. SCOTT: Of course, that one doesn't apply to the
21 audio tape, the 22nd.

22 THE COURT: Right. Right. That's right. And then
23 the 23rd statement, I found that it was voluntarily made
24 and in compliance with the Miranda requirements. So are
25 you just renewing your motion to have that audio excluded,

1 previous arguments, are you adding additional grounds to
2 have the audio excluded?

3 MR. VERNER: No, the same objection, Your Honor.

4 THE COURT: Okay.

5 MR. SCOTT: It's a lengthy interview. But what I
6 will do with Ryan is just kind of lay the foundation for
7 it and probably just play two or three, one-to-two minute
8 snippets of it --

9 THE COURT: Okay.

10 MR. SCOTT: -- and introduce the entire thing for
11 them to listen to should they feel the need to. That
12 would be the next witness that I intend to introduce that
13 for.

14 THE COURT: All right.

15 MR. VERNER: I will probably re-listen to it again
16 tonight. My general inclination, is to play the whole and
17 then maybe if they want to replay snippets of it. But
18 I'll anticipate asking that the whole thing be--

19 THE COURT: Right. And, you know, if the Defense
20 feels like it needs to be played in its entirety, then
21 just go ahead at the outset, go ahead and play it. And
22 then exhibit those portions you want to view back with
23 Investigator Dickert, then you can certainly do that.
24 Okay. All right. Now, and concerning Exhibit 59, that is
25 the probation list of the Defendant's contact numbers. I

1 got the impression that so long as nothing is indicated
2 about him being on probation or anything of that nature in
3 getting that information in probably to the satisfaction
4 of Mr. Verner. Is that correct?

5 MR. SCOTT: Yes, sir. And that would be one of the
6 snippets in there where he does own that phone and does
7 own up to that phone number being associated with him. So
8 that would be one of the snippets we play and also that
9 maybe Robert Dennis confirmed it through some government
10 records or something.

11 THE COURT: I think we just leave the term,
12 probation, out of it. Then, Mr. Verner, you probably will
13 be okay with that?

14 MR. VERNER: More inclined to; yes, sir.

15 THE COURT: Well, just maybe sometime before we start
16 back in the morning, y'all discuss that and make sure you
17 know how he's going to get that in through whatever
18 witness and the manner of getting it in. And then you can
19 determine whether or not you need to raise another issue
20 or not.

21 MR. SCOTT: Thank you, Judge.

22 THE COURT: Okay. All right. Anything further? How
23 long is that audio?

24 MR. SCOTT: About an hour. A little bit over an hour
25 or so. There's a lot of irrelevant kind of --

1 MR. VERNER: Judge, I might--

2 MR. SCOTT: -- he talked about being on probation on,
3 in the entire thing.

4 MR. VERNER: Which I'm inclined to re-listen to it.
5 I've listened to it, but just in the general sense of it,
6 not where I've annotated timeframes, but I might could
7 re-listen to it again tonight. And if I have, I'll try to
8 have like a synopsis of what needs to come in if I need --

9 THE COURT: Okay.

10 MR. VERNER: -- something. And so the snippets of it
11 might be appropriate. I'll just take it upon myself to
12 make sure what I will--

13 THE COURT: All right. Well, logistically, if any
14 portions are going to be redacted, can that be done fairly
15 easily or timely or is that, I mean, I know you --

16 MR. BENTLEY: I'm not saying it's not possible. It's
17 very possible, but it would require Mr. Verner giving me
18 what needs to come out.

19 MR. VERNER: I'll be more inclined, Judge, just to
20 review it again tonight. If y'all tell me the two
21 portions that y'all think you going to play, I'll try to
22 just be very concise in what I think needs to, and I'll,
23 it's got the timestamps to where you can go through the
24 timestamped.

25 MR. BENTLY: I actually have them organized for you.

1 MR. VERNER: Okay. I'll try, I'll take it upon
2 myself to get them a little bit better and deliver the
3 whole thing, in fairness.

4 THE COURT: Well, I mean, yeah. If you can
5 communicate as soon as you can of where you are at with
6 respect to the audio and, of course, I'll give you guys
7 enough time to do whatever you need to do. I was just
8 wondering how easy or hard it would be to redact and how
9 long that would take.

10 MR. VERNER: If I mark it tonight Judge, then I'll
11 take it upon me to make sure.

12 THE COURT: Okay. Well, we'll start back at 9:30 in
13 the morning. Okay.

14 MR. SCOTT: Thank you, Your Honor.

15 THE COURT: All right. Everybody have a good
16 evening.

17 (Whereupon, the trial will resume the next morning at
18 9:30 a.m.)

19 MAY 17, 2017

20 THE COURT: Okay. We are back on the record and we
21 left yesterday where we were discussing the audio of a
22 statement that the Defendant gave and have we been able to
23 work through that. And I think it might, they're might be
24 some redactions of some sort. So where are we with that?

25 MR. SCOTT: For this next witness, Your Honor, I'm

1 going to probably play one, two, three, five clips or so
2 and each one of them, you know, is just twenty seconds,
3 fifteen to twenty seconds long. And then probably,
4 Walter, we'll just, do we have the capability of just
5 making a disc with only those clips on it that we could
6 send to the jury?

7 MR. BENTLEY: Yeah.

8 MR. SCOTT: That might be a workable solution.
9 Because all through the interview, they will leave the
10 topic of probation and come back to it later and --

11 THE COURT: Right.

12 MR. SCOTT: -- it's kind of spliced throughout the
13 entire audio.

14 THE COURT: Okay.

15 MR. SCOTT: But these pertinent interview, but these
16 pertinent clips are probably all I'll introduce for the
17 jury.

18 THE COURT: Okay. All right.

19 MR. SCOTT: And then later on before we send it back,
20 then we'll have a disc with just those clips on it.

21 THE COURT: All right.. Now, Mr. Verner, you had
22 mentioned yesterday that you might would want more of the
23 audio played. So where are you?

24 MR. VERNER: Well, I'm still somewhat at a
25 disadvantage, because I'm not sure exactly which audios

1 yet they are going to put in. But I've got basically
2 where I've timestamped the story. So I should be able to,
3 if I do need more to it, I'll probably be inclined to
4 handle it just through cross-examination.

5 THE COURT: Okay.

6 MR. VERNER: But I do, I don't know the reason if
7 they play the tapes or read the statements into evidence.
8 I don't know why the jury would need a CD recording of
9 them. Just like any other testimony, if it's told to the
10 jury, I don't know that they would need the audiotape.

11 THE COURT: Well, I mean, if they wanted to listen to
12 it again. And with the audio, the portion of the audio of
13 his statement given is in evidence, certainly they would
14 have the right to listen to it if they wanted to. Can you
15 not get with Solicitor Scott and he can tell you exactly
16 the portions that he intends or the snippets, as it's been
17 called, so you'll know in advance of what they intend to
18 play?

19 MR. VERNER: Well, I've tried, but we'll try again.

20 MR. DANIEL: Your Honor, I'm doing that right now for
21 him.

22 THE COURT: Okay. All right. We are off the record
23 to just let y'all discuss.

24 (Whereupon, a short break was taken.)

25 THE COURT: We are back on the record. Do we have an

1 understanding, Mr. Verner, of what they intend to play?

2 MR. VERNER: Yes, sir.

3 THE COURT: And then certainly once that is done and
4 cross-examination, if you want to have some of the audio
5 played, other portions, you can certainly make that
6 request.

7 MR. VERNER: The only one that I might have, that
8 might need a little bit more, is the summary, at timestamp
9 58, which is talking about the face information. They
10 basically summarize what they have got against him. But
11 that would be the only one.

12 THE COURT: All right. Anything further before I
13 bring the jury out?

14 MR. SCOTT: No, Your Honor.

15 MR. VERNER: No, sir.

16 THE COURT: All right. Madam, Bailiff, if you'll
17 bring the jury out, please. Who's your next witness,
18 Solicitor?

19 MR. SCOTT: Ryan Dickert.

20 THE COURT: Okay.

21 (Whereupon, the jury came into open court at
22 approximately 9:50 a.m.)

23 THE COURT: And let the record reflect the jury is
24 back in the courtroom. Good morning, ladies and
25 gentlemen. I hope you got a good restful night and ready

1 to get to work today. Solicitor, you ready to call your
2 next witness?

3 MR. SCOTT: I am, Your Honor. The State calls Ryan
4 Dickert.

5 THE COURT: Okay. Come around, please, sir.

6 RYAN DICKERT, being
7 first duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 By Mr. Scott:

10 Q And, Dickert, you are an investigator with the
11 Sheriff's Department?

12 A That's is correct.

13 Q Okay. Tell me, you had an opportunity to respond to
14 [REDACTED] September 21st of last year?

15 A That's correct.

16 Q And you got there, I guess, after the first
17 responders. Claytor, we heard from him yesterday. He was
18 the first responder. You got there sometime after he
19 called in the scene?

20 A That's correct.

21 Q All right. And what do you do when you first get
22 there?

23 A The first thing we did was went to the Complainant's
24 address which would be Ms. Tapia's house.

25 Q Okay.

1 A Located the victim, Ms. Wicker, kind of slumped on
2 the couch if you will, for lack of better words. I mean,
3 she was just kind of laid across the couch, wasn't sitting
4 up straight. Appeared to be very distraught, in pain. We
5 tried to address what we could as far as injuries were
6 concerned. We knew EMS was on the way. I'm not an EMT,
7 so I don't want to hurt her any more than what she's
8 already hurt, but we did want to preserve what evidence
9 was there, which was the duct tape that was wrapped around
10 her wrist. So we secured that. Removed it as gently as
11 possible so that we didn't cause any further injury to
12 her, but and she was in some pretty severe pain as far as
13 her arm and shoulder and chest pain were concerned.

14 Q Okay. Well, did she relay to you what had happened
15 to her?

16 A She, Sergeant, or Lieutenant Claytor had already
17 spoken to her, so they were still in dialogue when I
18 arrived. So I kind of picked up what they were talking
19 about. And then I would ask certain questions to try to
20 catch back up with where they had already been as far as
21 the story was concerned. Basically, she gave me the
22 story, which is very similar to what you've heard, that
23 she had been with her mother all day taking her up to
24 Clinton to drop her off with the brother. Come back home
25 and was getting ready for church. Got out of her vehicle,

1 which is a Cadillac, walked around. There is a ramp. I
2 believe you've seen the photographs of that. Walked
3 around the ramp to the back of the house and was
4 attempting to put the items inside the passenger or the
5 rear driver's side door, she opened the door. At that
6 point in time, a male or a subject appeared and startled
7 her and she was kicked, struck in the chest and she fell
8 back against the railing of the ramp that leads to the
9 back porch. She attempted to start screaming. She said
10 the subject got out of the truck, grabbed her by the mouth
11 area. Indicated that she knew he had on gray leather
12 gloves, which she thought were like a driving-type glove
13 just due to the glove being in her mouth. She said a
14 struggle was ensued outside. That she was drug to the
15 back porch area, she was held down, he took her keys,
16 opened up the house, took her inside. Once inside, she
17 kind of broke free from him, ran towards, I guess, the
18 front of the house, which would be the living room area.
19 He ended up tripped her or somehow or another knocking her
20 down or she may have fallen down, but she knew she fell
21 down and, she was fighting for her life. That's what she
22 indicated. She was fighting for her life. She was in
23 fear of her life. She had no idea what was going on. I
24 mean, everything was just happening so fast that she was
25 trying to do what she could to make sure that she was

1 there to take care of her mother the following day, which
2 I had found out later that evening was a hundred years
3 old.

4 Q Now, the Cadillac, was the Cadillac on the scene at
5 the time you were there?

6 A No. No, sir.

7 Q Was the pickup truck there?

8 A It was.

9 Q Okay. And did you go around and start marking
10 evidence that you thought was relevant?

11 A I did.

12 Q How do you do that? You're law enforcement and you
13 go to a crime scene and there's duct tape, cords or
14 whatever on the ground, how do you mark those?

15 A Oh, we mark them with evidence markers, which they're
16 either numerical or alphabetical, ABC's/123's.

17 Q Okay. Let me show you State's 45, 46, 47, 48, 49, 50
18 and, generally, take a look at those. We'll go through
19 them one by one.

20 A Okay.

21 Q And what are those pictures of?

22 A These are pictures of items of evidence that were
23 located throughout the residence in the front yard, the
24 front steps.

25 Q Okay. And, for instance, 45 that we've got on the

1 screen now, that is a picture of what?

2 A Those are evidence markers 1, 2, and 3. Number 1 was
3 duct tape located on the ground in front of the front
4 steps; number 2, would be duct tape located on the first
5 step; and duct tape, I mean, number 3, would be duct tape
6 located on the third step.

7 Q Okay. So these are all duct tape. One would be the
8 one in the yard, that's duct tape; two would be the first
9 step; and then three is the third step. But all of them
10 are just duct tape remnants you found?

11 A That is correct.

12 Q And then State's 46? Marker four --

13 A Uh-huh.

14 Q -- in between the living room and the day room?

15 A Number four was a male's golden wedding band.

16 Q Okay. And then we see some other markers in the
17 background there. I think State's 47 might be a close up
18 of that, no that's, 47 is marker five. What is that?

19 A That is a cut section of the phone card.

20 Q Okay. All right. Let's go to State's 48.

21 A All right.

22 Q That is, I guess, the couch there in the living room?
23 Is that what that is?

24 A Yes, sir.

25 Q You see it in the top?

1 A Yes, sir.

2 Q All right. What is seven there?

3 A Seven is also a portion of cord. This is actually
4 the power cord portion and not the connect the phone to
5 the phone jack.

6 Q Okay. Eight?

7 A Eight is a roll or a piece of duct tape.

8 Q Okay. It's still in kind of a cuff-shape --

9 A Correct.

10 Q -- was it not?

11 A Yes, sir.

12 Q Nine, what is that?

13 A Nine and ten kind of ran together. It was the cloth
14 which we determined later to be a pillowcase, and then the
15 white cord laying underneath it was also a cut section of
16 phone cord.

17 Q Okay. State's 49, I guess, those are just close-ups
18 of what you just testified to and a portion of the cord
19 with the plug part, and then the cuff duct tape?

20 A That is correct.

21 Q All right. What's 50?

22 A Oh, 50 is a close-up of the pillowcase --

23 Q Okay.

24 A -- as well as the cord that was cut.

25 Q And so these are items you observed in the house that

1 were left behind?

2 A That's correct.

3 Q And State's 51, what is that?

4 A That is the victim's cellphone which we located in
5 the master bathroom commode.

6 Q Okay. Did you try to power it on?

7 A No, sir.. Not at that time.

8 Q Well, did you ever try to power it on?

9 A We did attempt to after, we put it in a bag of rice
10 and let it sit for over twenty-four hours and attempted to
11 power it on, but it was damaged due to water.

12 Q It was ruined?

13 A Yes, sir.

14 Q Okay. Did you have a general description of the
15 suspect you were looking for, I understand?

16 A Yes, sir. We were given the description of a black
17 male in his twenties weighing approximately 120 to 140
18 pounds, five-five, real thin build, and he had dreads.

19 Q Okay. You were given that description, tell me how
20 did you develop Anthony Wise as a suspect in this case?

21 A Through the conversation with Lieutenant Claytor, she
22 had given him some indicators which were some statements
23 that she felt like it had to be somebody who intimately
24 knew of her and her family. One was that he knew how
25 important the wedding rings were to her and that was the

1 reason why he wasn't going to take them, because he knew
2 her husband was recently deceased. The other that her
3 mother being there, if you ever want to see your mother
4 again. To me, I would have never known that her mother
5 was still alive, you know, at that age. So, you know,
6 those were indicators to him that this might be somebody
7 that's local. She also said that she felt like it had to
8 be somebody in the neighborhood based off of those
9 statements. We have Law Track which is a database that we
10 use at the Sheriff's Office, as well as the city and other
11 areas of the county that we can go through and take
12 general information, height, weight, eye color, hair
13 color, white, black, Hispanic, Asian, and plug those
14 descriptors in. And we can go as far as to narrow it down
15 to a specific location as far as addresses are concerned.
16 You can search within so many miles and what we did was we
17 used that information in Law Track, along with her house
18 and came up with a list of about three people. Mr. Wise
19 was one that matched the descriptors to include the
20 dreads.

21 Q Okay. So what were the parameters you were doing,
22 was it young black male?

23 A We used age. We used his age.

24 Q Age?

25 A The height. Weight, we used. But 120 to 140, that's

1 a large gap. A lot of folks fall into that category.
2 What we used primarily the height, the age range, and the
3 location.

4 Q Okay. So you're looking at general area near Ms.
5 Wicker's home?

6 A Yes, sir.

7 Q All right. And did you determine where an address
8 that was associated in your Law Tracks database with Mr.
9 Wise?

10 A Yes, sir.

11 Q And where did you find that he lived?

12 A [REDACTED].

13 Q [REDACTED]. How close was that to Ms. Wicker's house?

14 A Just around the corner from her house. You go down
15 the road probably less than two-tenths of a mile and it'll
16 be on your left.

17 Q Take a look at State's number 8. What are we looking
18 at in State's number 8?

19 A This is an aerial photograph of the Green Meadows
20 subdivision. I believe that Ms. Wicker's house is the one
21 that is closest to on the right-hand side.

22 Q Okay. Well, with the Court's permission, if you'd
23 step down and kind of demonstrate to the jury where you're
24 talking about.

25 THE COURT: Just be sure and speak up loud enough

1 since you're away from the mike.

2 THE WITNESS: Yes, sir.

3 Q All right. For the jury, but where is Mrs. Wicker's
4 home?

5 A This is Mrs. Wicker's residence here.

6 Q All right. For the record, that is the home that's
7 in the very bottom, situated at the very bottom of State's
8 number 8. And it's got kind of the, I don't know, like a
9 horseshoe circle drive kind of thing?

10 A That's correct.

11 Q All right. Do you see in State's number 8 the home
12 that Anthony Wise listed as his address?

13 A Yes, sir. It's actually right here on the right-hand
14 side of the road.

15 Q Okay. So for the record, if you take Green Meadows
16 where it has a slight curve to the right. Just beyond
17 that curve there's a red-roofed house, and are you
18 pointing to the house that's directly before the
19 red-roofed house?

20 A Yes, that is correct, the one before the red-roofed
21 house.

22 Q Okay. So do you have any idea how far Ms. Wicker's
23 home and Mr. Wise's home are?

24 A Her's is [REDACTED] and his is [REDACTED] You're looking at
25 two-tenths of a mile.

1 Q Okay. Okay. You can take your seat. All right.

2 Cadillac, did y'all have any ways of attempting to locate
3 the Cadillac that night?

4 A We did. Ms. Tapia had notified our dispatch that the
5 OnStar was still active in the Cadillac, as well as once I
6 was there, we reconfirmed that information with Ms. Wicker
7 that yes, that OnStar was still active. I had Lieutenant
8 Claytor contact our dispatch who in turn contacted OnStar
9 with the necessary information off of the crime that we
10 were working, and they were able to give us GPS
11 coordinates for that, for the location of a vehicle.

12 Q Okay. Do you know where it was ultimately found?

13 A I did not go. I stayed at the scene, but several
14 units went to the Boyd's Crossing/C.R. Coon Highway 76
15 area, which is where the GPS coordinates were plotting it.

16 Q Okay. And you didn't go there?

17 A No, sir.

18 Q But it was found that night?

19 A Yes, sir; it was.

20 Q And were you the lead investigator in this case?

21 A Yes, sir.

22 Q Do you know what was found inside the Cadillac?

23 A I believe they found TV's inside the Cadillac that
24 night.

25 Q Okay.

1 A I think Ms. Wicker's mother's walker was also located
2 in the vehicle.

3 Q Okay. Were you given the information about the ATM
4 visit?

5 A We subsequently got that information. She had
6 informed us that he had stolen her card and they'd stopped
7 by an ATM. It was unknown whether a withdrawal was
8 actually made or not, because she couldn't see, so we had
9 to wait until the following morning to get in contact with
10 the bank and get the records for that.

11 Q Okay. And what bank did you go to to attempt to get
12 the records for the ATM trip?

13 A Palmetto Citizens was the ATM that was used; however,
14 her bank was Old South Federal Credit Union.

15 Q Did they provide you some information?

16 A The Old South provided us information as far as the
17 timestamp and the location for which the withdrawal was
18 made. I'm part of a financial crimes taskforce and went
19 through my list of emails and found Ms. Irene, who works
20 for Palmetto Citizens Federal Credit Union, and e-mailed
21 her with the specifics of our case and asked her if she
22 could assist us with getting any type of photography or
23 video from the ATM.

24 Q Well, in case the jury is not aware, tell us about
25 ATM, when you go to an ATM, what kind of surveillance are

1 they typically equipped with?

2 A Most all of them have still photography. There are
3 quite a few that actually do video, as well, from
4 different points of view on the ATM.

5 Q Okay. Now, did they provide you with some still
6 shots from this location?

7 A Yes, sir; they did.

8 Q All right. State's number 6, do you recognize this?

9 A Yes. These are the photographs of the truck at the
10 Palmetto Citizens Federal Credit Union.

11 Q Okay. And what time was this still shot taken?

12 A This was 9/21/2016 at 19:28, which is 7:28 p.m.

13 Q Where do you see 7:28?

14 A On at the bottom.

15 Q Oh, okay. I was looking up top. What is this, the
16 7:31 up top here.

17 A I'm sure that that's probably when the transaction
18 actually occurred.

19 Q Okay.

20 A But the timestamp on the picture is --

21 Q I see.

22 A -- are probably when the vehicle broke the plane --

23 Q Okay.

24 A -- to activate the camera.

25 Q Okay. And the withdrawal was how much?

1 A \$500.00 dollars.

2 Q Okay. And this location of this ATM is, what's the
3 address?

4 A 709-A Kendall Road.

5 Q Okay. Did you ever, was there any of these pictures
6 when you can get a clear shot of the driver of the
7 vehicle?

8 A In the --

9 MR. SCOTT: Scroll down.

10 A Scroll down one more. Right there. The one at the
11 top, if you look very closely, there is a picture of the
12 subject sitting and you can see a white mask on. It may
13 be difficult to see there, but I can see it here is what
14 it shows.

15 Q Okay. I guess, the question is were you able to make
16 any kind of identification?

17 A No, sir.

18 MR. SCOTT: Scroll down so we can see all, Walter.

19 Q Yeah. These are just different angles, I guess?

20 A That's correct. And that is her, this is her
21 deceased husband's truck.

22 Q Okay. And I think she identified it yesterday.

23 A Yes. And we were able to run the tag on it and --

24 Q Okay.

25 A -- get that information just to confirm that that was

1 her vehicle that was at the ATM.

2 Q Okay. And then when you went to Ms. Wicker's home,
3 the pickup was there, right, but the Cadillac was gone?

4 A That's correct.

5 Q Okay. So you could look at these pictures and the
6 license tag and match it with the truck?

7 A That's correct.

8 Q I see. Okay. At what point, did you get to speak
9 with Mr. Wise for the first time?

10 A I spoke with Mr. Wise the first time on the 23rd.

11 Q The 23rd, so two days after this?

12 A That's correct.

13 Q And where was he?

14 A Here in, right across from probation.

15 Q Okay. And did you interview him there?

16 A We Mirandized him. Took him into custody or took him
17 into custody.

18 Q What's Mirandized mean?

19 A Read him his rights, which we hear on TV all the
20 time, Miranda warnings.

21 Q And what are those warnings?

22 A If you don't mind.

23 Q Okay. So you have a card that you read them?

24 A That's correct.

25 Q You've probably got it memorized, but why do you read

1 it from a card?

2 A So that I don't forget anything or make any mistakes
3 on it.

4 Q All right.

5 A Can you, you'd like me to read it?

6 Q Yeah, but speak up just a little bit --

7 A Okay.

8 Q -- if you can.

9 A It is my duty to advise you that you're under
10 investigation by the Newberry County Sheriff's Office and
11 that you have the right to remain silent. Anything you
12 say can and will be used against you in a court of law.
13 You have the right to have a lawyer and consult with a
14 lawyer before and while we're asking the questions, and if
15 you cannot afford a lawyer, one will be provided to you
16 without cost.

17 Q All right. So who read them, you?

18 A Captain Dennis did.

19 Q All right. Captain Dennis, but he was with you at
20 this time?

21 A That is correct.

22 Q All right. Tell me how you, so you met Mr. Wise,
23 basically, across the street from where we are right now;
24 is that right?

25 A I wouldn't say we met. We were riding the area

1 looking for him and observed him and his girlfriend
2 walking right there across from probation.

3 Q Okay. And did you read him his rights right there on
4 the street before you picked him up or?

5 A Captain Dennis did once he was taken into custody.

6 Q Okay. So he was placed under arrest at this time?

7 A That is correct.

8 Q Okay. And then you took him where?

9 A To the Newberry County Sheriff's Office.

10 Q All right. And how far away is that from this
11 courthouse?

12 A Two miles max, if that.

13 Q All right. Once you got to the Sheriff's Department,
14 where did you take him?

15 A Oh, we went to Captain Dennis' office.

16 Q Who all was with you?

17 A Myself, Captain Dennis and Sergeant Epps.

18 Q Epps. And then he was, Mr. Wise was handcuffed?

19 A That is correct.

20 Q Did you keep him in handcuffs?

21 A No, sir. We actually took them off. Spoke to him
22 briefly. He asked to use the restroom. We allowed him to
23 go to the restroom, and then he came back.

24 Q Tell me how he appeared at that time?

25 A He had dreads. He actually had on a red shirt that

1 day and, I believe, blue or black-colored pants which fit
2 the general description that was given the night before,
3 or two days before. I'm sorry.

4 Q Well, did you, and you had the description of what
5 the person was wearing two days before?

6 A That's correct.

7 Q What was the color of his shirt?

8 A Red top, red shirt. I'm sorry.

9 Q Then, all right. This is State's 53. Who took this
10 picture?

11 A I believe either myself or Captain Dennis. I really
12 don't want to --

13 Q And so he had a little bit different, did you know
14 Mr. Wise before this?

15 A I didn't.

16 Q Okay. But this is how his hair appeared then?

17 A Yes, sir; that day.

18 Q And then State's 52. Okay. So these were taken
19 during this interview or just before this interview you're
20 discussing with us right now?

21 A It's probably at the conclusion of the interview.

22 Q And we can look at them today, too, but what is this
23 bill, describe this?

24 A VIN.

25 Q VIN. And did y'all have a weight listed for him at

1 the time?

2 A 140 is what the, what we had.

3 Q How old is he? I think, do you know how old he is?

4 A I think he's 20, or was 24 then.

5 Q Okay. Or mid-twenties?

6 A Uh-huh.

7 Q All right. So how did the conversation go when you
8 get him in the room after he's Mirandized. How do y'all
9 start the conversation?

10 A Well, we basically let him know what information we
11 had as far as the physical descriptors that were given to
12 us; how we established him as a person of interest. That
13 we had actually gotten a cellphone number for him and
14 through the assistance of the State Law Enforcement
15 Division, were able to put that cellphone at locations of
16 the ATM, and then sent it to the other residence, as well
17 as where the car was located.

18 Q On September 21st?

19 A That is correct.

20 Q Okay. So by the time this interview takes place on
21 September 23rd, you guys had already been plotting his
22 cellphone numbers?

23 A The State Law Enforcement Division; yes, sir.

24 Q Okay. So y'all had that information when y'all
25 interviewed him?

1 A That is correct.

2 Q And you're saying what now? After y'all plotted his
3 cellphone usage on the 21st, what did you find?

4 A That his phone or the phone that he had on his person
5 the date that we took him into custody plotted at three
6 different locations of one was in the area of the
7 residence, one was in the area of the vehicle, and one was
8 at the area of the ATM.

9 Q Okay. Now, we just saw that the ATM was being used
10 around 7:30. When you're looking at where his cellphone
11 is located, does it correspond with pertinent times?

12 A Yes, sir; it does.

13 Q Okay. Okay. Well, it probably wouldn't be out of
14 the ordinary for his phone to plot near the victim's home?

15 A That is correct.

16 Q Okay. And why is that?

17 A His residence is two-tenths of a mile down the road
18 --

19 Q Okay.

20 A -- and his girlfriend's residence is, maybe a mile
21 and a half/two miles up the road from there. So it
22 wouldn't be abnormal for it to be in that area.

23 Q Okay. But 709-A Kendall Road address, that ATM,
24 about how far away is that from the incident location of
25 Ms. Wicker's home?

1 A Two and a half and no more than three miles I would
2 say.

3 Q Okay. And so you're saying his phone was plotting in
4 that location in and around 7:30 p.m.?

5 A That is correct.

6 Q All right. Did you, well, first of all, what is he
7 saying once you kind of hit him with the allegations?
8 This lady's been kidnapped and burglarized, what does he
9 say?

10 MR. VERNER: Your Honor, and subject to my prior
11 objection.

12 THE COURT: So noted.

13 Q What does he say?

14 A He's not really saying a whole lot. He's indicated
15 he doesn't know what we're talking or he doesn't know what
16 we're talking about when we're just giving him the general
17 information.

18 Q Okay.

19 A He says that he was at David's house, and then went
20 to T.J.'s house, but nobody was there. He uses the Wi-Fi,
21 but had nobody there that can corroborate his stories.

22 Q Okay. And did you get a name T.J. that you never,
23 did you get the letter or did you get a last name?

24 A No, sir.

25 Q Okay. You didn't, he just said P.J.?

1 A T.J.

2 Q Okay. And did he have any other places that he said
3 he would have been on the 21st?

4 A He indicated that he went to the Chinese restaurant
5 on Kendall Road to get his girlfriend food.

6 Q Now, tell me, wait a minute. Tell me how that comes
7 about. Why?

8 A I asked him specifically if he'd been on the, in the
9 Kendall Road area. He said, yes. He went to the Chinese
10 restaurant to get his girlfriend food. I said, well,
11 that's great. We can corroborate your story. They've got
12 cameras there. I can go pull the video so that we can
13 show you going into the Chinese restaurant at that time
14 and he quickly said, well, I didn't go inside. I didn't
15 get her any food. I didn't have any money. I said, okay.
16 So you went in and you realized you didn't have money.
17 That still gets you on video, so that gives you an alibi
18 for where you were. He said, well, no, I didn't actually
19 go inside. I said, well, how far across the parking lot
20 did you go? Well, I didn't go that far. So he kind of
21 left. He was there, but he wasn't there.

22 Q Okay. So you tell him that the information you have
23 this phone involved him at the ATM?

24 A I didn't say that then. My general question was the
25 Kendall Road area --

1 Q Okay.

2 A -- just to see where he would go with it, to see what
3 information he would provide without actually having to
4 show my hand.

5 Q Okay. Okay. And then and so you're saying he begins
6 to give an explanation of why his phone would be there?

7 A That is correct.

8 Q And that is that he went to get some Chinese food?

9 A That is correct.

10 Q Okay. At first, is he indicating that he did, in
11 fact, get food?

12 A Yes, sir. His statement was I went to get my girl or
13 I got my girlfriend food.

14 Q Okay. And then tell me what he says after you told
15 him that you'd be able to get surveillance to corroborate
16 that?

17 A When I informed him that the business had video and I
18 would be able to confirm that, that he was there, the
19 subject advised that he did not get his girlfriend food,
20 because he did not have any money.

21 Q Okay. That was after you said, well, let's go get
22 the camera footage from the Chinese restaurant?

23 A That's correct.

24 Q And the Chinese restaurant is close to that ATM, is
25 it not?

1 A Yes, sir. It's in the same parking lot.

2 Q What is State's 56. Do you recognize that?

3 A Yes, sir.

4 Q All right. This ATM that we're looking at, that
5 would be the one that we just saw from the surveillance
6 footage?

7 A That's correct.

8 Q And then you see the three dots of the liquor store
9 in the back. This store right here with the yellow
10 marquee.

11 A Yes, sir.

12 Q What is that?

13 A That is the Chinese restaurant.

14 Q Okay. Is that the one that you were understanding he
15 was talking about when he said he went to get Chinese
16 food?

17 A That is correct.

18 MR. SCOTT: Your Honor, we are going to play, let me
19 get this, it's listed as State's 58, I believe, but we're
20 going to play the clip three where he discusses why he
21 would have been at the Kendall Road location.

22 MR. VERNER: Just subject to my running objection,
23 Your Honor.

24 THE COURT: Sure.

25 (Whereupon, a video was published to the jury

1 starting at 10:21 and ended at 10:23.)

2 Q Okay. So he says he would have been over there,
3 because he got food?

4 A Correct.

5 Q Then, when you tell him, well, the surveillance would
6 prove that, he changed it to, well, I never was actually
7 there. And then he further changed it, well, I never
8 actually went inside.

9 A Correct.

10 Q Is that what you understood?

11 A (No audible response.)

12 Q Okay. And then tell us about the Economy Inn. What,
13 if anything, did he say about that?

14 A He kind of gave us the timeline of where he had been
15 throughout the evening. One of those was that they went
16 to the Economy Inn.

17 Q Who's they?

18 A He and his girlfriend.

19 Q Okay.

20 A Between 7:00 to 8:00 is when he's saying that they
21 got there, and they stayed until 11:00 p.m.

22 Q Okay. He said, what, was it 6:00 to 10:00 that he
23 was saying he was there?

24 A Yes, I'm sorry. 6:00 to 10:00.

25 Q Then, did you try to, did you attempt to confirm

1 that?

2 A Captain Dennis went to the Economy Inn and actually
3 got a receipt from the owner of the business. And then I
4 believe he wrote it on the, the owner of the business
5 wrote on the receipt that they were there at 9:05.

6 Q Look at State's 60. Is that the receipt from the
7 Economy Inn?

8 A Yes, sir.

9 Q And who was the man? Who checked in?

10 A This Laswan Renee Anderson.

11 Q Okay. And that is who?

12 A His girlfriend.

13 Q Okay. 9:05 was the check-in?

14 A Yes, sir. That's what he wrote.

15 Q Okay. So if he said he had checked in at 6:00, did
16 you find anything where he or Anderson checked in at 6:00?

17 A No, sir.

18 MR. SCOTT: Let's hear clip one from State's 58.

19 (Whereupon, State's 58 was published to the jury
20 starting at 10:25 and ended at 10:26.)

21 Q Okay. Difficult to hear, but you confirmed that it
22 was 9:00 o'clock when they checked in?

23 A It was 9:05.

24 Q 9:05. The phone number that you referenced earlier
25 where you were plotting the locations of the phone --

1 A Yes, sir.

2 Q -- did y'all recover that phone?

3 A We do have two phones.

4 Q Where'd you get the two phones?

5 A Off of him. Off of Mr. Wise out of his pocket.

6 Q All right. He had them in his pocket when you
7 arrested him?

8 A Yes, sir.

9 Q Okay. The one, I guess, I'm interested in the one
10 that has a 404 area code. Do you have that number? This
11 is State's 59. I'm not introducing it, but you can use
12 that to refresh your memory. What is the phone number
13 that is associated with the plots you did?

14 A Number 404-308-0449.

15 Q Okay. That phone number, he had the phone that's
16 associated with that phone number in his pocket?

17 A Correct.

18 Q What, if anything, did he say regarding his
19 whereabouts on September 21st?

20 A You're asking specifically about the phones. One was
21 a Wi-Fi phone is what he referred to it as. So, for me,
22 that would indicate that it has no cell service, so he's
23 not able to make or receive phone calls or text messages.
24 But if I'm in an area where there's Wi-Fi or free Wi-Fi, I
25 can access and do certain things with that phone. The

1 other phone would be his primary use phone for making
2 phone calls, text messages, and such.

3 Q Okay. And what did he say in regards to the one that
4 did have actual service, that 404 number?

5 A He would have had the phones.

6 Q He admitted that he had them on the 21st?

7 A (No audible response.)

8 Q Okay.

9 MR. SCOTT: Walter would you pull that?

10 Q Yes or no?

11 A Yes, yes. I'm sorry.

12 Q Clip number two from State's 58.

13 (Whereupon, State's 58 was published to the jury
14 starting at 10:28 and ended at 10:29 p.m.)

15 Q He doesn't give very many yes or no answers, does he?

16 A No, sir.

17 Q Okay. Did you receive the information from the
18 victim about the intruder saying, my mama had threw me
19 away or gave me away, or something like that?

20 A And through the course of the next day, matter of
21 fact that night, once I cleared from the scene, I went out
22 to the ER, because we knew that she was potentially going
23 to be released. And we were going to escort her back home
24 to give her a sense of comfort at least from there to the
25 home. And we'd go into the home with her and make sure

1 that she's comfortable. Her brother had actually driven
2 down and was there as well and while we were at the
3 hospital, we were talking about some of the things that
4 person said to her, along with the importance of the rings
5 as far as them being sentimental to her, her mother. She
6 said that she was blessing him and trying to let him know
7 that she would forgive him for this and, you know, how
8 would you feel if this was your mother. And he all but
9 told her to shut the hell up and said, my mom gave me away
10 or my mom threw me away.

11 Q Okay. Is this something you asked Mr. Wise about in
12 an interview?

13 A We did. And he actually lives with his grandmother.
14 I believe she adopted him at a very young age.

15 Q And is it Roby, Rob Wise or something?

16 A Roby.

17 Q Roby. It says, Roby Wise. And she would be the one
18 that lives on Green Meadows Road?

19 A That is correct.

20 Q Okay. So Roby is his grandmother and what, if
21 anything, did he say about his biological mother?

22 A He really didn't say a whole lot. He doesn't really
23 know a whole lot about her. He said that she didn't throw
24 him away, but he is adopted.

25 Q He, okay, she adopted him to his grandmother?

1 A Grandmother did.

2 Q Grandmother adopted him?

3 A Right.

4 Q Okay. I want to play a clip for you from your audio.

5 MR. SCOTT: It's clip number six, Walter, in State's
6 58.

7 (Whereupon, State's Exhibit 58 was published for the
8 jury starting at 10:31 and ended at 10:32 p.m.)

9 Q Why was that relevant? What is he saying about his
10 face?

11 A He mentioned that we didn't have his face or they
12 don't have my face. To me was very interesting, because
13 to my recollection, we never mentioned anything about a
14 mask. We were focused on just the cellphone records
15 saying it's your phone that you know that you said that
16 you carry was in these locations at these times which were
17 relevant to the times of these instances.

18 Q Okay. Now, he blurts out, you don't have my face?

19 A That's correct.

20 Q Okay. And you, you're testifying that you had not
21 told him yet about the intruder wearing a mask?

22 A I don't believe we had discussed anything about that.

23 Q This is a recording. How did y'all record this?
24 It's not very good audio quality.

25 A I used my cellphone. The main purpose was is I knew

1 my victim didn't see this person that did this to her.
2 But and through my 15 years of law enforcement, you deal
3 with various different people throughout this job. And
4 when you have somebody who has a disability, a sense where
5 it be sight or touch or anything like that, the other
6 senses tend to pick up. So for a blind person, everything
7 is based off of hearing.

8 MR. VERNER: Your Honor, I would object to that.
9 That's beyond his expertise to testify to.

10 THE COURT: Sustained. Moved on to something else,
11 please, Solicitor.

12 Q And I'm not saying she's blind, but you recorded the
13 thing, the audio or whatever of him, and then how did you
14 utilize that with the victim, Ms. Wicker?

15 A We went and visited her later that afternoon.

16 Q What, what September 23rd?

17 A Yes, sir; on the 23rd around 5:30, 6 o'clock. And I,
18 we had spoken before about if you hear his voice again,
19 would you know it. She indicated each time yes. So we
20 got to her house, I said, if you hear his voice, would you
21 know it. And she said yes. I said, well, I'm going to
22 play you a snippet of the audio recording so that you can
23 hear and you just let me know if this is or not the guy.
24 I played it. Ms. Wicker became visibly upset and just
25 about collapsed on the front porch and said, that is him.

1 That is him. That is him.

2 Q Okay. And did it take her a while to identify it or?

3 A I didn't want her to listen to like the first thing
4 he said and just say yes or no. I told her just listen to
5 it for a few seconds, and then let me know. I didn't want
6 her to just listen to the first part of, and then make a
7 decision whether it be right or wrong. I wanted her to
8 listen to it more carefully for a length of time.

9 Q Okay.

10 MR. SCOTT: Okay. Begging the Court's indulgence for
11 one moment.

12 Q This is State's number 3. Do you recognize what that
13 is?

14 A This is a Records and Information Release form that
15 we had Ms. Wicker sign at the hospital so that upon the
16 conclusion of getting treatment that she received, whether
17 it be Newberry or the other hospital, we could obtain the
18 records from the EMS transport, as well as records from
19 the hospital itself.

20 Q Okay. So hospital records for her treatment. And
21 did, were you able to confirm what injury she suffered at
22 the---

23 A Yes, sir. A fracture to her clavicle.

24 Q Okay. Clavicle and, what is that, the collarbone?

25 A Yes, sir.

1 Q All right. And that's already been admitted into
2 evidence.

3 MR. SCOTT: Investigator Dickert, answer any
4 questions Mr. Verner has for you.

5 THE COURT: Mr. Verner?

6 CROSS-EXAMINATION

7 By Mr. Verner:

8 Q Investigator, how long did the audio interrogation of
9 Anthony Wise last?

10 A Approximately an hour.

11 Q Okay. And it's fair to say at least the gist of
12 Anthony's statement was that he was not involved in
13 attacking Ms. Wise?

14 A That's what he said.

15 Q And he said that repeatedly through?

16 A That is correct.

17 Q I mean, and I know you played snip, snippets from the
18 conversation that you believe he gave inconsistent
19 statements on. But the sum and substance of his statement
20 as a whole was he denied involvement in this attack?

21 A That is correct.

22 Q And it's fair to say that it was you and Captain
23 Dennis were the main speakers for the law enforcement?

24 The two interrogators would be you and Captain Dennis kind
25 of back and forth?

1 A That is correct.

2 Q And, I believe, at times it might even going to,
3 Sergeant Epps was there for part of it, but it was
4 primarily you and Captain Dennis doing the questioning?

5 A That is correct.

6 Q And at times is it fair to say that y'all presented
7 what evidence y'all have against him. If he gave you a
8 statement that you felt was inconsistent you said at times
9 throughout the day, you know we've got this on you or
10 we've got that on you. So don't say the, but you've
11 presented evidence throughout the interrogation of what,
12 certainly as far as phone, the location of the phone?

13 A Yes. To contradict his statements.

14 Q And is it fair to say he asked you, well, what
15 evidence do you have on me?

16 A I'm sure he probably did.

17 Q Okay. And I think we heard the Solicitor indicate
18 that, is it fair to say that the quality of that audio is
19 not great?

20 A I would agree that it's not great, but it's
21 definitely usable and you can hear what's being said.

22 Q Did you see the level of the volume that he put it
23 on?

24 A The acoustics in this room are much different than
25 they would be in an office.

1 Q But when he was playing it for the jury, did you see
2 that he put it at the maximum volume that the TV set had?

3 A I couldn't see.

4 Q Okay. Is it fair to say that there's a lot of those
5 questions that either you or Captain Dennis were kind of
6 talking over Anthony?

7 A I would disagree.

8 Q Okay. Is it fair to say that Anthony appeared to,
9 that his answers appeared to be difficult to hear, that
10 he's kind of speaking in the background?

11 A I would disagree.

12 Q Okay.

13 MR. VERNER: Well, let's here the clip number four if
14 we can, Mr. Bentley. We'll hear number one, then.

15 (Whereupon, the audio was published to the jury.)

16 Q Tell me what he's saying and what did you hear him
17 say?

18 A Yeah. Like around 6 to 10, me and my girl.

19 Q Okay.

20 MR. VERNER: All right. Keep playing.

21 (Whereupon, the audio was published to the jury.)

22 Q So your testimony is that that's clear testimony?
23 That you can clearly hear him speaking in the background?

24 A I can hear him.

25 Q Okay. And you were leaning over towards the TV to

1 listen to it just a second ago?

2 A That is correct.

3 Q Okay. Let's hear the next audio track that y'all
4 played earlier.

5 (Whereupon, the audio was published to the jury.)

6 Q Please step down for a second, Investigator, and
7 stand right where I'm sitting. Back that up just a few
8 seconds.

9 MR. SCOTT: Judge, I don't know if this is a proper
10 demonstration. I think he's asking him to hear it from
11 the TV in the court across the room. If he's trying to
12 duplicate the occurrence that happened when Ms. Wicker was
13 able to hear it, I don't think that's a fair
14 representation at all.

15 THE COURT: Okay. Well, what's the point of having
16 Investigator Dickert listen to the recording from the
17 position you have him at?

18 MR. VERNER: Just whether it is a clear audio. It
19 appears to me from standing where I am, that I, you cannot
20 hear his words or his statement from this distance.

21 THE COURT: Okay. I'll allow it and certainly, if
22 the Solicitor wants to have Investigator Dickert located
23 in any other part of the courtroom to listen to it, then
24 he can certainly ask that. I'll overrule.

25 MR. SCOTT: And just for the record, Your Honor. My

1 physical location was at the edge of the jury panel from
2 the TV, about where I, we're standing.

3 THE COURT: All right. Very good.

4 MR. SCOTT: All right. Go ahead, Mr. Bentley.

5 (Whereupon, a an audio was played.)

6 MR. VERNER: All right. Stop it.

7 Q What did Mr. Wise just say there?

8 A From this distance, I couldn't tell you.

9 Q Okay. You can take your seat back again. That is
10 the audio that you had and Ms. Wicker listened to?

11 A Not in a room this big.

12 Q Okay. But, I mean, that would be the same audio?

13 A That would be the same audio.

14 Q It might not be the same snip --

15 A Right.

16 Q -- but would be the same stream of audio. And
17 actually what you played for her would have been on your
18 cellphone?

19 A That is correct.

20 Q Okay. Which would be a much smaller speaker than
21 presumably the large screen TV would have next to you?

22 A It would be a smaller speaker, yes, but the quality
23 would not be.

24 Q Okay. And was she outside or inside when she
25 listened to them?

1 A We were standing on her front porch.

2 Q Okay. So she would be outside?

3 A That's correct.

4 Q Okay. Is there traffic on that street?

5 A Very little.

6 Q Okay. It's a rural location?

7 A Yes, sir.

8 Q Is there like trees and a forestry area?

9 A Behind her house.

10 Q Okay. Would there be wind going through those trees
11 that you recall that day?

12 A That's eight months ago.

13 Q Okay.

14 A I wouldn't want to speculate.

15 Q Could there have been birds in the yard?

16 A There could have been.

17 Q Okay. Now, oftentimes when a victim of a crime sees
18 the attacker or sees the suspects, what's the typical, if
19 I was mugged and I said I got a good view of the mugger,
20 what would you do to have me identify the mugger?

21 A We would get you a photo lineup.

22 Q Okay. If I had said I'd seen your, the attacker's
23 face, you would present me a photo lineup?

24 A That's correct.

25 Q And if you had, say you thought you had, you knew who

1 mugged me and you had the person in custody, would you
2 just bring me that one person's picture and say this is
3 who we've arrested, is this the man who mugged you?

4 A No.

5 Q And, in fact, because that is, you're aware as an
6 investigator that legally you can't just show one person's
7 picture that you've arrested to a suspect, because it's
8 unduly suggestive?

9 A That's correct.

10 Q If we've arrested somebody, we give them one option,
11 is this the man. Somebody's likely to say yeah, that's
12 the person. Is that fair?

13 A I've had them say no.

14 Q And that's the reason you use multiple, different
15 people in a lineup so that it's less likely that they will
16 just say yeah, you got it right.

17 A It's the reason why we attempt to do it that way.

18 Q Okay. Even if you had somebody that you were sure
19 attacked me in custody, you would still give me six people
20 to identify from or at least a multiple different number
21 of people to identify the person and make sure that I
22 picked the same person that y'all thought?

23 A We would give you the opportunity, yes, with six.

24 Q Okay. And, in fact, you would tell me also that
25 that, none of these people might even be the man?

1 A That is correct.

2 Q Now, in this case, Ms. Wicker clearly said, I cannot
3 identify the man by face, he had a mask on.

4 A That is correct.

5 Q Okay. So we wouldn't have any photo, there's no
6 point, really in having a photo lineup in this case?

7 A No, sir.

8 Q Okay. But on the audio, you just basically played
9 the samples of what we heard and said, you know, does this
10 sound familiar to the guy and she said yes?

11 A Oh, I'd asked her if she heard his voice again would
12 she know it and she said yes. She didn't know that he was
13 in custody at the time. She didn't know that he was under
14 arrest at the time, and it wasn't until after she said,
15 that's him. That's him. Then I told her.

16 Q But she could hear you talking to the man during the
17 video?

18 A No. I made sure that there was, it was him talking.

19 Q Okay. Did you play anybody else's voice and say
20 which of these men or which of these two men or which of
21 these six men sounds like the voice of your attacker?

22 A No, I did not.

23 Q Okay. You don't believe that just giving her the one
24 audio of the man that you're interviewing might have been
25 unduly suggestive that she would be, tend to say that's

1 him?

2 A No, I don't.

3 Q Okay. You did speak to Ms. Wicker the night of the
4 crime?

5 A That is correct.

6 Q It's clear she did not indicate that the man had
7 yellow dreadlocks at that point?

8 A I do not recall --

9 Q Okay.

10 A -- her making that statement.

11 Q And realistically if somebody had made an
12 individualized identification such as colored hair, that
13 is something that typically a law enforcement, an
14 investigator or even anybody would have put in a report?

15 A I agree.

16 Q Distinctive identifications would almost always be
17 put in the report?

18 A I agree.

19 Q Were you one of the arresting officers of Anthony
20 Wise?

21 A I was present the day he was taken into custody.

22 Q Okay. Well, I don't, I'm not specifically asking if
23 you put the cuffs on him, but were you there when he was
24 arrested?

25 A That is correct.

1 Q Do you recall him arriving downtown in a taxi cab?

2 A No, sir.

3 Q Okay. Were you already waiting for him or he was
4 just randomly seen or do you recall?

5 A Oh, I was waiting for you to finish. No. We
6 actually had gone to a family member's house over in
7 Helena looking for him and received information that he
8 was possibly on his way to probation, which had been five
9 or seven minutes before we even got there.

10 Q And, in fact, he had been there the day before and
11 where you had spoken to him with Captain Dennis?

12 A That's incorrect. I wasn't present.

13 Q Okay. But you recall Captain Dennis and maybe
14 Garrett Lominack, another investigator, had spoke to him
15 the day beforehand?

16 A They went down there and that would be something that
17 they would have to testify to.

18 Q Okay. Would you agree with me that the number of
19 young men and women being raised by their grandmother or
20 grandparents is still a fairly large number of, it might
21 not be the majority of people, but there are plenty of
22 people in Newberry who are being raised by their
23 grandparents or grandmamma?

24 A Yes, sir.

25 Q Okay. So that in and of itself wouldn't be a highly

1 individualized description of somebody if we said this
2 young man lives with his grandmother or was raised by his
3 grandmother?

4 A Not given that information by itself.

5 Q Might narrow it down a little bit, but that still
6 leaves a lot of people in that pool?

7 A With that information alone, yes.

8 Q Okay. Now, the Miranda warning is, as an
9 investigator, when you have somebody that is a suspect in
10 a crime and you want to ask them about the crime and the
11 consequences could lead to their arrest, you are required
12 to read them their Miranda warnings?

13 A That is correct.

14 Q Okay. And that, it's your understanding, you've
15 testified in court many times before and you, I assume,
16 have training as an investigator in proper techniques to
17 investigate all the time?

18 A Yes, sir.

19 Q Miranda is not an optional requirement is it?

20 A No, sir; it's not.

21 Q That is an absolute requirement that if you are, if
22 you are going to arrest somebody or reasonably believe
23 somebody is a suspect in a crime, they have a right to be
24 told that anything you tell, tell me will be evidence at
25 your trial? Yes?

1 A That is correct.

2 Q And that you do not have to talk to me at all?

3 A That is correct.

4 Q And that if you do, even if you do want to talk to
5 me, you've got a right to have an attorney present during
6 the, during the interview?

7 A That is correct.

8 Q And also I think one thing you left off is you have
9 the right to stop talking to me at any time you want to,
10 is that correct?

11 A That's correct.

12 Q Okay. And oftentimes I see in cases that have a
13 written Miranda warning where you actually line by line
14 get a suspect to or you read it line by line on paper to
15 them and get them to sign every specific provision of
16 Miranda?

17 A When the time allows, yes.

18 Q Is there a written waiver of Miranda in this case?

19 A No, there is not.

20 Q Okay. And would you agree with me that there is no
21 Miranda warning on the audio? Do you recall any Miranda
22 warnings being give on that audio?

23 A The audio starts after he was taken into custody --

24 Q Okay.

25 A -- in the vehicle.

1 Q Well, I'll let you explain again. But yes or no, and
2 then you can explain.

3 A No.

4 Q Is there an audible Miranda warning on the tape that
5 you have?

6 A Not that I'm aware of.

7 Q Okay. But your testimony is you recall, you're sure
8 you gave him the Miranda warnings?

9 A Captain Dennis did.

10 Q Okay. Was that in your presence?

11 A It was.

12 Q Okay. Was that in the car ride or was that at the
13 station?

14 A It was actually as soon as he was taken into custody
15 on the corner of Harrington and Caldwell.

16 Q Okay. Is there a reason you had not recorded that as
17 part of the tape?

18 A Because I don't think we anticipated seeing him
19 walking down the road.

20 Q Okay. But, I believe, in some of your earlier
21 testimony for Solicitor Scott that you also indicated that
22 Ms. Wicker indicated to you that she basically said it all
23 happened so fast?

24 A Yes, sir.

25 Q Okay. Is that consistent with your memory of, and

1 she said during this encounter, she was in fear of her
2 life?

3 A Yes, sir.

4 Q Okay. And that, basically, Ms. Wicker indicated to
5 you because she felt the attacker had, knew details about
6 her home environment, that the attacker must have been
7 somebody who lived in her neighborhood or in her vicinity?

8 A That lived close by that knows.

9 Q Okay. And that's part of the reason she narrowed it
10 down or it was narrowed down to Anthony, because he was in
11 the neighborhood?

12 A Oh, it was narrowed down to the neighborhood, and
13 then narrowed down to him based off the physical
14 descriptors.

15 Q Okay. And, I believe, when you indicated that you
16 ran Law Track, there were three people who matched as
17 possible suspects and from those three, it was further
18 narrowed down to Anthony Wise?

19 A That's correct.

20 Q Is it fair, the Cadillac that Ms. Wicker owned was
21 recovered that same night?

22 A That is correct.

23 Q Now, you were not the, you stayed at the location of
24 the attack and didn't go to the Cadillac?

25 A That is correct.

1 Q Are you aware of whether it was dusted for
2 fingerprints?

3 A I believe it was.

4 Q And what color is the Cadillac?

5 A It is gold.

6 Q Gold, light gold or dark gold?

7 A It is gold.

8 Q Okay. And when you dusted for fingerprints, the
9 results kind of leave dark, where there's an accumulation
10 of fingerprints, you can kind of see the handprints or
11 fingerprints on the car itself after the dust is applied?

12 A Well, yes.

13 Q Is it fair to say, did you process the Cadillac for
14 forensic evidence such as fingerprints and DNA?

15 A We did.

16 Q You did, you personally did?

17 A I was present, yes.

18 Q Okay. Is it fair to say there were multiple
19 fingerprints found on the outside of the Cadillac at
20 least?

21 A And there were numerous latent prints; yes, sir.

22 Q Okay. Did any of those fingerprints, were they
23 identified?

24 A No, sir.

25 Q From the photographs, it appears that there were

1 fingerprints on the windows, around the door area on the
2 top of the car, but in multiple locations, fingerprints
3 were found?

4 A Whether they were quality enough to run or not is
5 another story.

6 Q Okay. But there were at least, from the photographs,
7 whether they, when you get fingerprints, they might be,
8 you can still see the ridges of fingerprints. But you
9 might be able to make a specific identification of them
10 but you can still see the general smudge prints and the
11 handprints?

12 A Correct.

13 Q Okay. And the car was recovered a very short time
14 after this attack, maybe two hours after the attack, an
15 hour?

16 A It was recovered within two hours of us being
17 notified of this incident.

18 Q Are you aware of any fingerprints coming back to
19 Anthony Wise?

20 A No, sir.

21 Q Okay. And you had his fingerprints, because he's in
22 custody, right?

23 A That's correct.

24 Q And there are TV sets inside of the car, right?

25 A That is correct.

1 Q And from the photographs, you can see handprints on
2 the screens of the TV sets?

3 A I wouldn't say hand, but probably fingerprints.

4 Q Okay. And when you take fingerprints and you've got
5 the powder that identifies them, do you put some kind of
6 tape or film over them to protect them or you just
7 photograph them, or how do you send them away for testing?

8 A We will photograph them first just in case, we are
9 human. If the print doesn't lift as well as we thought it
10 should, we at least have the photograph to refer back to,
11 but we will lift them and place them on a paper back.

12 Q All right. And then they are sent to SLED or further
13 specialists for identification?

14 A They're not always sent to SLED. Sometimes, in-house
15 will examine them.

16 Q Do you recall whether these fingerprints were sent to
17 SLED or whether they were done in-house?

18 A I believe they were done in-house.

19 Q Okay. The fingerprints on the TV sets, did they test
20 back to Anthony Wise?

21 A No, sir; they didn't.

22 Q Okay. And you had Anthony Wise's fingerprints in
23 custody, because he was in custody?

24 A Yes, sir.

25 Q Did they trace back to Ms. Wicker?

1 A We do not have her fingerprints.

2 Q Okay. The items that you have that the attacker, the
3 man who attacked Ms. Wicker, the items that you know he
4 would have touched would have been the cords that she was
5 tied up with?

6 A Correct.

7 Q Okay. The duct tape that she was further bound with?

8 A Correct.

9 Q The TV sets that the man moved into the car?

10 A Correct.

11 Q The Cadillac itself?

12 A Correct.

13 Q The pickup truck itself?

14 A Correct.

15 Q Is there any other item of physical evidence that you
16 would have that you knew the man who attacked Ms. Wicker
17 would have held or possessed that could have been tested?

18 A I think you've covered it.

19 Q What about the hammer?

20 A We had the hammer, yes.

21 Q Okay.

22 A But we had the vehicle as well.

23 Q All right.

24 A So if he touched the vehicle and he touched the
25 hammer in the same --

1 Q It should be the same?

2 A Well, it would be the same DNA there, so I wouldn't
3 have to, and SLED only accepts a certain number of things.
4 So we selectively choose.

5 Q Well, what else do you know that the man who attacked
6 Ms. Wicker would have?

7 A The hammer, yes.

8 Q Okay. Is there anything else that the man would, I
9 guess, but we know he grabbed the keys from her.

10 A And if you're talking about the car that night, that
11 night, I can't answer that, because I wasn't there.

12 Q I'm just, my question, I guess, is a little bit
13 broad. But I'm just, what physical evidence that the man
14 who attacked Ms. Wicker would have found that could have
15 been tested and not that, I mean, I understand you're not
16 going to be testing everything. But what did you have in
17 custody that you knew the man had held or should have?

18 A We sent the duct tape that was found in the yard, as
19 well as that was on Ms. Wicker to SLED to be examined.

20 Q Okay. Was there any like bodily fluid found, sweat
21 or blood or anything like that that could have been tested
22 that wasn't?

23 A I don't recall anything.

24 Q Okay. So is it fair to say that you do not have
25 Anthony Wise's fingerprints on anything that you know the

1 man who attacked her was touching?

2 A That is correct.

3 Q And that you would not have his, testing DNA has
4 become a fairly common law enforcement technique nowadays?
5 Is it fair to say that it, that when you have DNA, that
6 law enforcement will test DNA if they think it's useful?

7 A It's a preferred method, yes.

8 Q Okay. It's the preferred method nowadays of testing
9 and, in fact, the duct tape and the other things were sent
10 to SLED?

11 A That's correct.

12 Q Okay. And there is no DNA evidence that you're aware
13 of that implicates Anthony Wise?

14 A No, just Ms. Wicker's.

15 Q And so is it fair to say the only evidence you have
16 that Anthony Wise is this attacker is that Ms. Wicker,
17 whatever she told you that evening, about the general
18 description of the attacker and that she felt it must be
19 somebody in the neighborhood?

20 A Correct.

21 Q And that his phone records are in the general
22 vicinities of her home, the bank machine, and where the
23 Cadillac was found?

24 A During the times that the incident occurred, yes.

25 Q And is there any other evidence, and you've got bits

1 and pieces of his, where you think they're inconsistent
2 statements in his confession or statement to you. But is
3 there any other evidence that you're aware of in this case
4 that points to Anthony Wise?

5 A No, sir.

6 Q Okay. As far as any phone records in the
7 neighborhood, now they were, he lived on the same street
8 or at least his grandmother lived on the same street?

9 A That is correct.

10 Q Okay. And his girlfriend would have lived in the
11 next neighborhood over?

12 A I wouldn't call it the next neighborhood, but she
13 lived down the road --

14 Q Fox Briar is a fairly close street to Green Briar?

15 A Green Meadows?

16 Q Green Meadows. I'm sorry.

17 A You actually go back out on Glenn Street and turn
18 onto Ebenezer. It's probably a mile down the road from
19 there.

20 Q Okay.

21 A As the crow flies, it's probably relatively close.

22 Q Okay. And as the crow flies where the Cadillac was
23 recovered would have been relatively close to Green
24 Meadows?

25 A I wouldn't call it relatively close.

1 Q You didn't indicate on the audiotape that you felt it
2 was in walking distance from Fox Briar when you were
3 speaking to Anthony Wise? You don't recall saying where
4 the Cadillac was found was a short walking distance from
5 Fox Briar?

6 A That may be true, but you said Green Meadows.

7 Q Okay. All right.

8 MR. VERNER: Now, and the last two questions, and
9 then I'll turn the witness over, Your Honor. May I
10 approach the investigator?

11 THE COURT: You sure can.

12 Q Investigator Dickert, here, I'll let you hold that
13 for a second. I think you've seen that document before?

14 A That's correct.

15 Q That's the document that you obtained Anthony Wise's
16 phone number?

17 A That's incorrect. I didn't obtain any of this.

18 Q By you, I mean law enforcement or the --

19 A Captain Dennis and Lieutenant Lominack may have
20 gotten this, yes.

21 Q I guess, my, you, would be the plural by, you, the
22 Newberry Sheriff's Department. But that's the document
23 that, you, the agency obtained his phone records from?

24 A That is correct.

25 Q Okay. Is it fair to say that his phone number is

1 actually identified as a 944 number?

2 A The one that says got dropped in the water and no
3 longer has.

4 Q What was that date?

5 A 7/4/16.

6 Q Okay. And but that would be a 944 number?

7 A That is a 944.

8 Q Okay. The 404 number actually belongs to whom?

9 A It's his girlfriend's number.

10 Q Okay. So that is basically a list of contact
11 numbers, you can reach me by these possible phone numbers,
12 and one of them is identified as his girlfriend's phone
13 number, Laswan?

14 A The only working phone number on this list was the
15 404 number.

16 Q Okay. So just to, just so we're clear. The 404
17 number that you've got these SLED reports on are based on
18 Laswan Anderson's phone?

19 A Right and admits that is the girlfriend's phone.

20 Q Which he identified as his girlfriend and a contact
21 number for him?

22 A On this paper, yes.

23 Q Yes, sir. And when he was arrested, he was actually
24 with Laswan at that time, wasn't he?

25 A That's correct.

1 Q Was she taken into custody, too?

2 A She was.

3 Q Okay. So when the phone was found or turned over, he
4 had two phones or law enforcement took two phones from
5 him. One was the 944 phone?

6 A I am not sure. The phone was locked.

7 Q But it was the Wi-Fi phone, the non-working phone?

8 A One can assume that.

9 Q And then the second phone was the phone that, and
10 have you seen the SLED records?

11 A I have not.

12 Q You're not aware of whether the carrier lists the
13 phone to Laswan Anderson's name?

14 A I do not know.

15 Q Okay.

16 MR. VERNER: Thank you, Investigator.

17 THE COURT: How long do you anticipate redirect to
18 be, Solicitor?

19 MR. SCOTT: Five minutes.

20 THE COURT: Okay.

21 REDIRECT EXAMINATION

22 By Mr. Scott:

23 Q I think I made my point, I guess, but did you have
24 Ms. Wicker stand 20 feet away to listen to the voice?

25 A No, sir. We were probably standing probably less

1 than two foot away, if that.

2 Q Okay. Do you know is this the original copy of the
3 audio that we're playing?

4 A No, my understanding is that is a recorded copy from
5 the, I think he used another device to record it from the
6 speaker which is known to decrease the clarity of it.

7 Q Okay. So it's been compressed from the original, so
8 we could play it in court?

9 A That's correct.

10 Q And the speakers on this TV, can we turn this towards
11 the jury.

12 MR. SCOTT: Play the Chinese story, Chinese
13 restaurant story.

14 (Whereupon, audio was published to the jury.)

15 Q Did you play a audio clip for Ms. Wicker where you
16 could hear Mr. Wise's voice?

17 A That's correct.

18 Q All right. Or did you play one where he's kind of
19 mumbling and kind of stammer and come up with a story?

20 MR. VERNER: Your Honor, I object to that
21 characterization. That's not a proper question.

22 THE COURT: Rephrase the question, Solicitor.

23 Q Did you play where he's stammering and kind of
24 mumbling to himself or did you --

25 A No.

1 Q -- play a clip where he's speaking clearly?

2 A Where he's speaking clearly.

3 Q And while we're at it, in that clip we just heard, he
4 clearly at the beginning says he went and got food, did he
5 not?

6 A That is correct.

7 Q And then, again, what does he say when you say, well,
8 it's got video cameras. What does he say?

9 MR. VERNER: And, Your Honor, respectfully, that's
10 beyond my cross.

11 MR. SCOTT: It's the audio clarity is where I'm --

12 THE COURT: I'll allow that question, and then move
13 to something else, please, Solicitor.

14 Q And then what does he, well, how does he respond when
15 you say, well, we can corroborate that through
16 surveillance?

17 A He quickly says he didn't go in. I didn't get her
18 food.

19 Q And you can clearly hear that?

20 A I can.

21 Q The 404 number is, it is associated with the
22 girlfriend and Anderson is her last name?

23 A Yes, sir.

24 Q Okay. But who, and we got the clip. You heard it
25 earlier very clearly. Who claimed that they had it

1 September 21st?

2 A Mr. Wise.

3 Q And say it again?

4 A Mr. Wise.

5 Q Okay. I want the jury to be able to see. I'm sorry.

6 The questions were asked about fingerprints. You were

7 given a description of the attacker by Ms. Wicker, and

8 what were some of the precautions you understood the

9 attacker to have taken?

10 A Gray leather gloves.

11 Q Gloves?

12 A Gloves, in general.

13 Q Did you expect to find fingerprints from the

14 attacker?

15 A No.

16 Q Okay. Long pants or short pants?

17 A Our understanding it was long.

18 Q Okay. Did you get the description about the hoodie?

19 A Yes.

20 Q Okay. Did you understand that the person was wearing

21 a mask?

22 A Yes.

23 Q Okay. What about the hoodie being on or off, did you

24 have any information about that?

25 A It was pulled up over his head.

1 Q Okay. So this is somebody who you understood to have
2 taken precautions not to leave evidence behind?

3 A As much as possible, yes.

4 Q This is State's number 11. Have you seen this
5 before?

6 A That's correct.

7 Q If we look at State's 11, do you see, let's see. Do
8 you see where Ms. Benzena Wicker's home is on this?

9 A That's correct. She lives right down here.

10 Q Okay. That would be the Green Meadows area. And,
11 let's see, that's essentially where we are sitting right
12 now, isn't it? That's the courthouse?

13 A Yes, that's correct.

14 Q She's down towards Prosperity. Okay. Do you see
15 where the ATM is?

16 A No. The ATM is located up here in the road.

17 Q Okay. On the other side of town?

18 A That's correct.

19 Q And then, of course, do you see where the Cadillac's
20 found?

21 A Out here on C.R. Koon.

22 Q And those locations, and you're saying his cellphone
23 was plotted in those locations during the relevant times?

24 A That's correct.

25 Q Okay.

1 MR. SCOTT: That's all the questions I have. Thank
2 you.

3 THE COURT: Anything on re-cross?

4 MR. VERNER: No, Your Honor.

5 THE COURT: Thank you, sir. You can step down.

6 Okay. Mr. Foreman, ladies and gentlemen of the jury, it'd
7 be a good time to take a morning break, so go back to the
8 jury room, about a 15-minute break. I remind you and
9 caution you once again not to have any discussions about
10 this case among yourself and we'll see you after the
11 break.

12 (Whereupon, the jury was excused from open court for
13 a break.)

14 (Whereupon, a short break was taken.)

15 THE COURT: All right. Let's bring the jury out,
16 Madam Bailiff.

17 (Whereupon, the jury came into open court at
18 approximately 11:47 a.m.)

19 THE COURT: Okay. Let the record reflect the jury is
20 back in the courtroom. Solicitor, you ready to call your
21 next witness?

22 MR. SCOTT: I am, Your Honor. The State calls
23 Captain Robert Dennis.

24 THE COURT: Okay. Come around, please, sir.

25 ROBERT DENNIS, being

1 first duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 By Mr. Scott:

4 Q Captain Dennis, this case, the case we're here with
5 Anthony Wise. It occurred September 21st. When did you
6 get involved?

7 A I got involved the night of September the 21st.

8 Q Okay. Did you go to the crime scene, Ms. Wicker's
9 house?

10 A Actually, we went to Ms. Kathy's residence, which his
11 across the street from the crime scene.

12 Q And from there, what did you do? The lead
13 investigator is Ryan Dickert, right?

14 A That is correct. Investigator Dickert was the first
15 one on the scene. I arrived shortly after, which was
16 right about the time the ambulance was arriving. So I
17 kind of coordinated with the officers that were on the
18 scene, as well as investigators about what we had and what
19 we needed to call in as far as resources.

20 Q Okay. Did you, were you able to develop a suspect
21 that night?

22 A We were, yes.

23 Q Okay. Was Anthony Wise's name, did that come up that
24 night or did you just have the general description of the
25 person?

1 A We began with a general description that was given.
2 We do what's called a BOLO, be on the lookout. So we
3 broadcast that general description to all of the officers
4 that responded to the scene, and then those that we would
5 have in the area such as highway patrol, City of Newberry
6 so they would be aware, because city limits kind of runs
7 in conjunction with the county outline.

8 Q Okay. So we heard about Law Tracks. Was the Law
9 Tracks database utilized that night, September 21st?

10 A It was. All of our vehicles, patrol vehicles are
11 equipped with laptop computers. So Law Track is a version
12 that we use to generate reports and also generates what is
13 called a Master Person file where we're able to identify
14 individuals. Using myself as an example, I will put in my
15 full name, my home address, date of birth, social security
16 number, phone information, driver's license information,
17 height, weight. We can even do contact information such
18 as maybe contacting a parent that if this is a juvenile we
19 have listed in our Master Person.

20 Q Okay. So that night based on the description and
21 what you knew about the case, you ran Law Tracks on
22 September 21st?

23 A We did that night based off of the description, as
24 well as the area we were in, and we came up with several
25 individuals within that area. But we were able to narrow

1 it down to Mr. Wise as a person of interest based off of
2 his physical description.

3 Q Did you locate him that night?

4 A No, we did not.

5 Q Okay. What vehicle were you looking for that night?

6 A While there on the scene, we were made aware that a
7 golden color Cadillac was missing from the residence of
8 Ms. B. Wicker. So we actually were able to get our
9 dispatch to get a tag number. We once again BOLO'd that
10 information, be on the lookout to all of our units. We
11 also learned that OnStar was available to us.

12 Q Okay. So whenever you get the OnStar hit for the
13 Cadillac, what time is it? Is it dark out?

14 A Oh, yes sir. Yes, sir. It's probably pushing around
15 maybe 9:00 o'clock or later.

16 Q Okay. Well, I think we know 10:30 is when dispatch
17 is called, so it would probably be after 10:30 p.m.?

18 A Right. Right.

19 Q So it was located where?

20 A The Cadillac was actually located at what's called
21 Boyd Crossing. The building in which it was located
22 behind, most people are familiar with Lakewood Tree that
23 used to be a business that dealt with treated lumber right
24 there at Boyd Crossing and C.R. Coon Highway. It has been
25 closed for several years now, and so it's grown up and

1 just a lot of underbrush and trees have grown up,
2 buildings have collapsed. We knew in that general area is
3 where OnStar was placing the vehicle. With their
4 capability, they were able to set off the panic alarm for
5 the vehicle and that's the lights flashing and the horn
6 going. So that allowed us to pinpoint behind the building
7 where the car was at.

8 MR. SCOTT: Walter, State's 11, please.

9 Q But that, I don't know if that does any good.
10 Basically, if you go up to, you take Main Street up to
11 Wilson and take a right towards Prosperity. You keep
12 going and what would be, what is the business on the left
13 right before you take a right on Boyd's Crossing? There's
14 some, isn't there some business right there. A Kibler's
15 or something like that?

16 A Well, Kibler's is right there by where Memorial
17 Gardens is at. So if you continue on into Prosperity past
18 Kibler's totally, Memorial Gardens is on the left. You'll
19 continue probably about just under a mile, there will be a
20 Coppock's on the left. And then there is a sign store
21 right there on the right. Boyd Crossing comes out right
22 next to the metal sign store. And so you would actually
23 turn right onto Boyd Crossings. You would actually go
24 under the railroad underpass, the railroad goes across the
25 road, very narrow road to get through. Immediately, once

1 you pass under the railroad, you're going to take a left
2 into what's classified Haltiwanger Drive and that goes
3 into the old Lakewood Tree lumberyard.

4 Q Okay. He's blown it up now, but kind of what you
5 were describing. You go down 76 and you take a left on
6 Boyd's Crossings directly to your left right there and it,
7 that property, was it about 90 acres there?

8 A You would actually take a right off of C.R. Coon
9 Highway on Boyd Cross, and then an immediate left once you
10 go under the railroad track, and it is roughly 90 to a 100
11 acres within that tract of Lakewood Trees.

12 Q Okay. But it's a, I think we were out there and
13 somebody had recently bought the property. But, for the
14 most part, it's kind of a vacant lot, kind of a shambles
15 of an old lumberyard?

16 A That is correct. Prior to the gentleman that owns it
17 now, I don't know his name, he's out of town. Mr. Charles
18 Mills owned the old Lakewood Trees.

19 Q Okay. State's number, would you describe it as a
20 well-traveled area?

21 A No, sir. This is, it was well-grownup. Buildings
22 were being, they were collapsing in because of the, the
23 care that was not being given to them. Wood-rottening,
24 different things like that. And it was unkept at the
25 time.

1 Q State's number 10, do you recognize what that is?

2 A Yes. This is an overhead view of the shed in which
3 behind this shed is where the Cadillac was found.

4 Q I'm going to, let's see, I'll show a picture here in
5 a minute you took that night. Do you see on here
6 approximately where the Cadillac was?

7 A Yes, sir. Permission to step down?

8 THE COURT: Sure.

9 A The Cadillac would have been located in this area
10 behind the shed. So your access point, if you can see
11 here at the top of the screen, there is a vehicle. So
12 this would be the access of Boyd Crossing, turn left,
13 follow the driveway here, and then the vehicle would be
14 parked there behind this business or this shed.

15 Q And we see the train tracks right there separating
16 it?

17 A That's correct. It goes on, matter of fact, this is
18 the, coming under the train track.

19 Q And so it was dark, and so you had to have them set
20 off the alarm so you could find the car?

21 A That is correct.

22 Q State's number 12.

23 A This is a picture that I took that night. Those are
24 actually my headlights shining to the car, so we could
25 actually see where it was at.

1 Q Could you tell how the car had gotten back there?

2 A Yes, we could. Actually, if you could pull up
3 State's 10. The actual vehicle from looking at the tire
4 impressions of kind of following it in, the vehicle
5 entered the first door here at the bottom of the screen
6 and traveled through the building, and then out on the
7 other side and pulled there to the back of the shed.

8 Q Okay. So somebody familiar with the area, seemingly?
9 I mean, did you know this place existed, this shed back
10 here?

11 A Yeah. If you're from the area, and I've lived in
12 Newberry County my entire life, so was familiar of the
13 existence of this business prior to it closing, as well as
14 responding to that location for larcenies and different
15 things like that, metal larcenies.

16 Q And then inside the Cadillac, what'd you find?

17 A Inside the Cadillac were, I believe it was actually
18 two TVs and I'm trying to go off my memory right now. But
19 there were TVs in the back seat. There were some
20 groceries there on the floor, and I know there was a
21 walker in the vehicle.

22 Q Okay. The TVs were relative why?

23 A Because that was what was indicated that was taken
24 from the Green Meadows address on this date.

25 Q The next day, September 22nd, were you able to speak

1 with Mr. Wise?

2 A Yes. We were able to speak with Mr. Wise.

3 Q Was he placed under arrest at that time?

4 A No, he was not.

5 Q Okay. What did you, what information did you obtain
6 from him?

7 A Some of the information --

8 MR. VERNER: Your Honor, subject to my previous
9 exceptions.

10 THE COURT: So noted for the record.

11 A Some of the information that we obtained was where he
12 lived at presently, who he may --

13 Q I'm sorry. Well, first of all, where did he state he
14 lived at the time?

15 A He stated he was living at [REDACTED].

16 Q Okay. Okay. Go on. I'm sorry.

17 A Other information that we obtained are contact
18 numbers and that's a way for us that if we need, once our
19 investigation is moving forward and we need to get with
20 him to corroborate information and find out other
21 information, we at least wanted to get some numbers for
22 him. And we were able to obtain those numbers and confirm
23 with Mr. Wise that those numbers would be with him.

24 Q Okay. And did he give you, the 404 number we keep
25 talking about, did he mention that number?

1 A Yes. The 404 number was a number that he indicated
2 he could be made contact by and he let us know that it was
3 his girlfriend's phone.

4 Q Did you utilize these particular phone numbers in any
5 way?

6 A We did. One of the parties, the lead investigator,
7 Investigator Dickert, we contact South Carolina Law
8 Enforcement Division, specifically agent Chris Johnson, to
9 assist us in obtaining search warrants for these, these
10 phone numbers, so that we could plot location, track phone
11 calls, numbers, you know, back and forth,
12 incoming/outgoing calls. So we asked for assistance from
13 SLED to give us a hand.

14 Q Okay. Was he arrested that day, September 22nd?

15 A No, he was not. No.

16 Q Well, all right. So plotting of his cellphone
17 number, was he let go?

18 A Yes, he was let go.

19 Q Okay. And that's when you began plotting the phone
20 numbers at that point armed with the phone numbers he had
21 given you?

22 A That is correct. We put that technology part of the
23 investigation into the hands of SLED and they would work
24 with us and calling us back and giving us whatever
25 information they obtained from the carrier of the phones.

1 Q Okay. So when was the next time you saw Mr. Wise?

2 A The next time that we encountered Mr. Wise was on the
3 23rd, the afternoon of the 23rd. But that encounter was
4 only after somewhere around lunchtime that we spoke with
5 Agent Johnson from SLED who was able to verify information
6 that he had received and then plotted those numbers in the
7 locations that we had identified as the Cadillac being
8 discovered, as the ATM being utilized with a stolen credit
9 card, and then around the victim's residence.

10 Q Okay. And armed with that information on September
11 23rd, what did you do?

12 A Armed with that information, we began looking for Mr.
13 Wise. One of the first locations that we went, because
14 with that information we asked SLED to maintain
15 information through the phone carrier, because this is
16 what is considered a violent crime. So we wanted to stay
17 in contact with SLED to assist us in tracking that phone.
18 The first location was up in Grant Homes where we went.
19 He has family that lives there. He had been there. We
20 had missed him. They advised that he was on his way to
21 probation. We began to come back down this way to the
22 probation office. We confirmed with SLED once again about
23 where the phone was at, and he had it in the general
24 location of downtown. As we were coming on Harrington
25 Street, which is the street that runs behind the jury

1 panel, right at Caldwell Street, which is the back of the
2 annex building where probation is located, we located Mr.
3 Wise and his girlfriend walking.

4 Q Okay. So but armed with the locations from the
5 phone, at this point, did you have enough to arrest him?

6 A Yes. We felt like based off of the information of
7 those phones being placed at those different areas that we
8 plotted, we had enough probable cause to take Mr. Wise
9 into custody.

10 Q All right. When you confront him back behind the
11 courthouse here and you placed him under arrest, what do
12 you do? What's the first thing you do?

13 A Well, the first thing is getting him into custody.
14 The second thing is separating the two, because he had his
15 girlfriend with him. Once he was secured by handcuffs, he
16 was patted down to make sure he had no weapons or anything
17 on him. And then the next thing is because we make a
18 transport from this location to another interviewing
19 location, we always give verbal warnings, which is the
20 Miranda rights. So those were given to him before leaving
21 this location at Harrington and Caldwell.

22 Q In the car?

23 A In close proximity of the car.

24 Q And you said you separate the girl, well, who's the
25 girl?

- 1 A Ms. Anderson.
- 2 Q And is that her sitting back there?
- 3 A That's her sitting in the audience, yes.
- 4 Q And where, where was she separated to?
- 5 A Just a distance of maybe half the distance of where
- 6 he was at.
- 7 Q Was she taken in too?
- 8 A Yes. She was taken to the Sheriff's Office.
- 9 Q But she was cleared, though?
- 10 A Yes. She was released. Actually, taken home.
- 11 Q Well, was she cooperative with you?
- 12 A I wouldn't say that she was very cooperative. She
- 13 would answer questions and move forward, but those were
- 14 other investigators that dealt with her at the time.
- 15 Q Okay. And that's her name on the hotel receipts,
- 16 9:00 o'clock on the 21st or 9:05?
- 17 A That is correct.
- 18 Q All right. He is placed under arrest. He's
- 19 Mirandized and you take him over here to the Sheriff's
- 20 Department?
- 21 A That's correct.
- 22 Q And then that's when the interview occurred that we
- 23 have recorded?
- 24 A That is correct.
- 25 Q And that, is that your voice we can hear, as well as

1 Sergeant Dickert's?

2 A It is.

3 MR. SCOTT: State's 11, Walter. Zoom in sort of kind
4 of bottom right, that's it.

5 Q Okay. Can you step down for a minute, Robert?

6 A Yes.

7 Q Ms. Anderson lives where?

8 A Ms. Anderson lives here, which is Fox Briar Road.

9 Q Is that [REDACTED] there?

10 A That is correct, [REDACTED].

11 Q And then you see the Cadillac found in the upper
12 portion?

13 A Up in the upper right-hand corner is where the
14 Cadillac was found.

15 Q About how far away from Ms. Anderson's home is that
16 Cadillac located?

17 A If you go by road, you are probably right at maybe
18 three-tenths of a mile coming from Ms. Anderson's house to
19 here. But going through the woods is a shorter distance,
20 because, as you can see, just above where the Cadillac is
21 found, there is a pond area. This area of woods which is
22 the 90 to the 100-acre tract, this is a well-traveled
23 area, because people used to come and frequently fish
24 here. So we got reports of trespassing, so there's paths
25 all through these woods coming from the Boyd Crossing up

1 here at Haltiwanger back to the Fox Briar area. So the
2 distance is shorter compared to going by road.

3 Q Okay. So you're saying there are paths that go from
4 where that Cadillac is found through the woods that would
5 come out kind of near Fox Briar?

6 A That is correct.

7 Q And how far is that, I guess, through the woods?

8 A Through the woods, you know, you're probably dealing
9 with maybe two-tenths of a mile on the road, you're
10 probably about four-tenths.

11 Q All right. And I don't know if you even know, but
12 Ms. Anderson's home or rather the Cadillac to Ms. Wicker's
13 home?

14 A You're probably pushing just about two miles from Ms.
15 Wicker's house out of Green Meadows, and then back onto
16 Boyd Crossing.

17 Q Okay.

18 MR. SCOTT: And then zoom out, Walter, all the way
19 out. I can't see the top. There you go.

20 Q And in the upper left portion there?

21 A Yes. Here where it says, I believe it says ATM
22 general road.

23 Q Okay. Do you have any idea how far away that is
24 from---

25 A From Ms. Wicker's house to the ATM is roughly around

1 five miles, probably about four miles, eight-tenths,
2 something like that.

3 Q So Ms. Wicker's home, Ms. Anderson's home, and Mr.
4 Wise's grandmother's home are all fairly close proximity?

5 A That is correct, yes.

6 Q And those are in close proximity to where the
7 Cadillac was abandoned?

8 A That is correct.

9 Q But then the really only relevant incident location
10 from being the ATM is the one that's significantly farther
11 out on the other side of town?

12 A That is correct.

13 Q All right. Whenever you picked up Mr. Anderson on
14 the 23rd, what did he have on him?

15 A Mr. Anderson had, he had two phones on him, and I'd
16 have to look at him, but there were two phones that he had
17 on him in his possession.

18 Q That's State's 61.

19 A Yes. These are both the phones that Mr. Anderson,
20 excuse me, Mr. Wise had in his possession.

21 Q And then one of those, and I keep calling it the 404
22 area code phone. Is that one of the ones seized off of
23 him?

24 A That is correct; yes.

25 Q Okay. And did he, did he claim possession of that

1 phone, during the day of the 21st?

2 A He did. During the interview, he stated he would
3 have had that phone in his possession.

4 Q Okay. It is, though, as mentioned earlier, it is
5 registered to his girlfriend, Ms. Anderson?

6 A That is correct.

7 MR. SCOTT: Captain Dennis, thank you. Answer any
8 questions Mr. Verner has.

9 THE COURT: Okay. Mr. Verner, any cross-examination?

10 CROSS-EXAMINATION

11 By Mr. Verner:

12 Q Captain, just so we're clear, you interviewed, I
13 apologize, you interviewed Anthony with Investigator
14 Dickert?

15 A That is correct.

16 Q Okay. And is it possible I may have access to that
17 phone on the day or did he say I did have that phone that
18 day when you were asking him?

19 A Whether he said, I did or I may, he claims access and
20 possession of that phone.

21 Q When you were asking him about that phone and the
22 locations of it, he said, I could have had access to it on
23 that day, because that's my girlfriend's phone, right?

24 But he did say that it was his girlfriend's phone?

25 A That is correct.

1 Q Okay. But he did acknowledge he could have had
2 access to it on the two days?

3 A I believe he said he had that phone --

4 Q All right.

5 A -- is what I recall, Mr. Verner..

6 Q Ms. Wicker was attacked on September 21st, the
7 evening of September 21st of last year, right?

8 A That is correct.

9 Q Okay. And you encountered or you spoke, initially
10 spoke to Anthony Wise the following day on September 22nd?

11 A That is correct.

12 Q And you had the description from, that Ms. Wicker had
13 provided of her attacker?

14 A That night of the 21st; yes, sir.

15 Q Okay. And then you met with Anthony just really
16 briefly enough just to get some kind of contact
17 information and residency type information from him?

18 A That is correct.

19 Q But you never put him in custody and till after you
20 confirmed his phone number and that type of information,
21 you let him go?

22 A That is correct.

23 Q Is it fair to say, to say at that point based on the
24 identification that Ms. Wicker had given you, that you had
25 not yet decided that you had a strong enough case against

1 Mr. Wicker, Mr. Wise to charge him with armed robbery and
2 the home invasion?

3 A That is correct.

4 Q If Ms. Wicker had identified him the night of the
5 robbery and said I am sure it was Anthony Wise who had
6 attacked me, I got a good enough look at him or his
7 features, would that have been a basis to go ahead and
8 arrest him the following day?

9 A If Ms. Wicker would have identified him with facial
10 features and other features combined with that, then I
11 believe we would have met probable cause and obtained a
12 warrant to go take him into custody.

13 Q And particularly in a violent crime like this, if she
14 had said I am confident it is Anthony Wise and you have a
15 concern that somebody like that is in the neighborhood,
16 the better practice of law enforcement would go ahead to
17 arrest him based, because she had said, you know, I am
18 confident of who attacked me.

19 A If she had identified him by facial and other
20 characteristics that we had that that was in no doubt in
21 her mind the individual; yes, we would have looked for him
22 until we found him. If that means going without sleep,
23 then that's what we would have done.

24 Q Okay. So in your opinion, you made the decision that
25 y'all would wait until the phone records corroborated the

1 general description that Ms. Wicker gave to have a little
2 bit more evidence and stronger case?

3 A I think with the information we had, we were limited
4 and had not met the probable cause yet. So yes, we waited
5 to obtain information based off of the snippets, so to
6 speak, that we got for the investigation, as well as the
7 potential that Mr. Wise was person of interest to go after
8 his phone.

9 Q Now, when you arrested Anthony the following day on
10 September 23rd, when he was walking with his fiancé,
11 Laswan, that would have been a surprise to him? It wasn't
12 pre-setup, you come and meet us and we're going to take
13 you into custody for interrogation or anything, was it?

14 A No, sir. He had no knowledge that we were looking
15 for him.

16 Q Okay. And, likewise, you wouldn't have coordinated
17 with Laswan Anderson either that we need to take you into
18 custody or we're coming for you?

19 A No, sir. Surprise is our, our element.

20 Q Okay. And so they were both taken into custody and
21 would have been relatively surprised at the moment that
22 y'all took them into custody?

23 A That is correct.

24 Q Okay. And I would assume it's common law enforcement
25 practice that as soon as you made the arrest, they are

1 separated from each other?

2 A That is correct.

3 Q And they are interviewed separately?

4 A That is correct.

5 Q And possibly if they had given inconsistent or
6 consistent stories, you could match the two stories and
7 try to find out where they are consistent and where they
8 are inconsistent?

9 A That is correct.

10 Q And did you participate in the interview, and I think
11 you testified that most of the interview of Laswan was
12 conducted by other investigators?

13 A That is correct.

14 Q Did you review the notes of the, her interview?

15 A I reviewed what the investigators had told me.

16 Q Okay. They personally came back to you and said,
17 well, this is what we found out from Laswan?

18 A That is correct.

19 Q Okay. And where the stories are consistent is both
20 Laswan and Anthony both indicated that we had gone to the
21 hotel that night?

22 A That is correct.

23 Q Okay. Might be some disagreement about that time,
24 but both individually said that we were at, and do you
25 recall which hotel they indicated they went to?

1 A Yes. The Economy Inn which is located there on
2 Winnsboro Road just behind or kind of off to the right
3 side of McDonald's.

4 Q Okay. And how did they indicate they got there?

5 A I'm not, I don't think they really indicated how they
6 got there.

7 Q Okay. But they both indicated that we were at the
8 Economy Inn hotel that evening?

9 A That is correct; yes.

10 Q And then you went further and went to the Economy Inn
11 yourself or sent an agent to obtain the, you're required
12 to sign in at a hotel, so you obtained those records?

13 A That's correct. I went and met with the manager
14 there. Gave him the information that we had of Ms.
15 Anderson and Mr. Wise. And he checked his log-in and was
16 able to produce the receipt that I believe is in evidence.

17 Q And the log-in at 9:05 p.m. that night?

18 A That is correct. Under the name of Ms., Ms.
19 Anderson.

20 Q Okay. Laswan paid the money or she, she's the one
21 who paid, who signed the receipt for the room?

22 A That's correct.

23 Q Okay. And that was at 9:05 that check-in would have
24 occurred?

25 A If that is what's on the receipt.

1 Q Okay. But that, the receipt that has been already
2 put into evidence is the document that you obtained from
3 the hotel and turned over to the prosecutors?

4 A That is correct.

5 Q Okay.

6 A But to give you a more definite answer, I would need
7 to see the receipt just to confirm that, please.

8 Q Okay. Do you remember what, 60.

9 MR. VERNER: Can you pull up 60, please, Mr. Bentley.

10 A That is correct, Mr. Verner. Down here at 9:05 p.m.
11 is where they checked in and he did document a tag number
12 down here, AMU 156. But I couldn't tell you what that
13 come from, and then her driver's license number.

14 Q Okay. And, I don't know, are you legally required to
15 give your name when you get a hotel or do you know that as
16 an officer?

17 A That's a good question but --

18 Q I just, out of general curiosity, I want to know.

19 A I think most people try to give legitimate
20 information, especially if they are there for a legitimate
21 reason.

22 Q I don't know if that answered my question, but it's
23 really not relevant. All right. Now, so, at this point
24 --

25 MR. VERNER: Thank you, Mr. Bentley.

1 Q And you've gotten the suspect in custody, Anthony
2 Wise, as of September 23rd?

3 A Yes, sir. Late afternoon, probably around 3:30 or
4 4:00.

5 Q Okay. And you've got his, you've got his residence
6 on Green Meadows Road --

7 THE COURT REPORTER: Hold on.

8 Q -- at [REDACTED] with his grandmother?

9 THE COURT REPORTER: Say that again.

10 Q You have his residence? You are aware of his
11 residence address?

12 A We had been given, confirmed by Mr. Wise that that
13 was a place where he would lay his head, yes.

14 Q Okay. But that's his grandmama's house?

15 A [REDACTED]. Yes, Ms. Roby.

16 Q And that's also where Ms. Wicker said, she said he
17 lived in the neighborhood, right?

18 A Right. Or had seen him in the neighborhood, yes.

19 Q Okay. And then you also know Laswan's residence,
20 because you have that also on the map?

21 A That is correct.

22 Q Okay. And Ms. Wicker had given an identification of
23 the clothes that the suspect was wearing?

24 A That night; yes, sir.

25 Q Okay. She indicated the man had a black hoodie and

1 you recall that?

2 A Yes, sir.

3 Q A red shirt?

4 A That is correct.

5 Q And you don't remember her saying that he had baggie
6 pants on or sagging pants?

7 A No, sir. The information that we had was a black
8 hoodie with bluish type pants, a red top, and a white
9 mask.

10 Q Okay. Did you hear her testify in this trial? Were
11 you here for Ms.---

12 A I did not hear her testify.

13 Q And gray gloves?

14 A That's correct. Yes.

15 Q Okay. And Mr. Wise had been, you had spoken to him
16 on the 22nd and taken him into custody on the 23rd?

17 A That is correct.

18 Q Did you ever request a search warrant based on the
19 items of clothing provided by Mrs. Wicker or his home or
20 Laswan Anderson's home?

21 A No, we did not.

22 Q Okay. So if he had a black hoodie in his home or
23 Laswan's home, we wouldn't be able to tell it now, because
24 one was never, but the home, neither home was never
25 searched by law enforcement?

1 A Neither home was searched, but his residence was
2 confirmed by speaking with his grandmother that he had not
3 been home.

4 Q Because he was with Laswan?

5 A And I do not think he would have been with her due to
6 the fact her parents would not allow him there.

7 Q To spend the night there? That's why they got the
8 hotel room that night?

9 A That would be correct.

10 Q Okay. So, I guess, the long and the short of the
11 question is just simply this, did you do a search warrant
12 on either residence to try to find some of the items of
13 clothing that Ms. Wicker had?

14 A Neither one of those residents were looked at or a
15 search warrant obtained to go and look for the items that
16 you are inquiring about.

17 Q Okay. The only search warrants issued in this case
18 were for the location of the cellphone pings?

19 A That is correct. That is a great tool that law
20 enforcement has to assist us with the probable cause
21 building of identifying individuals that we have of
22 interest and putting them in relationship to a crime.

23 Q Okay. Now, who do you recall reading Anthony Wise
24 his Miranda warnings the day he was arrested?

25 A I read them to him.

1 Q Okay. And you would have used the card?

2 A Card, memory; yes.

3 Q And was part of the conversation, part of that
4 interview of Mr. Wise, was part of it up here in the
5 courthouse-type area?

6 A That is correct. He was read his Miranda rights here
7 at the corner of Harrington and Caldwell Street, and then
8 he was placed in the vehicle and transported back to 550
9 Wilson Road, which is the Sheriff's Office.

10 Q When did the interview of Anthony Wise begin? Could
11 it have been a little bit on the ride over or would you
12 have waited until you got in your office at the Sheriff's
13 Department to actually?

14 A I would say any interview begins once that person is
15 taken into custody, and then given their Miranda rights.

16 Q But you wouldn't normally have waited until he was
17 back in your office so that you could write notes and --

18 A Oh, no sir. It's been my experience that you always
19 give them the opportunity to talk and you always try to
20 give them their Miranda rights so that anything that they
21 say on the ride over, we can talk about here in court.

22 Q Okay. The Cadillac, you were the officer or the lead
23 investigator when the Cadillac was recovered the night of
24 the 21st?

25 A That's correct; yes.

1 Q Was the Cadillac taken into an impound by the
2 Sheriff's Department?

3 A That is correct.

4 Q Was it processed for physical evidence?

5 A It was processed, yes.

6 Q Did you dust it for fingerprints or would that have
7 been turned over to someone else?

8 A No, sir. I think it was a collective effort because
9 I called out all our investigators to come out and assist
10 with processing Ms. Wicker's, processing the Cadillac, and
11 then looking for the individual who committed the crime.

12 Q Is it fair to say that, and the TVs, as well?

13 A That is correct; yes.

14 Q Okay. And it appears from the evidence produced and
15 at least one set of prints was lifted from the TV screens?

16 A That is correct.

17 Q Okay. Were any of these fingerprints identified as
18 Anthony Wise's?

19 A None of those prints were identified as Anthony
20 Wise's.

21 Q Okay. And the location of the old lumberyard that
22 Charles Mills used to own, that location is not unfamiliar
23 with law enforcement? You get, over the years, you've had
24 occasion to respond there for several other reasons?

25 A That is correct. We've actually, both sides of the

1 road, Haltiwanger Drive, and then the old Lakewood that
2 Mr. Mills owned, yes.

3 Q Okay. It's kind of just a discreet area off the C.R.
4 Koon Highway where could be like drug behavior and other
5 type incidents?

6 A Well, one of the other locations right there, like I
7 said, the fishing. Over on the right side of the road,
8 you've got Haltiwanger Drive, Pig, Pig Trail over on the
9 railroad track. So it's not uncommon to have a lot of
10 traffic, especially with kids, because the kids are,
11 curiosity and breaking windows, throwing rocks, hanging
12 out. So yes, we've had numerous calls of incidents like
13 that as well as larcenies.

14 Q Okay. And it is just off of the C.R. Koon, the what,
15 the Prosperity Highway?

16 A That is correct.

17 Q And that is relatively close to, I think you've heard
18 the investigator, and you would agree that that's
19 relatively close to Laswan's neighborhood?

20 A It is, yes.

21 Q But her neighborhood is right next also to Ms.
22 Wicker's neighborhood. So it would be relatively close to
23 Ms. Wicker's neighborhood, too?

24 A Yes. As a crow would fly. If you would put it in
25 that perspective, you would actually have to get out on

1 the roadway to come approximately two miles from Ms.
2 Wicker's to where the Cadillac was found.

3 Q Okay.

4 MR. VERNER: Just one second, Your Honor. I'm trying
5 to go through.

6 Q Okay. Other than the TV sets that were recovered in
7 the Cadillac itself, did law enforcement ever locate the
8 ATM card or any other instruments of this crime?

9 A I would have to redirect that question to
10 Investigator Dickert. I do not believe it was.

11 Q Investigator Dickert was the lead investigator in
12 this case?

13 A That is correct.

14 Q But you are his supervisor?

15 A That is correct.

16 Q Okay.

17 MR. VERNER: Captain, if the prosecutor has any
18 follow-up.

19 THE COURT: Any redirect?

20 MR. SCOTT: Just one question.

21 REDIRECT EXAMINATION

22 By Mr. Scott:

23 Q What was the first contact law enforcement made with
24 Mr. Wise to let him know he was a person of interest?

25 A That would have been on the following day, September

1 the 2nd.

2 Q Okay. And then he was arrested when?

3 A September the 23rd --

4 Q Okay.

5 A -- 3:30 in the afternoon, somewhere along in there,
6 four o'clock.

7 Q Unless necessary, is that a favorite practice for law
8 enforcement just pulling somebody, a person who's a
9 suspect and you let go. I understand this situation you
10 needed to meet with him to get his phone numbers.

11 A Yes.

12 Q What implications could that have if I tell somebody
13 they're a person of interest in a burglary or things were
14 stolen?

15 A It could alert them to that we're looking at them and
16 they can destroy evidence.

17 Q Okay.

18 A And then, again, to build their alibi so to speak.

19 Q And I know I'm questioning why you did, I understand
20 you had to meet with him in order to get his phone
21 numbers, but that's typically not a practical way to
22 approach a suspect?

23 A Yeah. It's not, Ms. Wicker could not give us that
24 positive identification of her attacker. So we had to go
25 into the technology realm because of what she described

1 him having on concealed and protected him from leaving
2 fingerprints, DNA, or his facial recognition that Mr.
3 Verner was talking about doing photo lineups. So we were
4 at a real disadvantage of getting that quick
5 identification that we love to have on any crime. So we
6 had to rely on technology to put us past that probable
7 cause of obtaining warrants on Mr. Wise.

8 MR. SCOTT: Thank you. Nothing further.

9 THE COURT: Any re-cross?

10 MR. VERNER: Just a direct follow-up.

11 THE COURT: Sure.

12 RECROSS-EXAMINATION

13 By Mr. Verner:

14 Q Of course, what you're talking about is kind of a
15 hypothetical answer, in general, to the Solicitor's
16 question, what somebody could do, and you're not saying
17 that you know Anthony Wise did any of those things?

18 A I don't believe that would be hypothetical, because
19 it has been my experience in the past twenty-six years
20 that individuals will, once alerted, take all types of
21 routes to get rid of evidence to prevent themselves from
22 being isolated as the suspect in a case.

23 Q Right. But you've got no evidence Anthony Wise did
24 it?

25 A No, we don't have that.

1 Q All right. So you're speculating on what somebody
2 could do or may do?

3 A I think I could base that off of my twenty-six years
4 of experience --

5 Q All right.

6 A -- in dealing with cases of the past, yes.

7 Q And another thing they might do if, if you had
8 indicated to me I'm a suspect in a major crime, I might
9 run, too, right? I might get out of the area?

10 A That is another aspect of it but, also, they may sit
11 there and tell you, I'm sorry, I messed up.

12 Q Okay.

13 A And then begin to tell you what happened and why it
14 happened.

15 Q But somebody being told that they're a suspect in a
16 violent crime might have the inclination to get out of
17 Newberry or run, right?

18 A That is correct.

19 Q And in this case, Anthony didn't? He came back to
20 probation the following day?

21 A He did not run, no.

22 Q Okay. Thank you, Captain.

23 THE COURT: You can step down, sir. Thank you.
24 Solicitor, next witness.

25 MR. SCOTT: Your Honor, the State calls Chris

1 Johnson.

2 CHRIS JOHNSON, being
3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 By Mr. Scott:

6 Q Chris Johnson, South Carolina Law Enforcement
7 Division?

8 A Yes, sir.

9 Q And tell me what department you're in?

10 A I am currently assigned to the State's Surveillance
11 and Intelligence Unit which is part of the Fusion Center
12 within SLED.

13 Q Okay. You have been there, what, 13 years?

14 A Yes, sir.

15 Q Are you a supervisor there now?

16 A I am.

17 Q How long you been a supervisor?

18 A Been a supervisor four years now.

19 Q Okay. Tell us what State's Surveillance and
20 Intelligent Unit primarily does.

21 A We are currently tasked with performing all of the
22 management and administering of our wiretap program. We
23 also conduct all the analysis on call detail records, any
24 type of records that come back from social media, anything
25 regarding analysis of, you know, a person's behaviors,

1 movements, that type thing.

2 Q Based on cellphone records?

3 A Yes, sir. Cellphone records, regular call detail
4 records, your log-in and out of Facebook or social media
5 that you may have.

6 Q Okay. Is there any kind of training that you've had
7 to undergo?

8 A Yes, sir. I've been to a program in Florida,
9 resources that had to do with cell tower mapping, call
10 detail responses. We utilize a program called Pen Link.
11 I've been to their administrator school, their basic and
12 advance course, as well as their cell site intelligence
13 course. I just recently finished up a program through the
14 FBI's task program, which is their cellular analysis
15 survey team. It is there basic historical cell site
16 analysis course.

17 Q Okay. And do you have annual training or is ongoing
18 education?

19 A No, sir. Most of it's just ongoing things as we come
20 across courses that detail what we do. Again, I've got
21 almost, I've been at the agency 13 years. I've been doing
22 this work, this type of analysis work for the last 11 to
23 12 years.

24 Q Okay. And this type, what do you mean this type of
25 analysis?

1 A As far as cellular records, social media is becoming
2 more prominent now. But it's mainly been, you know,
3 cellular records, phone records, Internet usage, that type
4 thing.

5 Q Okay. How long have you been in law enforcement?

6 A Right at 13 years. I was working at SLED when I
7 graduated college, and I was lucky enough to get a job
8 straight out of college with them.

9 Q Okay. And so really you're, I guess, your career has
10 kind of dovetailed with the rise of cellphone usage?

11 A Yes, sir.

12 Q So about how many cases do you think you've had an
13 opportunity to analyze where you take a cellphone number
14 and try to plot locations where an individual phone was
15 located?

16 A Probably well over 2,000. Our unit, probably takes
17 in anywhere from eight to nine hundred a year.

18 Q And you supervise how many people?

19 A Currently four.

20 Q Okay. Have you testified in General Sessions?

21 A Yes, sir.

22 Q Okay. You testified in a child homicide case we had
23 in this courtroom last week?

24 A Yes, sir.

25 Q Okay. And did we ask you to plot some locations

1 based on a cellphone for this case?

2 A This case; yes, sir.

3 MR. SCOTT: Your Honor, I would like to call
4 Christopher Johnson as an expert and to be in the field of
5 cellphone record interpretation.

6 THE COURT: Thank you. Mr. Verner, do you have any
7 questions of Agent Johnson in terms of qualifications or
8 do you have a position insofar as the State's request to
9 deem him an expert in the area of cellphone records
10 interpretation?

11 MR. VERNER: Just this.

12 CROSS-EXAMINATION

13 By Mr. Verner:

14 Q And Agent Johnson, do you go by Agent or Lieutenant
15 Johnson?

16 A Lieutenant Johnson.

17 Q You are employed with the South Carolina Law
18 Enforcement Division?

19 A Yes, sir.

20 Q Which is a, you are licensed to make arrests?

21 A Yes, sir.

22 Q And you work hand in hand with the Newberry County
23 Sheriff's Department, as well as other law enforcement
24 agencies wherever?

25 A Wherever I'm assigned.

1 Q Okay.

2 A I've worked federal, state, and local cases.

3 Q Okay.

4 MR. VERNER: But just on the basis of the
5 independence, Your Honor, I would not consent to the --

6 THE COURT: Okay.

7 MR. VERNER: -- finding, but I'll leave it for you.

8 THE COURT: Okay. All right. I will find Lieutenant
9 Johnson to be an expert in the area of cellphone records
10 interpretation. Ladies and gentlemen of the jury,
11 typically witnesses when they testify are only allowed to
12 render opinions as to what they have seen, heard, felt,
13 touched, that sort of thing. There's an exception in the
14 rules that allow certain individuals who have been found
15 to be an expert in a particular area to render certain
16 opinions that they would not be able to offer if they were
17 not found to be an expert. Now, I have found Lieutenant
18 Johnson to be an expert in the area of cellphone records
19 interpretation, and he'll be able to render certain
20 opinions in that area. But just because I have found him
21 to be an expert in this area does not mean that you
22 automatically have to believe what he says to be true.
23 You analyze his testimony and his credibility and his
24 believability as you would analyze any other witness who
25 has testified or will testify in this case. Solicitor?

1 MR. SCOTT: Thank you, Your Honor.

2 CONTINUE DIRECT EXAMINATION

3 By Mr. Scott:

4 Q I'll show you, this is State's 61. I don't know, did
5 you ever, do you even recognize this or were you ever
6 given that?

7 A I believe I was the one that attempted to download
8 it, as well. It could have been me or one of the agents.
9 I don't recall this part of it.

10 Q Okay.

11 A I'd have to go back and look at the case report.

12 Q Do you see the phone number associated with State's
13 61, at least one of the phones on State's 61?

14 A Yes, sir.

15 Q What is that phone number?

16 A That number is 404-308-0449.

17 Q Okay. Is that phone number at least relevant to you?

18 A Yes, sir.

19 Q Okay. Why?

20 A This would be one of the phones that we requested
21 records on and that I was able to perform the analysis and
22 do some mapping.

23 Q And so by records, what was the carrier?

24 A AT&T.

25 Q So you've got phone records associated with this 404

1 number?

2 A Yes, sir. We were able to get call detail records,
3 as well as a call measurement data report for it.

4 Q That's State's number 1, is that, I know it's a disc,
5 whenever you request records for a phone, tell us, we
6 don't do what you do, so speak --

7 A Yes, sir.

8 Q -- to us in a way we can understand what these
9 records means that you've received?

10 A Well, what we prefer is for them to send them in
11 electronic format. If they try to print them off, a lot
12 of these phone records are five to, five-hundred to
13 thousands of pages long. And it's extremely difficult to
14 sort by hand and look at them. So, locally, we have some
15 abilities to do what they call pivot tables, different
16 formatting of Excel spreadsheets or, like I discussed, we
17 have a program called Pen Link that I can load these into
18 and it will sort and produce reports insofar as what
19 numbers they call the most, what cell towers they use,
20 that type of thing.

21 Q All right. Well, kind of generally, I know you've
22 got a Power Point that we can kind of demonstrate some of
23 what you're going to talk about, but we all have
24 cellphones probably. I would bet everybody in this
25 courtroom owns a cellphone in this age. When we walk

1 around with a cellphone --

2 A Yes, sir.

3 Q -- and let's say it's a smart phone. Do you know
4 whether or not that 404 phone was a smart phone?

5 A It was. When they produced the records, they also
6 produced a report for the data usage on that device as
7 well.

8 Q Okay. So if I have a phone, it's not in airplane
9 mode, it's normally operational and I've got it in my
10 pocket. What kind of information unbeknownst to me is my
11 cellphone submitting?

12 A Well, most of, well all of the analysis that was done
13 on this device as far as the spreadsheet and the court
14 purposes were concerned was based off of historical. So
15 either that person made a telephone call, they received a
16 telephone call, they made a text, received a text. Now,
17 one thing that a phone will do, especially if you have a
18 smart phone, is if you've got Facebook on it and you've
19 got a mapping program on it, a lot of those programs are
20 set to run in the background of the phone. Because a lot
21 of people, if you get a Facebook notice, you want it to
22 alert you to let you know what somebody posted without you
23 having to go actually and check it every time. So what
24 that phone is doing is in the background, it is constantly
25 reaching out to the network and every time it's reaching

1 out to the network to see if there's an alert for that
2 device, it's loading, it's got to go out and find a tower
3 to make that connection. And so while it's looking for
4 that tower, it's documenting, you know, what tower it
5 accessed at, what time it accessed it, for how long it
6 accessed it. And so, therefore, that is what is used to
7 create these reports, whether it's a telephone call, a
8 text message, or a data usage.

9 Q Okay. And I don't want to spend a lot of time on
10 this, but this is page one of State's number 1, which
11 appears to be over 500 pages of documents?

12 A Yes, sir.

13 Q And you testified that you prefer getting that in a
14 digital format so you can run it through your software.

15 A Yeah.

16 Q Can you show us kind of just basically, really just
17 in general, what we're looking at and we're seeing this
18 kind of layout here?

19 A Yes, sir. May I step down, please?

20 THE COURT: Sure. Sure can. Solicitor, what is the
21 exhibit number for the phone?

22 MR. SCOTT: 61.

23 THE COURT: 61.

24 MR. SCOTT: Yes, sir.

25 THE COURT: Okay. Thank you.

1 A So again this is AT&T's version. AT&T will send out
2 their reports in two different formats. They'll send it
3 out in a PDF format which is what we're looking at or
4 they'll send it out in a text version. The nice thing
5 with a text version is that's what allows me to load it
6 into Excel, and then we can sort it and, you know, I can
7 take 500 records and sort it down to a small timeframe so
8 it makes it easier for us to work with. But under this
9 PDF function, they assign a file code, but then they tell
10 you what date it was run on, what time they ran it, and
11 what the target number was that they ran to pull this
12 report which is here indicated to 404-308-0449. Also,
13 like we discussed, AT&T splits their reports into three
14 sections, voice, data, and text. And then they will
15 indicate at the end of the report whether this is the
16 voice or whether it's data or whether it's text. Then,
17 you get a connection date, you get a connection time. One
18 thing with AT&T is they report all of their connection
19 times and UTC times which is four hours ahead of eastern
20 daylight time. So one of the things that you have to do
21 when you look at these records is you have to make sure
22 that you convert it back to eastern daylight time to make
23 sure that you're looking at your right timeframe. They
24 will then indicate what, how long it took for the seizure
25 of the call. So that's how long from the time you hit

1 send till that phone goes out and actually makes the final
2 connection with the cellular system. It will provide you
3 with a matter of seconds. And then you get the lapse
4 time. That is the time that that call took to take place
5 from the time that that phone connects till the time that
6 you hit end and that phone hangs up and releases the
7 signal, it provides the elapsed time. So it tells you how
8 long the phone call may have occurred. Then you get your
9 originating number. This is where you can determine
10 whether that phone is an incoming call or whether it's an
11 outgoing call. If it's an originating number, then that's
12 most likely an outgoing call, I'm sorry, an incoming call,
13 and then the terminating number is their or your suspect's
14 number is that target number. That way, you know the
15 terminating, it's an incoming call. So the call came into
16 it. Then, we get into the, we call them the IMPI. That's
17 an International Mobile Equipment Identifier number.
18 Basically, that's the serial number for the telephone. So
19 we would be able to take that number and it tells you
20 this, 6742 and most likely we'd be able to match or we
21 should be able to match that number back to that IMPI
22 number as long as it's not a phone device or some crazy
23 thing. Then you have, with GSM phones, you have what is
24 called a SIM card, and then that has its own serial
25 number, which is called an International Mobile Subscriber

1 Identifier number and that is this number. That's the
2 little SIM card that's inside the phone that will match
3 back to that. Then, again, you have your connection type.
4 That would be, again, indicating terminating which is
5 incoming. Out, O is outgoing, MO is outgoing, then they
6 put in features, whether caller I.D. is used. All kind of
7 other information that's not really pertinent to what we
8 do, but it will tell you kind of what all went on in that
9 phone call. Then we get into cell locations. One of the
10 things you have to look at, too, when you start mapping
11 out cell data, is you have what they call a local area
12 code or under an LTE, it's a different, it's a CGI number.
13 But if you don't look at both numbers, I can look at just
14 the cellphone or cell tower that was used which for this
15 particular call was 13923. If I look at just that number,
16 there is a greater chance that there are probably four or
17 five different towers numbered that same thing in the
18 State of South Carolina. So you have to make sure you
19 look at the first set of numbers to know whether it's the
20 group of towers that's in Newberry or is it a group of
21 towers that's at Myrtle Beach. So you have to make sure
22 you look at both numbers. The other thing that AT&T will
23 provide is they provide the GPS coordinates of that tower.
24 Most of the time, those are always accurate. We never map
25 off of addresses. I've had instances where if you look up

1 that tower and you go to that address, that address may
2 not always be correct. But I've always found that the GPS
3 coordinates are correct for that tower. And then they
4 will provide the, what is called an ABEM, (phonetic).
5 Each tower is based off of three sectors. Sometimes that
6 sector is what, if you're familiar with a compass setting,
7 a compass is 360 degrees. And so what they'll provide you
8 with is the degree of the center of that Azimuth and so
9 what it's telling you is for this tower it's at 240. So I
10 know that the center of the face of that tower is off 240
11 degrees, and then you'll take, and what we do, is we'll
12 provide, from that center, we'll provide 60 degrees to the
13 right of the center and 60 degrees to the left, and that
14 gives me a 120 degree face of that tower. And so most all
15 towers are made up of three faces. So 120 degrees times
16 three makes up your 360 compass space. Then, some towers,
17 they'll provide you what they believe is the beam width
18 and that's basically the spread of that tower. We don't
19 provide that on a lot of faith because we've found that
20 what a cell tower will do is that as it goes out, that
21 signal is not on a hard line. It can fade to the left and
22 right. It's not a true 65 degree. So we don't give that
23 a lot of credit, and so that's basically what they're
24 providing. We always give, we go with 120 degrees,
25 because that gives us the most degree of certainty that

1 we're inline without having the actual cell tower data to
2 tell us exactly how that thing, how that tower signal
3 flows, because a tower signal can be affected by
4 buildings. It can be affected by terrain, anything. So
5 we go off a 120 degree face.

6 Q Then, you have, if you look at the very top point of
7 the cellphone tower --

8 A Yes, sir.

9 Q -- it's got a piece of top that transmits --

10 A Yes, sir.

11 Q -- or picks up signals?

12 A Yes, sir. That's the main antenna. One of the
13 things, too, that you'll find with a lot of these, this
14 first number may be different, but the GPS coordinates are
15 the same. They will stack towers with multiple antennas.
16 One of the things that you run into is if you go to, say
17 you go to downtown Columbia to USC stadium on a Saturday
18 during a football game, you're going to have to have a lot
19 more coverage to handle the influx of people than you do,
20 you know, on any other day, so they've got to be able to
21 stack those towers to handle the call. Otherwise, you
22 know, patrons get upset when their phone calls don't go
23 through or they can't get a signal, so they have to be
24 able to stack them. So you'll have, they'll assign each
25 array of antennas a different number, but the location

1 will be the same.

2 Q So you think it's, you put together a Power Point and
3 kind of demonstrate so we can talk about it.

4 A Yes, sir.

5 Q Okay. Now, that's sort of what you were talking
6 about?

7 A Yes, sir. That's a picture of a typical cell tower.
8 Again, you can kind of see the three faces on the tower
9 and that's what's pointed out. But, again, you know,
10 that, that's not a reasonable, that signal can drift so we
11 have to find a good median.

12 Q But what you're saying, though, is, you know, it's
13 split up. Each one of these represent 120 degrees --

14 A Yes, sir.

15 Q -- and you're saying like if it's that one, that
16 would go out and serve as that area that it's facing --

17 A That's right.

18 Q -- whereas the other two would, the area they're
19 facing would pick up too.

20 A Right. They would take the heading of that tower
21 facing north. And whatever the center of that sector is
22 pointing off, that's what they're going to set that as,
23 whether it is 20 degrees, 120 degrees. It just all
24 depends.

25 Q Is that kind of better.

1 A Yes, sir. That's a depiction of multiple towers in
2 the area. Again, it's going out at 120 degrees. Again,
3 AT&T's typical tower is zero to 120 degrees and 240
4 degrees. That can change. They can cant a tower. It
5 just depends on where they need service at. You got, a
6 good example. If you go to Myrtle Beach on Ocean
7 Boulevard. If everybody's been there you know they'll
8 cant their towers to push inland more than they do out
9 into the ocean, because most people don't have their phone
10 out in the ocean. So they preserve that power and that
11 signal. So they can turn these towers and cant their
12 signals. So that's why we have to look at the Azimuth and
13 all that to be able to determine.

14 Q All right. So if you look at the center of each one
15 of these, that will represent a cellphone tower?

16 A That's right.

17 Q And, for instance, where his mouth structure is, if
18 that represented the location of somebody with a
19 cellphone, it could actually be serviced by two cellphone
20 towers?

21 A If there is not another tower closer or in this area,
22 then, yes sir. If that's the only group of towers, then
23 it would typically, would be serviced by probably this
24 sector or either this sector as they would extend out --

25 Q Okay.

1 A -- because they're --

2 Q Okay. So what you're saying and you were describing
3 the Azimuth. If you think of a line going on--

4 A -- it just keeps on going, that's right.

5 Q This particular 120 degree sector of the tower would
6 be serviced?

7 A Yes, sir.

8 Q And this, and if you picture that line going all the
9 way up there, this sector would encompass that particular
10 cellphone call?

11 A Potentially. It depends on the strength of the
12 tower. Again, depends on, you know, how many users are in
13 the area. Just a lot of information goes into it.

14 Q But those sectors are important in order to more, I
15 guess, accurately place a location?

16 A Yes, sir. We would know that he was most likely on
17 these two sectors versus being on that tower in that
18 sector.

19 Q Okay. Go on Walter.

20 A Again, this is kind of an overview again. We get
21 into our target number that I analyzed who the service
22 provider was, the timeframe that I looked at. We would
23 normally request 30 to 60 days just so that we can show
24 patterns of activity, but as far as this crime was
25 concerned, we looked at this particular timeframe for the

1 most part. And then that's our main locations, our
2 incident location, the ATM usage, and then where the car
3 went, the truck went.

4 Q Okay. And that's just the first page where we just
5 looked at, right?

6 A Yes, sir. That's that same, same thing. And then we
7 talked about, this is what I was indicating. It's called
8 a NELOS report. It's N-E-L-O-S. This is a call
9 measurement report. At different points, AT&T will pull a
10 location accuracy based off of, you know, connection or
11 some activity that phone made. They can be anywhere from,
12 I've seen them as high as 10,000. They'll go down to
13 5,000, 2500, and I've seen them as low as 25 meters.
14 Typically, anything over 5,000, I don't provide a lot of
15 credit to because of the large area. I will look at 2500
16 meters. Obviously, anything below that, we give a little
17 more credit to the area, because it tightens it up and it
18 gives us a little more consistency.

19 Q Okay. So in some instances, you're able to get a
20 general distance away from the tower with the handset?

21 A Yes. Basically, it gives you a circumference of
22 whatever that meter is. If it's 400 meters, it'll be 400
23 meters out around that GPS coordinate is where AT&T, based
24 off of their measurements that they got back and believe
25 that that device was located.

1 Q Okay. Tower is utilized by, from 5:45 p.m. to 6:21
2 p.m.

3 A On this particular report; yes sir. During this
4 timeframe, that phone accessed this tower, as well as that
5 tower. This one is accessed at 5:45 p.m., and it was used
6 again. This is an LTE market indicated by the CGI number
7 and the NELOS I.D. It was obviously off of this sector.
8 That would most likely have been at a, about 120-150
9 degrees, and then it accessed this tower at 6:21. Again,
10 this is on a regular network market at 6:21 p.m. Eastern
11 standard time. If you looked at this on the call detail
12 record, you would have to add those four hours back. But,
13 again, that's the indication.

14 Q So in your opinion between these times, that phone
15 was putting out signals in utilizing towers in close
16 proximity --

17 A Yes, sir.

18 Q -- to the incident location?

19 A It was on multiple calls in relatively the same
20 timeframe --

21 Q If we can have State's 11. This is State's 11. It's
22 a different format, but the green pin right there on
23 State's 11 at the bottom represents what?

24 A That would be the victim's location address.

25 Q Okay. The tower that is 5:45 p.m.?

1 A Yes, sir. Is that the tower located on Mendenhall
2 Road? And actually you can look on the map here and you
3 can actually see the tower from the aerial views. You
4 would have to move the pins, and I'm putting the pin right
5 on top of the tower.

6 Q All right. So purple represents tower at 5:45?

7 A Yes, sir.

8 Q Okay. So we can put 5:45, it's utilizing that tower?

9 A Yes, sir.

10 Q Okay. And then the 6:21?

11 A Yes, sir. That is a tower that's located off of, off
12 of Twin, I think it's Twin Springs or Twin Palms. Let me,
13 Twin Springs Road is actually where that tower is located.
14 So actually it is actually off the map probably somewhere
15 right around here.

16 Q Okay. And that's 6:21 now?

17 A Yes, sir.

18 Q Okay.

19 MR. SCOTT: Walter, can we go to the next one?

20 A All right. Again, we talked about the NELOS hit.
21 This particular area had a NELOS report, as well, that
22 coincided at 5:45 within 2500 meters. The GPS coordinates
23 put it at the same location as the tower and when we draw
24 2500 meters off, that is the circle that we come up with
25 and it covers that same area, as well.

1 Q Okay. At 5:45?

2 A Yes, sir.

3 Q Okay. So we can safely say, is within 2500 meters of
4 that --

5 A At that point; yes, sir.

6 Q -- 5:45.

7 A Now, again, when we start looking at the sector data
8 that was used, I, you know, there's 2500 meters all
9 around, but I would venture to say with a very degree of
10 certainty, it would be within this area.

11 Q Okay.

12 MR. SCOTT: The next one, Walter..

13 A This one is the tower utilized. It was utilized at
14 6:57 p.m., but then it was also utilized again on a data
15 record at 7:21 p.m. But it was the tower located on
16 Alexander Street and it was off at 240 degrees.

17 Q Okay. And then you've got, which incident location?

18 A That is at the ATM machine. The tower is actually
19 located off of Alexander Street. I believe that's, I
20 believe there's actually a tower on a water tower up
21 there.

22 Q Do you see, on this map can you locate the cellphone
23 tower?

24 A That's it right there.

25 Q There is the Kendall Road.

1 A Okay. So there's Alexander Street. Like I say, I
2 believe that should be the water tower right in there that
3 it sits on.

4 Q Okay. Can you mark it with a pen?

5 A (Witness complies.)

6 Q And you've got 6:57, well, both of those are--

7 A Yeah.

8 Q -- 6:57 minute.

9 A One is at 24 second and one's a 34 second. But,
10 again, it utilizes it for a data session at 7:21, as well.

11 Q At 7:21?

12 A Yes, sir. Okay. The data session is at 7:21 and
13 it's off that same tower.

14 Q What does that mean? What's a data session?

15 A Again, that was just something whether it was
16 Facebook or it could have been an app on the program that
17 just happened to connect at that time. That's the
18 location that they utilized.

19 Q Okay.

20 A At 7:32, it utilizes that same tower, but now it's on
21 a different face at 120 degrees. Again, it could indicate
22 as he's driving away, he's using the device. This was
23 another data session as well.

24 Q Okay. So at 7:32, 7:21 it's --

25 MR. SCOTT: Go back.

1 Q It's different.

2 A That's right. It just switches side.

3 Q So it's on this side --

4 A Right.

5 Q -- then ten minutes later, it's on this side?

6 A Right.

7 Q Is that, what does that indicate to you?

8 A It's most likely that the device is moving.

9 Q Okay.

10 A And we can, I can show, we work narcotics cases where
11 suspects make trips to go pick up a new load of drugs. I
12 can show them actually going down the Interstate as the
13 towers hand off.

14 MR. SCOTT: Go on, Walter.

15 Q And then that is what?

16 A That's a picture of the ATM that was located, that
17 were showed on the map. We were able to pull it up on
18 Google Earth. When you go down and change your view, it
19 just shows that that same tower or that ATM is the one.
20 that we were looking at --

21 Q Okay.

22 A -- in that area. Yeah. This was a tower and a data
23 session that used the exact same tower at 7:40. So we
24 were able to show two different calls on the same tower.
25 This is the tower located on Adelaide Street that services

1 most of 219 Wilson Road, that area.

2 Q Is there any, I can tell is there a relevant incident
3 location to this?

4 A There's not. It was just a way to show that the data
5 and the voice, I believe it was a voice call that matched
6 up to that exact same time just to show the correlation
7 between the two.

8 Q Okay.

9 A And then at 10:21 until 10:24 p.m. and 37 seconds, we
10 had him accessing again the tower at Twin Springs Road,
11 except now he was off of the north side at zero degrees,
12 which coincided where the car was recovered.

13 Q Okay. And now if we look at this map --

14 A Yes, sir.

15 Q -- is it the same tower?

16 A It's the same tower as we discussed with the cell
17 sector faces. At 6:21, he was hitting off of the 240
18 degree sector, which is the number three side of that
19 tower which would face back toward the incident location:
20 At 10:21, he hits the side of the tower indicating zero
21 degrees which is off the north side which would show that
22 line in the consistency with where the car was found.

23 Q Okay. So between 10:21 and 10:24, he's in the
24 abtinent of that same cell tower that encapsulates where
25 the Cadillac was found?

1 A That's correct.

2 Q Okay. All right. And do you have a slide?

3 A Yes, sir. At 10:21 and two seconds, again, we had a
4 NELOS hit that was within 400 meters. Again, the center
5 of that sector is just to the northwest of where the car
6 was located, but within 400 meters from, the car location
7 was within that evidence.

8 Q Okay. So then that phone, that device --

9 A Yes, sir.

10 Q -- 404 area code --

11 A Yes, sir.

12 Q -- is within this proximity within 400 meters of
13 where the Cadillac is found?

14 A That is correct.

15 Q What is the, what's the conversion? Is that like a
16 thousand, 1200 feet or so?

17 A Just, probably just under a thousand feet, I believe.

18 Q So he, he is within a relatively or the phone is in
19 relatively short distance where that Cadillac is found --

20 A Yes, sir.

21 Q -- in that wooded area?

22 A Yes, sir.

23 Q Okay.

24 A Again, that's just a little more zoomed-in shot that
25 will kind of give you the actual size of a 400 meter area

1 that it would include.

2 Q Okay.

3 A I believe that's all that we had documented.

4 MR. SCOTT: Your Honor, I will go ahead and enter
5 into evidence State's 61, I will enter into evidence the
6 phones. I would admit the phones into evidence.

7 THE COURT: Okay. Has that not been previously
8 stipulated?

9 MR. VERNER: No, Your Honor.

10 THE COURT: Okay. So you're offering 61 --

11 MR. SCOTT: Yes.

12 THE COURT: -- 61 and Exhibit 1 into evidence,
13 Solicitor?

14 MR. SCOTT: Yes, sir.

15 THE COURT: Okay. And what says the Defense?

16 MR. VERNER: Respectfully, I don't know how this
17 witness lays the foundation of those, I don't have that
18 he's testified about doing anything with the hard phones
19 themselves. And my understanding is the State, he is
20 testifying, I used the cellphone records from the phone
21 company and analyze those. I don't know what contact he
22 would have with the physical phones. That's why I think
23 there's a foundation problem.

24 THE COURT: All right. Solicitor?

25 MR. SCOTT: Robert Dennis was the last witness. He

1 testified, identified and located on the suspect at the
2 time of his arrest. He did turn them over to Lieutenant
3 Johnson or Special Agent Johnson did review those phones
4 and attempted to download data off of them. They were
5 password protected, but he did use that phone and the
6 associated phone number to plot these locations.

7 THE COURT: Okay. All right. Now, you're saying the
8 phones, meaning two phones. I know that the testimony has
9 been that the two phones were recovered off of Mr. Wise,
10 but I think one phone was not operable.

11 MR. SCOTT: I'm only really interested in the 404
12 number. The other one that only has Wi-Fi service, I'm
13 not, because we didn't get any information from it.

14 THE COURT: Right.

15 MR. SCOTT: But the whole package is labeled 61.
16 This is the only one I care to enter.

17 THE COURT: All right. I'll allow it into evidence.
18 One and 61 into evidence for the State.

19 (Whereupon, State's Exhibit numbers 1 and 61 were
20 admitted into evidence.)

21 Q So just in closing, Lieutenant, it is your expert
22 opinion, is it your expert opinion rather that that phone
23 number, the 404 phone number --

24 A Yes, sir.

25 Q -- was utilizing a tower that would service the ATM

1 at 6:57 p.m., 7:21 p.m., and 7:32 p.m.?

2 A At 6:57 and 7:21, that tower would have utilized,
3 that tower would have serviced an area consistent with the
4 ATM. At 7:32, it is on a sector going away.

5 Q Okay. 7:21 -- okay. And then 7:32 --

6 A 7:32 is a different place of the tower.

7 Q The same tower, but a different --

8 A A different side of it.

9 Q I got you. Okay. And then is it your expert opinion
10 that at 5:45, that phone number is utilizing a phone tower
11 that would be in close proximity to Ms. Benzena Wicker's
12 home?

13 A Yes, sir.

14 Q Okay. And then furthermore at 6:21, is it your
15 opinion that that phone was utilizing a tower also
16 associated with Ms. Wicker's home?

17 A That's correct.

18 Q Yes, sir. Between 10:21 and 10:24, is it your expert
19 opinion that that handset was within 400 meters of where
20 the Cadillac was ultimately recovered?

21 A Yes, sir.

22 Q Okay. Thank you.

23 MR. SCOTT: Lieutenant Johnson, answer any questions
24 Mr. Verner has for you.

25 THE COURT: Mr. Verner, any cross-examination?

1 MR. VERNER: And may it please the Court.

2 CROSS-EXAMINATION

3 By Mr. Verner:

4 Q Now, Lieutenant Johnson, several times you said he
5 hit such and such a tower or he was in such and such
6 location.

7 A Yes, sir.

8 Q You don't know that. You just know that that phone,
9 you believe, accessed those towers?

10 A Yes, sir. I believe it, yeah. All I can map is the
11 device.

12 Q Okay.

13 A But it's up to another witness to put him in
14 possession of it.

15 Q So who had the phone or anything like that, you're
16 just using a common pronoun?

17 A Yes, sir.

18 Q Okay. It's the phone you're mapping and not Anthony
19 Wise?

20 A Yes, sir.

21 Q Okay. Tell me again what is NELOS, N-E-L-O-S means.

22 A N-E-L-O-S. It is a call, basically a report that
23 provides call measurement data. AT&T calls it NELOS,
24 Verizon calls it a RTT or a Range to Tower, and Sprint
25 calls it a PCMD which is Per Call Measurement Data, but

1 it's the same thing. They all basically just call it a
2 little something different.

3 Q But do you know what NELOS stands for?

4 A No, sir. I sure don't.

5 Q Okay. But, and I apologize, but just tell me one, in
6 the very layman's term, NELOS stands for basically the
7 cellphone location --

8 A Basically --

9 Q -- or what?

10 A It is a call measurement data for the device.

11 Q Okay. So it just basically refers to the report
12 itself, type of report itself?

13 A Yes, sir.

14 Q Okay.

15 A And then NELOS is just what they call that report,
16 but it is a call measurement device that they estimate
17 based off of signal strengths and whatever internal
18 workings that they have to produce that report.

19 Q Okay. And just what exhibit were y'all talking about
20 where y'all, 57? Okay. But you can come down a minute.
21 If we're looking at the map of the two different cell
22 towers that were hit?

23 A That's correct. Yes, sir.

24 Q And I just want, I just want to ask you this question
25 so we're not confused later on. But these are two cell

1 towers that were hit at separate times?

2 A Yes, sir.

3 Q About 40 minutes apart, 5:45 and 6:21?

4 A Close to it; yes, sir.

5 Q Okay. So when somebody makes a map, you're only
6 using one cell tower for each call and you're not like
7 triangulating three different cell towers for that one?

8 A Not, necessarily. You can utilize more than one
9 tower for a call. We don't map the other towers, because
10 they're not always a consistent location for it. Your
11 strongest tower is the one that you first connect on when
12 you make the call. For different reasons, one of the
13 towers, the call is moving, whether there's a lot of
14 activity on that tower, they could get pushed to another
15 tower during the call. But the initiating call is always
16 the strongest indicator of where that device is at and
17 that's what we map based on.

18 Q So I'm taking it in some cases you might use, one
19 phone call will hit several towers and you could do a
20 little map board and of each one if you wanted to?

21 A If you wanted to, but it would not be a, I would not
22 find any degree of certainty in doing that way.

23 Q And I think you're testifying in your experience just
24 going by the strongest tower hit is close.

25 A Which is, well, the initial tower that that phone

1 utilizes when it starts a call or a text message or a data
2 session is what we feel is the strongest indication of
3 where that tower was originally --

4 Q Okay.

5 A -- or where that device is originally located at.

6 Q Okay. And so these are two separate phone calls?

7 A Yes, sir.

8 Q And so the fact that we've got this highlighted
9 overlap area --

10 A Yes, sir.

11 Q -- it doesn't necessarily mean that he's in that more
12 green area, he could be --

13 A Could be.

14 Q -- or the phone could be?

15 A Could be.

16 Q But these are two separate phone calls. That phone
17 call could be anywhere from the far left Azimuth to the
18 center Azimuth.

19 A That's correct. And he could be past that.

20 Q Okay.

21 A Again, a cell signal doesn't stop at those lines that
22 I made. That is just a strongest indicator of where it's
23 at. A signal is gone, I mean, it is that, it is a --

24 Q Okay.

25 A -- visual signal that can go into holes. I mean, it

1 does depend on the terrain, the buildings.

2 Q But if I was directly, and I'm looking at the center
3 of this circle, but the closer I am to the center, the
4 more likely I am to be in that one-third quadrant.

5 A Closer you are to the tower --

6 Q Right.

7 A -- you are more accurate. As that tower, as that
8 signal goes out, that signal can degrade or get weaker.

9 Q It goes around buildings and trees.

10 A That's correct.

11 Q Okay. And so if I were closer to one of the corners
12 of the cellphone, I could be somewhere in this area, but
13 this would be the one it hit on strongest?

14 A Well, typically if you're, what we see is if they're
15 on the other side of this tower closer to this line --

16 Q Yes, sir.

17 A -- that second call would have come from the tower
18 over here or it would have changed --

19 Q Okay.

20 A -- the face of the tower to this side. Whether being
21 two calls within a time it indicates it's closer to this
22 side.

23 Q So you feel comfortable that he's in that general,
24 that's a 150 degree arc I think you said?

25 A 120 degrees.

1 Q 120 degrees.

2 A This tower is most likely off of a 150 degrees. I
3 would have to consult my spreadsheet, but that is
4 120-degree.

5 Q Okay. I don't know. Do you know what this little
6 thing is right there?

7 A No, sir. That's just something Google Earth throws
8 up on the map.

9 Q Okay.

10 A That is not something I added.

11 Q All right. That's not part of the investigation?

12 A Yes, sir. If I add a point, it'll have a tag beside
13 it.

14 Q Okay.

15 A That is just something Google Earth.

16 Q Okay.

17 A I don't know if that is a school or what it is, I
18 can't tell.

19 Q Okay. It is indicated that's an irrelevant mark.

20 A That's just the Google software. Yes, sir.

21 Q Okay.

22 A That is irrelevant in this case.

23 Q But this is where law enforcement indicated the
24 lady's house is?

25 A That is the GPS coordinates for that residence.

1 Q Okay. But do they also indicate to you that he lives
2 on the same street?

3 A Yes, sir.

4 Q Okay. But that's not on your map?

5 A No, sir.

6 Q So as far as, and did you also analyze where Laswan
7 Anderson's house was?

8 A I am familiar with where it was at; yes, sir.

9 Q She would live closer to that tower on the far right?

10 A Yes, sir. She would live up here in this upper end.
11 I believe that would be, I'd have to --

12 Q Double-check?

13 A -- but I believe that would probably be consistent up
14 there.

15 Q And, in fact, so we make sure we get it straight.
16 You didn't prepare this overlay?

17 A No, sir.

18 Q But your understanding is that they've got Laswan's
19 address mapped out on the overlay?

20 A Yes, sir.

21 Q And it is, appears to be the right of this kind of,
22 this open?

23 A Yes, sir.

24 Q So your understanding is Laswan's house would be
25 probably where this little, looks like a bow and arrow

1 maybe --

2 A Yes, sir.

3 Q -- on the very top of the green?

4 A Yes, sir.

5 Q Okay. So those phone calls could be anybody in Ms.
6 Wicker's house or close to her location?

7 A They could be consistent with Ms. Wicker's house;
8 yes, sir.

9 Q But actually as of 5:45, they are less likely to be
10 at Ms. Wicker's house, because they're in the coordinates
11 below her?

12 A It is possible. Again, we don't hold true to that
13 because of the fate of the signal.

14 Q All right. But that also includes Laswan's house and
15 that also includes Mr. Anthony Wise's home?

16 A That's correct.

17 Q Okay. Now, tell me what you mean by these, the
18 distances you're talking about when you said, you talking
19 about the 2500 meter, the 1500 meter?

20 A Yes, sir. That is points that were taken,
21 correlating times that were taken off of the NELOS report
22 that correlated with the cellular activity. We place
23 those on the same map to show the correlation between the
24 tower usage, as well as the NELOS report.

25 Q Well, how do you get that number? Does that mean if

1 it was like a 2500 meter, it had said 2500 meter NELOS
2 hit?

3 A Yes, sir.

4 Q Does that mean I would have made the call if it would
5 have been within 2500 meters of the cellphone tower when
6 it hit or what?

7 A It is within 2500 meters of the GPS coordinate that
8 they provide on the NELOS report. My question on that,
9 and we'll use it, that's the 2500.

10 MR. VERNER: Can we go down a slide please.

11 Q All right. One of your exhibits has the NELOS
12 exhibit within 2500 meters of this location?

13 A Yes, sir.

14 Q And but that location is the cellphone tower?

15 A That is, that's correct.

16 Q Okay. So the NELOS hit and the cellphone tower are
17 the same GPS?

18 A On that particular call; yes, sir.

19 Q My question is does the NELOS, can that be a
20 different location than the cellphone tower?

21 A Absolutely. Absolutely.

22 Q Okay.

23 A That was indicated at the 400-meter hit. That was
24 not a tower. That was an actual different location.

25 Q Well, that's why I'm asking you.

1 A Yes, sir.

2 Q How do they come up with the NELOS location?

3 A That is based off of their measurements between, I
4 know with Verizon and my understanding with AT&T is the
5 same. They base those measurements off of the power that
6 it takes to go from the cell tower to the device and back.
7 They created a calculation as to how long it takes for
8 that signal to return, and then they were able to come up
9 with a location based off of that information to develop
10 these reports.

11 Q Okay. So that kind of, it's kind of like counting
12 thunder and lightning, when you see the lightening flash
13 and you count how many seconds it takes for the sound to
14 come in or it's an echo type? That's a bad example.

15 A It is --

16 Q But it's not, well, I guess, the point of my question
17 is it's not necessarily the cellphone tower location?

18 A No. It is not always the cellphone tower location.

19 Q Okay. But you don't know yourself what specifically
20 causes the NELOS location to be a different?

21 A It's based off of their locations and the programs
22 that they run.

23 Q It's based on how fast --

24 A And when they get the --

25 Q -- based on how fast the cell signal hits the tower

1 and then how fast it returns?

2 A That's right.

3 THE COURT: Let's try not to talk over one another,
4 Mr. Verner.

5 MR. VERNER: Yes, your Honor.

6 THE COURT REPORTER: And slow down, both of y'all.

7 MR. VERNER: Yes, ma'am. All right. Can we scroll
8 down a little bit more, Mr. Bentley. All right. That
9 looks perfect.

10 Q All right. This one we're looking at is the ATM
11 machine, I guess is the dollar sign that you put on there?

12 A Yes, sir.

13 Q Okay. And that's on the very top, that you're
14 talking about the line from the cellphone tower?

15 A Yes, sir.

16 Q Okay. And your testimony that there's no NELOS
17 distance given in this type?

18 A There was. I think it's on the next slide. There
19 was a 5,000 meter NELOS --

20 Q Okay.

21 A -- report.

22 Q Right.

23 A But, again, in my examination of phone records, I did
24 not provide much credit to the 5,000 meter and up, because
25 of the fact they get so large that you don't find it as

1 useful in accuracy.

2 Q And it's less accurate, because it means he's further
3 away, right?

4 A Well, it means that the area that it services is so
5 large that we can't provide any degree of certainty as to
6 where it could have been.

7 Q So when you're talking about NELOS locations, you're
8 always at the mercy of having to rely on AT&T's NELOS?
9 That's something that you, yourself, cannot come up with?

10 A That's right. We don't map just off the NELOS
11 report. That is just something that we use to show in
12 conjunction to the cell tower records. We always map
13 first and foremost off of the voice, text, and/or data
14 usage.

15 Q And, again, the NELOS is not a number of how far I am
16 from the cellphone tower, it's basically a radius from
17 that distance of how far he can be --

18 A That's correct.

19 Q -- or the phone can be?

20 A Yes, sir.

21 Q And in this one, AT&T NELOS rating is 5,000 meters.

22 MR. VERNER: Can we just scroll down, Mr. Bentley?
23 One more, please.

24 A Yes, sir.

25 Q You would agree with me that the phone would be to

1 the South, I assume these plats are, North would be
2 straight up to the top of the page there?

3 A Yes, sir.

4 Q Okay. South would be to the bottom of the screen?

5 A That's correct.

6 Q So the person who used this phone or when this phone
7 was used, it was to the South of the ATM machine as
8 opposed to North?

9 A No, sir. The center of the circle was at, again, the
10 base of the cellphone tower. That device could have been
11 anywhere within 5,000 meters of that red dot.

12 Q Okay.

13 A It could be North, it could be West, Southeast.

14 Q All right. And the NELOS rating is slightly South of
15 the ATM machine?

16 A The center of the circumference is; yes, sir.

17 Q Right. And according to Mr. AT&T, the NELOS was the
18 radius that the phone would be, would be 5,000 meters?

19 A On that particular --

20 Q Right.

21 A -- indication; yes, sir.

22 Q All right. And I understand 5,000 meters to you as
23 an investigator is irrelevant, because that doesn't help
24 track down the location of it?

25 A It doesn't give me any degree of certainty as to a

1 location so --

2 Q Okay.

3 A -- that's why for that particular image, we do not
4 show a radius. We show a point just to show the
5 correlation. But we do not produce a radius for it
6 because of the size.

7 Q Okay. The reason for that is that the phone could
8 be, going by the AT&T records, the phone could be a
9 distance of 5,000 meters away from the cellphone tower
10 itself --

11 A Correct.

12 Q -- which is already a considerable distance. What's
13 the distance from the cellphone tower to the ATM machine?

14 A I believe it's only a quarter of a mile, half a mile.

15 Q What is that in meters?

16 A I don't know. I'd have to put--

17 Q About 1600 meters in a mile, does that sound
18 familiar?

19 A More of probably twelve, 1300 meters in a mile.

20 Q And how far is, the 5,000 meters would be about two
21 miles? How, what's the distance in --

22 A 5,000 meters is probably closer to three and a half.

23 Q Okay. So according to Mr. AT&T records, all we know
24 about that is that the phone would have been three and a
25 half miles from that cellphone tower?

1 A That's right. It could be at the base or it could be
2 three-and-a-half miles out according to the NELOS report.
3 Again, that's why we always map the cell site sector or
4 face of the tower in conjunction with the NELOS report.

5 Q All right. And you heard the officers testify that
6 the neighborhood the lady lived in was about four miles
7 from the ATM machine?

8 A If that's the distance.

9 Q Okay. So that could be, that gives an awful broad
10 range for that phone to be from that cellphone tower going
11 by AT&T's measurements?

12 A If you only go off of the NELOS report, yes.

13 Q Okay. Well, what else would you go?

14 A Cell placement to the tower.

15 Q All right. Well, tell us how that narrows it down?

16 A Because now instead of having a full 360 degree
17 circle like you do with a circumference, you've got the
18 cell face of that tower utilizing only 120 degrees. And
19 in a 5,000 hit, you take this entire area down to just
20 that area that the phone was in if these calls are within
21 minutes of each other.

22 Q Okay. So a NELOS reading is always the
23 circumference?

24 A Yes, sir.

25 Q Okay. And when we talk about the facing, you're

1 getting a direction that they're coming from?

2 A You're getting a confiscating degree.

3 Q So half the 5,000 meters is 2500 meters?

4 A Yes, sir.

5 Q Circle has got two directions it goes by, either left

6 or right, right, from the middle?

7 A A normal circle, yes.

8 Q Okay. So your degree of distance would be half of

9 the NELOS.

10 A No, sir.

11 Q Why not?

12 A Because a cell tower is split into three sections and

13 not just two.

14 Q Okay.

15 A So, therefore, you cut that again into a third,

16 basically.

17 Q Well, you can't cut a circumference in a third, can

18 you?

19 A You can with a cell tower. So you use the

20 information in conjunction with a NELOS and now become in

21 a third instead of a half, because a cell tower is based

22 off of three sectors.

23 Q Right. Which is one circle.

24 A It's 120 degrees for each face.

25 Q All right. Well, tell me again just one more time in

1 simple language. I was an English major. Tell me in
2 simple language how a circumference is less than two
3 halves?

4 A On a regular circle, if you cut it in half, then yes.
5 You're looking at 5,000 cut in half and that's 2500.

6 Q Okay.

7 A But when you use, like we discussed, we used the
8 NELOS report in conjunction with the cell tower's
9 location. You now can take it and cut it into a third,
10 because the cell tower is based off a 120-degree sector
11 which makes up three portions.

12 Q Okay. So assuming your math is correct that you can
13 take the circumference and divide it into thirds, that
14 still leaves him at a distance or the phone at a distance
15 of 1700 meters, potentially?

16 A Potentially.

17 Q Okay. And that is well over a mile?

18 A Yes, sir.

19 Q Okay. You can resume your seat. Now, do you have
20 the report with you at the seat, the metric slides?

21 A No sir, I do not.

22 Q Okay. Just to clarify as far as what the phone
23 records are so we all understand at the end of the case.

24 A Yes, sir.

25 Q I guess, you were concerned with three locations, the

1 crime scene, where the car was found and the ATM?

2 A That's correct.

3 Q As far as being in the neighborhood where the lady,
4 Ms. Wicker lives, can you put him in a distance of her
5 house or at her location?

6 A No, sir. Not based just off of that. Again, we
7 looked at the cell tower locations that were used around
8 that time frame and the 2500 meter NELOS report. We can
9 put him in the general area of it. I can't put him at the
10 house, but I can put in the general area.

11 Q All right. Well, what do you mean by the general
12 area?

13 A That area that's depicted within the shaded portions,
14 as well as the circle for the 2500 meters that we would
15 say that it's in an area consistent with the shaded
16 portion in conjunction with the 2500-meter circle.

17 Q Okay. So when we're talking about the cellphone
18 tower to the left, you have the phone being used anywhere
19 in that green one-third of a circle?

20 A Potentially; yes, sir. It could be over to the left
21 or right.

22 Q All right.

23 A Now, I can't rule it out. We have to have a standard
24 and that's where that standard fell.

25 Q Now, you have the separate red circle over the same

1 phone call?

2 A That's correct.

3 Q Does that mean that you have him or the phone further
4 narrowed in that, the red portion of the --

5 A That's what we or that's what I would feel is that
6 that phone is within that green-shaded area that is
7 consistent with this --

8 Q Okay.

9 A -- as well as the red circle.

10 Q Okay. So that's, that's my question. At 5:45, you
11 think his phone was somewhere within --

12 A No, sir. Not that far down.

13 Q Well, I'll come to the red one in a second.

14 A Yes, sir.

15 Q But the two coordinates are the whole green
16 semi-circle --

17 A Correct.

18 Q -- and then you also are testifying that you think
19 it's within that one green circle further narrowed down to
20 within that red portion?

21 A Well, I was able to narrow it down in my opinion to
22 the green-shaded area that is also covered by the red
23 circle.

24 Q Okay. So, in your opinion, he would have to be both
25 in that green circle and the red circle portion?

1 A Most likely.

2 Q And that would be the neighborhood that he lives in
3 or that you understand he lives in?

4 A Yes, sir.

5 Q As far as Ms. Wicker's house, do you have any other
6 phone records or identification marks showing locations or
7 is that your best exhibit to his location?

8 A That is the only exhibit I created as far as the
9 timeframe of when the crime occurred in conjunction with
10 what the phone records indicated.

11 Q Okay. All right. Explain to me the ATM. What is
12 your best testimony of the location of that phone
13 concerning the ATM?

14 A That it'd be that green--

15 MR. VERNER: Okay. Let's go on, Mr. Bentley, to that
16 one.

17 A Well, it'd be in a 5,000 meter hit. Again, I can
18 only tell you that it would most likely be within that
19 green sector at that time.

20 Q At what, and at what distance do those Azimuth's run?

21 A Those should be at probably about two and a half
22 miles.

23 Q From the cellphone down on that line, the line
24 reaching out?

25 A To the front of this line. Yes, sir.

1 Q Okay.

2 A That is based off of other cellphone towers that AT&T
3 has in that area --

4 Q Okay.

5 A -- that would indicate that tower should not be any
6 stronger than that. Because, then, at that point, it
7 should be handing off to another tower.

8 Q All right. So your testimony, those lines have a
9 distance of about two and a half miles?

10 A Yes, sir.

11 Q Okay. Is it fair to say that you would agree with me
12 that that's a fairly large --

13 A Yes, sir.

14 Q -- circumference? Do you know how many miles it is
15 from where we are now to the Interstate?

16 A I do not.

17 Q Okay. Well, is it fair to say that the courthouse we
18 are in now is encompassed in that area of we are within
19 two and a half miles of that --

20 A Of this area here?

21 Q Yes, sir.

22 A It may be but, again, there are other towers --

23 Q Okay.

24 A -- that are between here and that tower.

25 Q So we're within the distance from that tower that the

1 NELOS hit would show, but we might be closer to other
2 towers that would pick up stronger?

3 A That's correct.

4 Q Okay.

5 A You're always going to have a handoff area between
6 two towers. That's so that phone companies can limit the
7 amount of dropped calls.

8 Q Do you know the distance from Nance Street to Wilson
9 Road?

10 A I do not.

11 Q Would you, would it be fair to say that that's no
12 further than two and a half miles, though?

13 A And most likely.

14 Q And that would encompass a whole lot of people in
15 that area?

16 A That's correct.

17 Q A whole lot of businesses that he could be in?

18 A That's correct.

19 Q Okay. Is there any other businesses or evidence as
20 far as the ATM machine that you have that you prepared
21 reports on?

22 A No, sir.

23 Q Okay. And the third location is where the car was
24 located?

25 A That's correct.

1 Q Is that it?

2 A No sir, no sir.

3 Q All right. Now, the red mark on this exhibit is
4 where the car was recovered?

5 A That's correct, sir.

6 Q And the bottom portion of that semi-circle is the
7 cellphone tower?

8 A Yes, sir.

9 Q Now just based on the facing the cellphone tower, the
10 phone call occurred at any location within that, most
11 likely within that green area?

12 A For that side; yes, sir.

13 Q Now, we've talked about Laswan lives awfully close to
14 that green edge line, though, doesn't she?

15 A Not far; yes, sir.

16 Q Okay. So is it possible to say that within the
17 margin of area, Laswan's house is also, well, in that
18 photograph, could be?

19 A If we didn't have the 400-meter NELOS hit, I would
20 say yes.

21 Q Okay.

22 A But with the 400-meter NELOS hit, it ruled out the
23 residence.

24 Q Okay. But you're just using the facing of this phone

25 --

1 A That's correct.

2 Q -- that it would be fair to say that Laswan's house
3 is in the margin of error for, if you didn't have a NELOS
4 report?

5 A It's possible.

6 Q Okay.

7 MR. VERNER: Do you have the next one down?

8 Q Okay. Now, the NELOS hit wasn't the location of the
9 recovered car, was it?

10 A No, sir. It was probably 25 meters to the North and
11 West of it.

12 Q Okay. So they're two different, is there a more
13 close-up than this one?

14 A Yes, sir. The next one up.

15 Q Okay. The next one up. All right. So from the
16 center circle NELOS, you're testifying that you believe
17 that the phone call would be within that 400-meter?

18 A Yes, sir.

19 Q Okay. Do you know if factors like trees and
20 buildings would affect the signal?

21 A It's potential if it was indoors. That would
22 indicate probably a 2500 or a 5,000 meter hit.

23 Q Is it fair to say that Laswan's house would be not
24 within that 400 meters, but awfully close to the parameter
25 of it?

1 A It's close but.

2 Q Her house is outside the 400 meters but not far?

3 A Not far.

4 Q Okay. Were you able to track, the phone, you find
5 out to where the phone calls that go to are coming from,
6 right?

7 A Yes, sir.

8 Q What about when these programs are used, can you, are
9 you able to find out which program was used or just, in
10 general, that data came into the phone?

11 A It's just a data usage.

12 Q Okay. What about text messages, you can find out who
13 they were sent to or come from?

14 A Yes, sir.

15 Q In this case, did you look at any of the phone calls?

16 A Yes, sir. The request for us was to see where the
17 device was.

18 Q Okay. So who calls were made to or came in from, you
19 didn't handle that?

20 A I did not do an analysis on that; no, sir.

21 Q Okay. And the last rating as far as when the, what
22 time was the NELOS hit on that car located right there?

23 A At 10:21 p.m. and two seconds, Eastern daylight time.

24 Q And, obviously, I mean, you're aware your testimony
25 is that somebody was in the location of that car at about

1 10:21 p.m.?

2 A That's correct.

3 Q Okay.

4 MR. VERNER: Thank you, Agent.

5 MR. JOHNSON: Yes, sir.

6 REDIRECT EXAMINATION

7 By Mr. Scott:

8 Q Well, what effect does it have in an urban area where
9 there's more cellphone towers, like more AT&T towers as
10 far as pinpointing more accurately where a phone call is
11 originating from?

12 A As long as it's in a good line of sight and there is
13 not a metal building or something like that, then you get
14 a stronger signal.

15 Q Okay. And so you're able to get a 400 meter radius
16 where the recovered car is?

17 A Yes, sir.

18 Q And up by Kendall Road, that's 5,000 meters?

19 A Yes, sir.

20 Q Could that be because there are less AT&T towers up
21 in that area?

22 A That's correct.

23 Q Okay. And you're not saying that the phone call was
24 placed 5,000 meters from the ATM?

25 A Yes, sir.

1 Q You're not saying it was five meters away from the
2 ATM?

3 A I have no way of knowing; no, sir.

4 Q You just know that's the range, somewhere in that
5 range?

6 A Yes, sir.

7 Q And in a wedge of the Azimuth, that it comes through
8 the machine?

9 A Yes, sir.

10 Q I think that's all. I just want to, I know we're
11 going around a lot. But why is this, just for
12 demonstrative purposes, why is this relevant to you, this
13 drawing, kind of like the Mercedes symbol?

14 A It allows for us to take what would be a 360 degree
15 circle and cut it down into a third as far as location
16 purposes.

17 Q Because if this was equal and these were 120 degrees,
18 this is what you're talking about? You're not talking
19 about halves?

20 A No, sir.

21 Q You're not talking about, you're talking about
22 thirds. And each one of those towers in the first slide,
23 and each one of these towers are associated with one
24 120-degree sector that goes out?

25 A Yes, sir.

1 Q And that's how you were able to locate where a
2 cellphone general location is when it hits a certain
3 tower?

4 A That's correct.

5 Q All right. Which one of these Azimuth's is
6 associated with that?

7 A This one.

8 Q Okay. All right.

9 MR. SCOTT: Okay. All right. Thank you very much.
10 That's all.

11 THE COURT: Okay. Anything in redirect?

12 MR. VERNER: We have no more questions.

13 THE COURT: Okay. All right. Thank you. You can
14 step down. All right. Mr. Foreman, ladies and gentlemen
15 of the jury, we have kept you overtime. We're late for
16 lunch, and so we're going to take a break, and I want you
17 to be back here at 3:15. So I apologize for going over,
18 but, of course, we have to get through this testimony and
19 just do the best that we can. But, again, I remind you
20 and caution you as I have throughout this trial not to
21 have any discussions among yourselves or have any
22 discussions with anyone you come into contact with. And
23 also as I mentioned to you yesterday, if you are to go to
24 a local restaurant, make sure you keep your juror tag on
25 so that people will know that you're on a jury and will

1 not be talking about this case if they don't otherwise
2 recognize you as being on the jury. Have a good lunch and
3 we'll see you back at 3:15.

4 (Whereupon, the jury was excused from open court for
5 a lunch break.)

6 THE COURT: Okay. Solicitor, do you plan to call any
7 other witnesses?

8 MR. SCOTT: I don't.

9 THE COURT: Okay. All right. We can deal with any
10 motions when we start back after the lunch break. Okay.
11 All right. So we'll be in recess for this case, we will
12 try to maybe, if we can, around 3:00 to get whatever
13 motions we need. And I can advise Mr. Wise concerning his
14 right to testify or not, and then we can get the jury
15 back. Okay. Thank you very much.

16 (Whereupon, a lunch break was taken.)

17 THE COURT: You indicated before we broke for lunch
18 that you had no further witnesses?

19 MR. SCOTT: That's correct, Your Honor.

20 THE COURT: Let me advise, well, let me go ahead and
21 hear the motions, if any, that you may have, Mr. Verner.

22 MR. VERNER: Judge, I do have the, and I understand
23 that there's some weight, but as the gatekeeper of that
24 weight of the evidence, Judge, we do not believe they have
25 identified that there is a substantial risk of

1 misidentification in this case on all four of the indicted
2 charges. So just based on the failure of the weight of
3 the evidence, Your Honor, I would ask for a directed
4 verdict. On the armed robbery, in particular, Ms. Wicker
5 testified that a clearly unarmed robbery at all points
6 with the exception of this moment at some point, when
7 initially after they were brought inside, she fell down or
8 was tripped or was pushed. Ms. Wicker grabbed a hammer.
9 The man took the hammer out of her hand and said, and she
10 grabbed him at the same time in a sensitive area and tried
11 to break free from him, that he pulled the hammer out of
12 her hand and said, lady, if you don't let go of me, and
13 possibly something more threatening, but I'm going to hit
14 you with it. At that point, he no longer had the hammer.
15 She said, I don't know what became of it, but that after I
16 was on the couch, he never had the hammer again.

17 THE COURT: Well, we don't know, if I remember
18 correctly, we don't know how long the attacker had
19 possession of the hammer. We don't know when, but we know
20 at some point in time, he relinquished possession of the
21 hammer, but we don't know exactly when that took place.
22 Based upon the testimony, so I don't know if we can assume
23 that he said, you better let go of me or I'm going to hit
24 you with this hammer, or words to that effect, that he let
25 go of it right then when she let go of him. I don't think

1 we can make that assumption.

2 MR. VERNER: Right. That's true, Your Honor, and but
3 she did say that the only threat that he made to her while
4 he had the hammer was, you better let go of me. I think
5 maybe something like, you won't see your mother again.

6 THE COURT: Right.

7 MR. VERNER: But that is the only threat he alleged
8 while he had the hammer. She never testified that at any
9 other point she ever remembered seeing the hammer again.
10 I agree completely with the Court. We don't know when the
11 hammer was relinquished, but then that question comes down
12 to whose burden it is to prove that the hammer was used.
13 And I understand the Court's saying, well, there's not any
14 evidence to show when he relinquished it. That should
15 fall against the State, because the State bears the burden
16 of the proof --

17 THE COURT: Right.

18 MR. VERNER: -- the weight that he had. He became
19 armed at some point. Certainly, there is a robbery
20 involved in this case. But that the only threat expressed
21 was, you better let go of me. And it was after he
22 wrenched the hammer from her hand. And that she did
23 testify that the only threat he made while he had the
24 hammer was, let go of me. And even if that is a
25 one-hundred percent true, let go of me, would not be armed

1 robbery. It would possibly be an assault or a threat, but
2 it wouldn't be a robbery, because you're not taking
3 anything by force if you're saying, you better let go of
4 me. And, so, I mean, I understand the Court, there is a
5 dearth of evidence about when the hammer was relinquished.
6 She remembers finding it later on. But if there is an
7 absence of evidence, who does that fall on, the State or
8 Defendant.

9 THE COURT: All right. Thank you, Mr. Verner.
10 Solicitor, do you want to respond to that?

11 MR. SCOTT: I was looking at an older jury charge,
12 taking and carrying away of the property, this is the
13 armed robbery, must have been with violence about putting
14 the owner of the property in fear of violence. We know,
15 obviously, that a hammer can be a deadly weapon.

16 THE COURT: Right.

17 MR. SCOTT: The testimony was this, that there was
18 the scuffling in the carport.

19 THE COURT: Right.

20 MR. SCOTT: She was drug inside the home. At that
21 point, she's fighting. And she talks about the area in
22 between the day room and the living room when they're
23 involved in this scuffle. He's there for one reason and,
24 and he tells her this, that he's going to take these
25 things, but not the husband's jewelry. He's sympathetic

1 in that regard. He's going to take these TV's. He wants
2 the cash out of the purse. He wants the PIN number for
3 the ATM and she's fighting until there's one instance
4 where he does get the hammer and threatens her. Her
5 testimony in redirect, actually, was that after that, she
6 didn't want to fight anymore, because she started
7 thinking, I don't want my mother to come here and find me
8 dead. So it was the State's theory that based on the
9 threat of violence and the threat, once he showed his
10 seriousness, by arming himself with the hammer and
11 brandishing it before her, that that threat of violence is
12 what caused her to relinquish her personal goods, that
13 means the TV, the debit card, and the cash money. I've
14 got a case on point. It's State v. Keith, Your Honor. It
15 is S.C. --

16 THE COURT: State versus, what?

17 MR. SCOTT: Keith, K-E-I-T-H.

18 THE COURT: Okay. Keith?

19 MR. SCOTT: Yes, sir.

20 THE COURT: Well, I think, and maybe I, maybe that
21 case addresses, you know, it begs the question does the
22 perpetrator have to be armed with a deadly weapon from
23 start to finish or if there's any point in time in the
24 sequence of events that there is the attacker or the
25 perpetrator is armed with a deadly weapon, number one.

1 And also begs the question does the being armed with a
2 deadly weapon have to be simultaneous with the taking and
3 carrying away of the property? That's just the questions
4 I have and, but tell me what State versus Keith says?

5 MR. SCOTT: My recollection, Your Honor, that that is
6 a case really for all intents and purposes starts off with
7 a common law robbery. They rough the guy up and they
8 steal a pocketknife out of his pants in the actual
9 robbery. That the Court ruled that that was a armed
10 robbery in that case based on them arming themselves
11 during the robbery. I think we're in a better posture in
12 this case where the threat of violence is verbally and as
13 he demonstrates by raising the hammer over her head. Her
14 testimony was any will she had to fight him, she abandoned
15 at that point whenever he showed what he was willing to do
16 should she not acquiesce.

17 THE COURT: All right. Let me just interrupt you
18 here. The State v. Keith case says, when a defendant
19 commits robbery without a deadly weapon but becomes armed
20 with a deadly weapon before asportation of the victim's
21 property, the conviction of armed robbery would stand. So
22 that kind of goes back to the questions I had, you know,
23 and then I, and then answered those questions that, one,
24 you don't have to be armed from start to finish. And we
25 have what, a four-hour window here, roughly?

1 MR. SCOTT: Yes, sir.

2 THE COURT: Yeah. And just so long as the property
3 is taken away, you get armed. Well, we know for certain
4 that when he left with the, the attacker left with the
5 TV's and walked out of the house with the cash money and
6 the debit card and all that, he had already previously had
7 the hammer in his hand. So it's a good point, though, Mr.
8 Verner, that you raised. But viewing the evidence in a
9 light most favorable to the State, I find that there is at
10 least the existence of direct and/or substantial
11 circumstantial evidence to deny your motion, sir. All
12 right. Give me one second, and then I'm going to go
13 ahead, I'll get you to rest on the record when the jury
14 comes back out. Give me just a second. I will advise Mr.
15 Wise of his rights to testify.

16 MR. SCOTT: Judge, may I, if I may and just for the
17 record. I think the directed verdict motion started off
18 as far as a faulty I.D., and there wasn't. And I just
19 want to cover that, because I think Mr. Verner started off
20 with that, and then it sort of transitioned into an issue
21 of armed robbery. But if we need to address the issue of
22 evidence concerning identity,--

23 THE COURT: Well, I think we have substantial
24 circumstantial evidence on the question of identity. I
25 think there is enough there to send it to the jury,

1 certainly. And, Mr. Verner, you alluded to weight. Of
2 course, as you know, of course, the Court is not concerned
3 with the weight of the evidence, just the existence of the
4 evidence. And I think we do have enough circumstantial
5 evidence as to identification, number one. Number two,
6 I'm going to charge identification to the jury. So I'm
7 going to deny your motion on that, too. Okay. All right.
8 Anything further?

9 MR. VERNER: No, sir. But, Your Honor, if they,
10 we're making our final decision on whether Mr. Wicker is
11 going to, I mean, Mr. Wise is going to testify, I would
12 ask what charges, what the charges would be if the State
13 would intend to impeach him on, so that we could be heard
14 on whether or not--

15 THE COURT: Okay. Well, let's do this, let me go
16 ahead and give him his rights. And then we'll take a few
17 minutes for you to consult with him. All right. Madam
18 Clerk, would you swear Mr. Wise in, please?

19 ANTHONY WISE, being
20 first duly sworn, testified as follows:

21 THE COURT: Mr. Wise, you remember Monday when you
22 elected to testify concerning some pretrial matters and I
23 gave you some rights. I'm going to give you something
24 similar, a little bit more in detail than what I gave you
25 Monday, okay?

1 MR. WISE: Yes, sir.

2 THE COURT: Okay. All right. At this time I'm going
3 to explain to you certain of your rights. If you don't
4 understand anything I say, please let me know that. If
5 you want me to explain anything in more detail please let
6 me know that, as well. Do you understand, sir?

7 MR. WISE: Yes, sir.

8 THE COURT: All right. We have now reached the stage
9 of the trial where you may present your defense. You have
10 the right to claim the protections given to you by the
11 Fifth Amendment to the Constitution of the United States
12 and this Amendment states in part, no person shall be
13 compelled in any criminal case to be a witness against
14 himself. This means that you cannot be required to
15 testify in this case. You have the right to testify on
16 your own behalf; however, no one can make you testify.
17 This is a personal right and no one can waive this right
18 except you. If you decide to testify, you'll be subject
19 to the same rules that govern other witnesses and you may
20 be examined and cross-examined on any relevant issue in
21 this case. In addition, if you have any convictions
22 involving dishonesty or false statement or for crimes
23 punishable by imprisonment for more than one year and this
24 Court determines that the probative value of admitting
25 this evidence outweighs its prejudicial effect, the

1 Solicitor may be able to introduce your records and attack
2 your credibility. If you decide to testify this decision
3 on your part must be freely, voluntarily and intelligently
4 made with knowledge of the protections given to you by the
5 Fifth Amendment and the consequences of your decision to
6 testify. If you decide not to testify and, of course,
7 that decision will also have to be freely, voluntarily,
8 and intelligently made. I will instruct the jurors that
9 they cannot give the fact that you did not testify any
10 consideration whatsoever and that there is to be
11 absolutely no prejudice to you because you did not
12 testify. It's left entirely up to you whether or not you
13 testify. You certainly have the right to talk with your
14 attorney and anyone else. But the final decision will be
15 left up entirely to you. Have you understood what I've
16 explained to you?

17 MR. WISE: Yes, sir.

18 THE COURT: Okay. I'm not going to ask for your
19 decision at this time because I know Mr. Verner needs to
20 consult with the State concerning some matters and he'll
21 need to consult with you. So I will, in a few minutes, I
22 will ask you if you've made a decision and what that
23 decision is, okay, so you can have a seat.

24 MR. WISE: Yes, sir.

25 THE COURT: And do you want to talk with them?

1 MR. VERNER: Judge, Anthony has three marijuana,
2 either distribution or PWID marijuana, that Mr. Daniel is
3 indicating, distribution of marijuana charges are the only
4 qualifying charges. My understanding is the State is
5 initially inclined not to impeach him on his prior record
6 --

7 THE COURT: Okay.

8 MR. VERNER: -- but that they would notify me or they
9 would have a sidebar if they believe they need to raise
10 the convictions.

11 THE COURT: Okay.

12 MR. VERNER: Is that fair enough?

13 MR. SCOTT: It is. Your Honor, I've said unless
14 something extraordinary was testified to, I don't see
15 really how the distribution of marijuana would tie in to
16 be relevant.

17 THE COURT: I think you'd be, pretty hard-pressed to
18 be able to get that in. So you need to talk with Mr. Wise
19 for a second, then I can get his decision about testifying
20 or not?

21 MR. VERNER: I have, if I can have him just two or
22 three more minutes, Your Honor.

23 THE COURT: Sure. Yeah. Yeah.

24 MR. VERNER: Just to make sure and, in fact, we're
25 going to sit down in the corner just a little bit further

1 away.

2 THE COURT: That'd be fine. That'd be fine.

3 (Whereupon, the Defendant and Mr. Verner took a break
4 to talk.)

5 THE COURT: All right, Mr. Verner. Is your client
6 going to testify?

7 MR. WISE: Yes, sir.

8 THE COURT: You are going to testify?

9 MR. WISE: Yes, sir.

10 THE COURT: Okay, and is that your decision to
11 testify, has that been made freely, voluntarily and
12 intelligently?

13 MR. WISE: Yes, sir.

14 THE COURT: All right. Thank you very much, you can
15 have a seat.

16 MR. VERNER: I don't think the State has closed yet,
17 have they?

18 THE COURT: They haven't closed on the record in
19 front of the jury. We need them to do that. Let me do
20 something here real quick. Is the jury still in the Grand
21 Jury Room?

22 THE COURT REPORTER: Yes, sir.

23 THE COURT: Bring them up to the jury room.

24 (Whereupon, the jury came into the jury room.)

25 THE COURT: Are we ready to go?

1 MR. SCOTT: Yes, sir.

2 MR. VERNER: Yes, sir.

3 THE COURT: Bring the jury out, Madam Bailiff.

4 (Whereupon, the jury came into open court at
5 approximately 3:55 p.m.)

6 THE COURT: Let the record reflect the jury is back
7 in the courtroom. Solicitor, any further witnesses?

8 MR. SCOTT: No, Your Honor, the State rests.

9 THE COURT: Okay. All right. Mr. Verner, are you
10 ready to proceed?

11 MR. VERNER: Yes, sir. Just subject to the motions
12 we discussed while the jury was on break.

13 THE COURT: Sure. Exactly. Okay. Call your first
14 witness.

15 MR. VERNER: Your Honor, I call Laswan Anderson.
16 Come on up Laswan.

17 THE COURT: Come around, please, ma'am.

18 LASWAN ANDERSON, being
19 first duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 By Mr. Verner:

22 Q Ms. Anderson, if you don't mind, I'm going to ask the
23 questions from over here so that everybody who needs to
24 can hear, okay?

25 A (No audible response.)

1 Q And just if you need to answer and you need to speak
2 up just a little bit louder.

3 A Okay.

4 Q Because this is where air comes from the, Ms.
5 Anderson, where do you live?

6 A [REDACTED] in Newberry.

7 Q Okay. How long have you lived in the Fox Briar area?

8 A About 18 months.

9 Q Were you living there in September 21st of last year?

10 A Yes.

11 Q And who do you live in Fox Briar with?

12 A I stay with my mom.

13 Q Okay. Where did you live before Fox Briar?

14 A I lived in Maryland.

15 Q Maryland?

16 A Right.

17 Q Okay. You said right?

18 A In Maryland, yes.

19 Q Okay. So you moved to Newberry about a year and a
20 half ago or?

21 A Right.

22 Q Are you working in Newberry?

23 A No. I work in Columbia.

24 Q Okay. Where do you, just what type of work do you
25 do?

1 A I'm a caregiver.

2 Q Okay.

3 A Yeah.

4 Q Are you familiar with the, is it Green Meadow? Are
5 you familiar with Green Meadow Street?

6 A Yes.

7 Q And how far away is that from your house?

8 A It's not far.

9 Q And in terms of how long would it take you to walk
10 from your house to Green Meadow?

11 A It would take me probably about like 20 minutes or
12 so.

13 Q Twenty minutes?

14 A Yeah, or so.

15 Q But walking?

16 A Yeah.

17 Q Who lives on Green Meadow if you know?

18 A Anthony, Anthony Wise, he lives there. His mother
19 lives there.

20 Q Who is Anthony Wise to you?

21 A He's my boyfriend.

22 Q How long have you been in a relationship with
23 Anthony?

24 A About 18 months or so.

25 Q Almost since you've been here?

- 1 A Right.
- 2 Q Okay. Did you know him before you came to South
3 Carolina?
- 4 A No, not really.
- 5 Q Okay. Do you and Anthony have any children together?
- 6 A No.
- 7 Q Okay. So you're just in a boyfriend/girlfriend
8 relationship?
- 9 A Right.
- 10 Q Okay. Do you remember September 21st of last year?
- 11 A Not every single detail, but I remember basically
12 what I was doing.
- 13 Q Okay. Because Anthony, your boyfriend got arrested,
14 isn't that right?
- 15 A Not on the 21st.
- 16 Q On the 21st. Well, I mean, but you remember him
17 getting arrested two days --
- 18 A Right, because I got arrested with him so.
- 19 Q So is that timeframe, those couple of days, still
20 fairly clear in your mind?
- 21 A Yes.
- 22 Q Okay. Would it be, well, you got picked up by the
23 police, too, didn't you?
- 24 A Yeah. It was a surprise.
- 25 Q So it's kind of the day that you would remember for

1 --

2 A Yes.

3 Q -- a period of time?

4 A Uh-huh.

5 Q Okay. Just out of curiosity, were you arrested by
6 the police or you were just questioned or what was your
7 involvement?

8 A Well, basically, we took a taxi. We were going to
9 his probation officer and --

10 Q Now, who is, we?

11 A Me and Anthony Wise. We went, because he had to go
12 back to probation that day. So we took a cab up this way
13 and by the courthouse and as soon as we got out, the cops
14 came out of nowhere. They separated us and they arrested
15 both of us.

16 Q Okay. Were you still in the taxi when they arrested
17 you or had you already left?

18 A No. I had already gotten out.

19 Q Okay. Was the taxi still there?

20 A Yes.

21 Q Were you handcuffed?

22 A Yes.

23 Q Okay. Were you taken to, were you questioned by the
24 police?

25 A Yes.

1 Q Was it out here, where you got let off by the cab,
2 where was that?

3 A It was around the courthouse and --

4 Q Just pretty much in this same general area?

5 A Yeah.

6 Q Okay. Were you questioned outside of the courthouse
7 or were you questioned in the police station?

8 A Yeah, the police station.

9 Q Okay. So you were taken there in handcuffs?

10 A Yes.

11 Q Okay. Were you in handcuffs when you were
12 questioned?

13 A No.

14 Q Okay. And this was on what date?

15 A On the 23rd.

16 Q The 23rd?

17 A Right.

18 Q And how long were you in the custody of the police
19 before you were released?

20 A It was about a hour or so. About an hour.

21 Q And the bulk of that was there, them talking to you
22 about what you'd been doing and?

23 A Right. They just questioned me and asked what I was
24 doing the last couple of days.

25 Q Okay. Well, I mean, was it friendly kind of cordial

1 questioning like I'm trying to do with you now, or was it
2 a little bit more you're in trouble, you better come to
3 Jesus, as they say?

4 A Basically. Well, initially, to be honest, it was
5 really aggressive when I was first arrested, because I had
6 no idea what was going on. And when I ask like what's
7 going on, I remember, I don't remember his name, but,
8 actually, he was up here earlier. And he told me to shut
9 up. Like, I didn't know what was going on, so just
10 arrested, took in for questioning and they were nice
11 afterwards, though.

12 Q Was it an intimidating experience?

13 A At first it was, but then it was kind of like, well,
14 if you could just answer some questions. They got nicer.

15 Q And did you cooperate with it?

16 A For the most part, yeah. Like there was nothing to
17 --

18 Q Well, what did they tell you you were being
19 investigated for?

20 A They said that something had happened, an incident,
21 as far as someone had been burglarized and that Anthony
22 was a suspect. But they basically said that he was, you
23 know, the main subject.

24 Q Okay. Did they tell you that you were a suspect,
25 too?

- 1 A They sounded like, said that I had something to do
2 with it. They didn't say I was a suspect but, basically,
3 like if I had anything to do with it or if I knew any
4 information, like, I needed to tell them.
- 5 Q Okay. And how'd you get home from the --
- 6 A One of the officers took me home.
- 7 Q Was Anthony working at that time?
- 8 A No. He had just started working.
- 9 Q From where?
- 10 A He was working at Bojangles.
- 11 Q Bojangles, the chicken place?
- 12 A Right.
- 13 Q Did you give any kind of written, did the police ask
14 you to provide any kind of written statement or they just
15 talked to you orally?
- 16 A No, it was just a oral statement.
- 17 Q What do you remember about September 21st? Do you
18 remember the evening before the 21st?
- 19 A No.
- 20 Q Okay. Well, we heard the 21st was a Wednesday
21 evening.
- 22 A It was, I mean, it was just like any other day. I
23 have kids myself, so Anthony had actually stayed over that
24 night.
- 25 Q When you say he had stayed over, which house were you

1 talking about?

2 A The one on [REDACTED] where I live with my mom.

3 Q Well, I thought --

4 A My mom --

5 Q I thought we heard from the deputy that said that
6 your mother said he wasn't supposed to be staying there.

7 A It wasn't that he wasn't supposed to. I take care of
8 her and, like, my kids are there, so it's not like --

9 Q Okay.

10 A -- you know, there is a lot of space and time so.

11 Q She doesn't like you to have male guest type?

12 A She's kind of old-fashioned so yeah, that was a
13 issue.

14 Q Okay. But he was with you the night beforehand?

15 A Right.

16 Q Okay. At Fox Briar?

17 A Right.

18 Q How often would he stay with you at Fox Briar?

19 A Pretty often. Initially, he was there for about six
20 months, and then he would stay on and off. But once he
21 started working he was, you know, kind of back and forth.

22 Q Back and forth between your house and where?

23 A Between my house and his house at Green Meadows.

24 Q Okay. Are you familiar with Ms. Benzena Wicker?

25 A No, I have never seen her.

- 1 Q And you've never spoken to her or met her?
- 2 A No.
- 3 Q Well, had you ever visited Anthony at his house on
4 Green Meadow?
- 5 A Yes.
- 6 Q Had you ever seen her out in her yard or?
- 7 A None. I, nothing.
- 8 Q Had you ever been with Anthony when y'all rode by and
9 either waved at her or saw her or had any conversations or
10 any dealings with her at all?
- 11 A I've never had any conversation or communication with
12 her.
- 13 Q Had you had, you ever seen Anthony have any kind of
14 dealings with Ms. Wicker?
- 15 A No.
- 16 Q Did her name ever crop up that y'all had discussed
17 her or?
- 18 A No.
- 19 Q At that point, she was just an unknown neighbor?
- 20 A Right.
- 21 Q All right. Well, you woke up. You and Anthony had
22 been together the night of Tuesday night. So tell me
23 about Wednesday morning and what you remember about that
24 day.
- 25 A Basically, it was a late morning around 11:00 is when

1 he was about to leave. He has a cousin that lives up the
2 road and that we would go visit sometimes, so he went
3 alone to go see his cousin and I took care of some things.

4 Q What's his cousin's name or how do you know his
5 cousin?

6 A I forgot his name.

7 Q Okay.

8 A But I know him from just like going by there, you
9 know.

10 Q Did you go with Anthony to this cousin's house?

11 A No.

12 Q Had you been there before?

13 A Yes.

14 Q Did you know, and had you ever been with Anthony
15 there before?

16 A Yes.

17 Q Was he in the habit of visiting his cousin?

18 A Yes.

19 Q And what would he do at his cousin's house?

20 A Technically, he would use the Wi-Fi and, you know,
21 they would just hang out.

22 Q And so I left you off, Anthony had left your house or
23 he was getting ready to leave around 11:00 Tuesday morning

24 --

25 A Right.

1 Q -- to go to his cousin's?

2 A Right.

3 Q Did he go?

4 A Yeah.

5 Q Okay. Well, did you see, when is the next time you
6 saw Anthony that day?

7 A Well, his cousin brought him back or either he drove
8 back to the house like about 30 minutes later. And he
9 told me that he was going to go to his parents' house on
10 Green Meadow to pick up some clothes so---

11 Q I didn't hear you. You're going to have to say that
12 one more time.

13 A He told me that he was going to Green Meadow where
14 his parents live, and he was going to pick up some
15 clothes. And that was the last time I saw him until,
16 well, at least after he came from his cousin's house.

17 Q Okay. And I don't want to repeat you, but and he
18 came back about 30 minutes after he initially left to go
19 to T.J.'s, his cousin, right?

20 A Right.

21 Q And then he said he was going to his parents' to get
22 some clothes, to get dressed?

23 A Right.

24 Q Okay. When did you see Anthony again?

25 A After he left, he had, he had called me and told me

1 he wasn't able to get inside and that he would just head
2 back this way. But I'm not, I don't remember if he walked
3 back, because when he came I just saw him, but I think he
4 walked back.

5 Q Do you remember was that still before lunchtime or
6 was that around lunch or afternoon?

7 A It was afternoon.

8 Q Okay. So Anthony came back in the afternoon and said
9 his parents' house was locked?

10 A Right.

11 Q How much time did you spend with him that day?

12 A It wasn't that long, because I had some things to
13 take care of. So he went back to his cousin's house, and
14 I didn't see him again for a while.

15 Q Are you familiar with 404-308-0449 phone number?

16 A Yes. That was a old phone number.

17 Q Okay. Whose phone was that?

18 A Mine's.

19 Q What is 404, do you know what area code that is?

20 A Yes. That's Atlanta, Georgia, Atlanta, Georgia.

21 Q It's a Georgia area code?

22 A Right.

23 Q It's not a Maryland area code?

24 A No.

25 Q Okay. Do you know who that phone was registered to?

- 1 A It was registered to me.
- 2 Q Okay. Where were the bills being sent to?
- 3 A To me.
- 4 Q And was Anthony's name on that phone?
- 5 A Not at all.
- 6 Q Who was the primary user of that phone?
- 7 A Me.
- 8 Q Okay. Were you the exclusive user of that phone?
- 9 A Yes. Well, not the exclusive user. Like, sometimes
- 10 I will let him use it --
- 11 Q Okay.
- 12 A -- when his phone was off, but I mainly use it.
- 13 Q Well, that's my question is, who else would use your
- 14 phone other than you?
- 15 A I have a couple of friends that might have used it,
- 16 you know, for the Internet and stuff like that.
- 17 Q Were there any family members who might --
- 18 A No.
- 19 Q -- have access to it? And it's just your mother and
- 20 children at home?
- 21 A Right. And my stepfather.
- 22 Q So and your mother is remarried?
- 23 A Yes.
- 24 Q Okay. And he also lives in the home, too?
- 25 A Yes.

1 Q Okay. But it would be very unlikely that they would
2 be using your phone?

3 A Yeah. It's pretty unlikely.

4 Q Okay. So you would be using the phone to make phone
5 calls --

6 A Yes.

7 Q -- and Anthony would use it from time to time to make
8 phone calls?

9 A Yeah. From time to time.

10 Q And, I guess, my question boils down to this, who
11 would have been using that phone on September the 21st of
12 last year, 2016?

13 A I mean, I mean, we had it, I don't like giving my
14 phone to people. But I did let him use it part of the
15 time. So when he left that morning, so that I would know
16 that he got in safe, I let him use it and when he came
17 back, I, like he gave it back to me.

18 Q Did Anthony have his own phone?

19 A Yes.

20 Q Okay. Was it working?

21 A No. It only had, I think, Internet on it, like if he
22 had Wi-Fi.

23 Q So is it possible you could have made some of those
24 phone calls or some of those calls might be from you that
25 day?

- 1 A Definitely, yes.
- 2 Q Okay. Is it possible some of those phone calls could
3 have come from Anthony?
- 4 A Yes.
- 5 Q Is it, is it likely that either one of you had the
6 phone for exclusively the full day?
- 7 A No.
- 8 Q So you think you both had it off and on for that
9 period of that day?
- 10 A Yes.
- 11 Q Okay. Anthony, you testified just a second ago, he
12 came back after coming to his parents' house and the door
13 was locked or he couldn't get in, and then he went back to
14 his cousin's house?
- 15 A Yes.
- 16 Q Do you recall what kind of errands you had to do?
- 17 A Well, I had to go to Walmart. I remember that. I
18 went to Walmart. I got some food, and I had went with a
19 friend to run another errand. They had to pay a bill.
- 20 Q Okay. Do you recall the next time you saw Anthony?
- 21 A It was, I don't recall exactly. I know when I left
22 to, you know, I was out around 6:00 and it was a little
23 after that I saw him, so it was, it was after.
- 24 Q Did you and Anthony have any plans that day or did
25 y'all, were just kind of playing it by ear?

1 A Playing by ear.

2 Q Okay. So no specific plans for that Wednesday night?

3 A No.

4 Q Tell me again, now, you ran some errands, paid some
5 bills, went to Walmart. When do you, as near as you can
6 tell, when did you see Anthony that afternoon?

7 A He had came back around, it was around, I don't
8 remember exactly, honestly, because I know I had got home
9 a little after 6:00 --

10 Q Okay.

11 A -- and then I saw him shortly after that.

12 Q But sometime shortly after 6:00 o'clock or something
13 like that?

14 A Right. Around like 7:00-7:15 maybe.

15 Q Okay. Was he walking, was he driving, or was he with
16 friends or tell me about when you saw him?

17 A I was inside. So he came to the door. I didn't see
18 anybody outside. But he told me, you know, like we talked
19 about getting a room at that time.

20 Q Getting a room where?

21 A At the Economy Inn by McDonald's.

22 Q And why was that?

23 A Because, like I say, I have my kids there and wanted,
24 you know, to come stay over. And I said, well, it'll just
25 give us more privacy. And plus I was in the middle of

1 moving, basically. So I said, okay. Well, you can just,
2 we can just go ahead and get a room.

3 Q Are you still on Fox Briar?

4 A Yes.

5 Q Okay. But you were thinking about moving?

6 A Yes. But I had to take care of my mom. She has two,
7 well, she's had two strokes, and she basically needs a
8 caretaker. So I decided to stay a little longer.

9 Q Okay. So you saw Anthony sometime after 7 p.m. --

10 A Right.

11 Q -- and you two agreed to get a room at the Economy
12 Inn?

13 A Yes.

14 Q And how long were y'all intending to stay there?

15 A There was no definite plans. You know, we had gotten
16 a room there before like a few times before, so there is
17 no plans.

18 Q Well, and was the plan to go there and come home that
19 same night or was it the plan to --

20 A No.

21 Q -- spend the night there?

22 A It was the plan to stay, spend the night.

23 Q Okay. Did you spend just one night there or more
24 than one night?

25 A I think we spent two nights.

1 Q All right. So you discussed getting a room at the
2 Economy Inn around 7:00-7:15, you testified?

3 A Yes.

4 Q Okay. Did he stay with you from that point on or did
5 he leave or what did, what did you and Anthony do at that
6 point?

7 A So once we decided that, you know, I had, I don't
8 know if this is even relevant, but I had got a drink, you
9 know. And I waited a little bit, because I told him,
10 like, don't rush me, you know. So I don't know if he went
11 up the street or what, but it took me about 30 minutes, 20
12 or 30 minutes to get ready. And then I met him outside
13 and a cab took us to the hotel.

14 Q Okay. Well, we see, and you told this to the police,
15 right?

16 A I don't remember what I told the police.

17 Q Well, they went to the hotel and you've seen the
18 receipts where they went to the hotel --

19 A Yes.

20 Q -- to double-check?

21 A Uh-huh.

22 Q And we've seen that you clocked in at 9:05 p.m., if
23 the hotel records are right?

24 A Right.

25 Q Is that consistent with what time you remember

1 getting there?

2 A Yeah, about that time.

3 Q Do you recall what you did from 7:30 to 9:00?

4 A So around, when he came, I had got back inside, I got
5 dressed and whatnot, got some things together. And then I
6 met him back outside, the cab went and got us, and we went
7 to a couple of other places and we went to the hotel.

8 Q What other places would you have gone to?

9 A I'm not exactly sure. It was just other people, but
10 they didn't pick up people. I don't know what the cab
11 driver had going on.

12 Q Okay. But you and Anthony didn't run different
13 errands, just that the cab had other stops to make --

14 A Right.

15 Q -- on the way down there? Do you recall how long it
16 took the cab, did you have a car at that time?

17 A No.

18 Q Okay. Did Anthony have a car at that time?

19 A No.

20 Q How long, were you guys dependent on using taxies to,
21 if you had errands to run from time to time?

22 A Yes. It's either walk or use a taxi.

23 Q Okay. How long does it typically take a taxi to come
24 get you when you call from your home?

25 A Sometimes, it could take up to an hour.

1 Q Just depending on how busy they are that night?

2 A Yeah. And sometimes, they'll be right there and so,
3 it could take like five minutes to an hour.

4 Q Do you recall on that Wednesday now long it took the
5 cab to get there?

6 A By the time I went outside, it was there, so we just
7 drove.

8 Q And is it possible you, it didn't come until as late
9 as 8:00 o'clock?

10 A We, I had, I had went up the street with him to the
11 cab, so I don't know how long it took.

12 Q You went up the street?

13 A Yeah. And like at the end of the dirt road.

14 Q Right.

15 A Because they were waiting for us there.

16 Q Oh, that's where the taxi picked you up?

17 A Right.

18 Q Okay. Well, I mean, it doesn't take an hour for the
19 taxi to get to your house till you time in, does it?

20 A No.

21 Q Do you recall if, okay. Did you have it take you to
22 other places like to McDonald's or any like that or it's
23 just that they were picking up other fares and didn't go
24 directly towards?

25 A It wasn't directly there. They went to pick up

1 somebody, and then one person wasn't even ready and they
2 kept, you know, like we were waiting.

3 Q And do you recall how long you and Anthony were in
4 the taxi, but roughly how long of a ride was that?

5 A I'm not exactly sure.

6 Q Could it have been as long as 30 minutes?

7 A No. It might have been a little longer.

8 Q And probably a little bit longer than 30 minutes in
9 the taxi?

10 A Yeah. About 30 minutes.

11 Q Okay. And that's not unusual that these taxies go
12 and pick up several fares each time they make a run?

13 A No.

14 Q Okay. You say you got to the hotel and signed in.
15 Was it about 9:00 o'clock? Is that to your memory about
16 the right time you got there?

17 A Yeah. It was around 9:00 o'clock.

18 Q Who was with you at the hotel?

19 A Anthony.

20 Q And you meeting any other friends or anybody else?

21 A Not until after, but I didn't see anybody, because I
22 was, we were in the room already.

23 Q Did you guys go back out that evening?

24 A Later on, like I said, I had gotten some wine for
25 myself. So I was just kind of relaxing and later on we

1 had went back out to Walmart.

2 Q Okay. Do you recall what time you went back out to
3 Walmart?

4 A It was later like around, it was after 12:00.

5 Q After midnight?

6 A Yes.

7 Q Why did you go to Walmart after midnight?

8 A To get toiletries. Like, by that time, like I said,
9 I had just, you know, been trying to relax or whatever,
10 and then I was up, so yeah.

11 Q Okay. But that point was just to get some stuff you
12 might need for the room?

13 A Yes.

14 Q Did you do anything, how did you get from Walmart, to
15 Walmart from the hotel?

16 A We walked.

17 Q Okay. And the hotel is near the McDonald's?

18 A Yes.

19 Q So it's not a particularly long walk?

20 A No.

21 Q Okay.

22 A We did stop by McDonald's before we went to Walmart,
23 but they were closed. It was just a drive-thru so.

24 Q So you're not in a car to go through the --

25 A No.

1 Q -- the drive-thru? All right.

2 THE COURT: You need to verbally respond when you're
3 answering him.

4 Q Did you go anywhere after Walmart?

5 A No. We just went back to the room.

6 Q Okay. Did you go anywhere else that evening or that
7 early morning?

8 A No. I didn't go anywhere else.

9 Q Well, tell me again just to summarize, how, at what
10 periods of the day did you see Anthony on Wednesday?

11 A When he left that morning around 11:00. And then
12 when he came back with his cousin, T.J., about 30 minutes
13 like later, and then like two more times. The last time
14 was when we went to go to the room.

15 Q Okay. Which you said was about 7:30 that evening?

16 A Right. He had came around that time, but it took me
17 some time to get ready.

18 Q Did he just, let me get it out there. Have I asked
19 you about your testimony or coached you or helped you?

20 A No. No.

21 Q You haven't discussed, I haven't given you proposed
22 questions or anything like that?

23 A No, not at all.

24 Q Thursday morning, what do you remember about
25 Thursday?

1 A I know Anthony had to go to probation on that
2 Thursday, and that's pretty much all I remember.

3 Q Do you know why Anthony was on probation?

4 A I think so.

5 Q What --

6 A Can I say what I think?

7 Q Go ahead.

8 A I think it had to do with like a charge like with
9 possession or something.

10 Q Well, I mean, if you don't know--

11 A -- I'm not sure. Yeah.

12 Q Okay. By possession, what are you talking about?
13 What drug are you talking about?

14 A Like weed.

15 Q Okay.

16 A Yeah.

17 Q But you don't know what he's on probation for?

18 A And not in detail. You know, I figure that's his
19 past and as long as, you know.

20 Q But Thursday, y'all went to see the probation agent?

21 A He went to see the probation officer. I stayed in
22 the room.

23 Q Okay. So he left from the hotel that morning?

24 A Right.

25 Q Was it the morning that he left or what time do you